
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. According to the Centers for Disease Control
2 and Prevention, two-thirds of adults in the United States are
3 overweight or obese. The rate of obesity has tripled among
4 children and teens since 1980. Obesity increases the risk of
5 diabetes, heart disease, stroke, and other health problems and
6 costs families, businesses, and governments millions of dollars
7 each year.

8 Research continues to reveal a strong link between diet and
9 health. Increased calorie intake is a key contributor to the
10 alarming increase in obesity. Excess saturated fat intake is a
11 major risk factor for heart disease. Increased sodium intake is
12 associated with an increased risk of high blood pressure or
13 hypertension, a condition that can lead to cardiovascular
14 problems and strokes.

15 There is an upward trend in calorie and sodium intake that
16 coincides with a significant increase in the number of meals
17 prepared and eaten outside of the home. It is estimated that



1 half of the money consumers spend on food goes toward food from
2 restaurants and other food service establishments, which is also
3 where one-third of their calories are consumed.

4 The legislature finds that improving the availability of
5 nutritional information about food from food service
6 establishments will help curb unhealthy food consumption.
7 Three-quarters of American adults report using the information
8 found on nutritional labels required by the federal Nutrition
9 Labeling and Education Act of 1990. However, while nutrition
10 labeling is common on most packaged foods, nutrition labeling is
11 less common for many restaurant foods. Although the Patient
12 Protection and Affordable Care Act, enacted on March 23, 2010,
13 established federal nutrition information requirements for
14 certain restaurants and similar retail food establishments, the
15 federal enforcement of those requirements has been delayed
16 multiple times. Given the lack of nutritional information for
17 most restaurant foods, it is difficult for restaurant-goers to
18 make decisions that limit their calorie and sodium intake.

19 The purpose of this Act, which shall be known as the Menu
20 Education and Labeling Act, is to require franchise retail food
21 establishments to maintain nutritional information on their



1 standard menu items and make that information readily available
2 to the public upon request.

3 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§321- Franchise retail food establishments;
7 nutritional information. (a) From January 1, 2021, a franchise
8 retail food establishment shall maintain nutritional information
9 on each standard menu item and provide the nutritional
10 information to customers; provided that:

11 (1) If the franchise retail food establishment does not
12 provide sit-down service, the franchise retail food
13 establishment shall disclose the nutritional
14 information in a clear and conspicuous manner in a
15 brochure or booklet that is made available at the
16 point of sale before or during the placement of an
17 order;

18 (2) If the franchise retail food establishment provides
19 sit-down service, the franchise retail food
20 establishment shall provide the nutritional



1 information in a clear and conspicuous size and
2 typeface in at least one of the following:

3 (A) A brochure or table tent located on each table
4 within the restaurant dining area;

5 (B) A menu, next to each standard menu item;

6 (C) A menu, under an index section that is separate
7 from the listing of standard menu items; or

8 (D) A menu insert;

9 (3) If the franchise retail food establishment serves a
10 standard menu item in a self-serve capacity, such as
11 in a salad bar, buffet line, or cafeteria service, it
12 may limit the nutritional information maintained and
13 provided to calorie content information; and

14 (4) If the franchise retail food establishment has a
15 drive-through, for purposes of the drive-through area
16 only, nutritional information shall be provided upon
17 customer request; provided further that a notice shall
18 be clearly and conspicuously displayed at the point of
19 sale that reads: "Nutrition information is available
20 upon request."



1 (b) Beginning January 1, 2021, a franchise retail food
2 establishment that provides a menu shall disclose calorie
3 content information for a standard menu item next to the item on
4 the menu in a size and typeface that is clear and conspicuous.

5 (c) Beginning January 1, 2021, a franchise retail food
6 establishment that uses an indoor menu board shall disclose
7 calorie content information for a standard menu item next to the
8 item on the menu board in a size and typeface that is clear and
9 conspicuous.

10 (d) Beginning January 1, 2021, if a franchise retail food
11 establishment uses a display tag as an alternative to a menu or
12 menu board to describe a standard menu item that is displayed
13 for sale in a display case within the establishment, the
14 franchise retail food establishment shall disclose calorie
15 content information for that standard menu item on the item's
16 display tag in a size and typeface that is clear and
17 conspicuous.

18 (e) For purposes of subsections (b), (c), and (d), if the
19 item is a combination of at least two standard menu items,
20 disclosure of calorie content information on a menu, menu board,
21 or display tag next to the combination item shall include both



1 the minimum and maximum amount of calories possible for the
2 combination item.

3 (f) For purposes of subsections (b), (c), and (d), if the
4 standard menu item is intended to serve more than one individual
5 but is not an appetizer or dessert, disclosure of calorie
6 content information on a menu, menu board, or display tag next
7 to the item shall include:

8 (1) The number of individuals intended to be served by the
9 standard menu item; and

10 (2) The calorie content information per individual
11 serving.

12 (g) The nutritional information and calorie content
13 information required by this section shall be determined on a
14 reasonable basis. A reasonable basis determination of
15 nutritional and calorie content information shall be required
16 only once per standard menu item; provided that the franchise
17 retail food establishment maintains a consistent portion size
18 for the standard menu item and adheres to a consistent method or
19 recipe for preparing the standard menu item.

20 (h) Menus and menu boards may include a disclaimer that
21 indicates that there may be variations in nutritional content



1 across servings based on variations in size and quantities of
2 ingredients and based on special ordering.

3 (i) This section shall not be construed to create or
4 enhance any claim, right of action, or civil liability that did
5 not previously exist under state law or limit any claim, right
6 of action, or civil liability that otherwise exists under state
7 law. No private right of action shall arise out of this
8 section.

9 (j) This section shall not be construed to preclude any
10 franchise retail food establishment from voluntarily providing
11 nutritional information in addition to the requirements of this
12 section.

13 (k) To the extent consistent with federal law, no county
14 shall enact any ordinance or adopt any rule on any matters
15 covered by this section, including the disclosure of nutritional
16 information and content required to be posted on menus, menu
17 boards, or display tags by a franchise retail food
18 establishment. Any county ordinance or rule that violates this
19 prohibition is void and shall have no force or effect.

20 (l) A franchise retail food establishment that violates
21 this section shall be subject to a fine of not less than \$50 nor



1 more than \$500, to be assessed by the department of health. A
2 franchise retail food establishment shall not be found to
3 violate this section more than once during an inspection visit.

4 (m) The department of health shall enforce this section.
5 The director of health shall adopt rules pursuant to chapter 91
6 to implement this section.

7 (n) This section shall not apply to:

8 (1) Farmers' markets;

9 (2) Commissaries;

10 (3) Health care facilities as defined in section 323D-2
11 and licensed by the department of health;

12 (4) Mobile support units;

13 (5) Restricted food service facilities;

14 (6) Retail stores in which a majority of sales are from a
15 pharmacy, as defined in section 461-1; and

16 (7) Vending machines.

17 (o) For the purposes of this section:

18 "Appetizer" means a food item that is identified as an
19 appetizer on the menu, menu board, or display tag or customarily
20 served before a food item that is regarded as the primary food



1 item in a meal. An "appetizer" includes a first course,
2 starter, or small plate.

3 "Calorie content information" means the total number of
4 calories per standard menu item, as that item is usually
5 prepared and offered for sale.

6 "Dessert" means a food item that is identified as a dessert
7 on the menu, menu board, or display tag or customarily served
8 after a food item that is regarded as the primary food item in a
9 meal. "Dessert" includes cakes, pastries, pies, ice cream, and
10 food items that contain ice cream, confections, and other
11 sweets.

12 "Drive-through" means an area where a customer may provide
13 an order for and receive standard menu items while occupying a
14 motor vehicle.

15 "Franchise retail food establishment" means a retail food
16 establishment that is owned, controlled, or franchised by an
17 entity whose business includes the franchising of no less than a
18 total of retail food establishments under one or more
19 franchise brands or trade names in at least states in the
20 United States, regardless of the ownership of the individual
21 establishments.



1 "Menu board" means a posted list or pictorial display of
2 standard menu items offered for sale by a franchise retail food
3 establishment. "Menu board" does not include printed or
4 pictorial materials for the purpose of marketing.

5 "Nutritional information" means information that includes
6 the number of:

- 7 (1) Calories;
8 (2) Grams of saturated fat;
9 (3) Grams of carbohydrates; and
10 (4) Milligrams of sodium.

11 "Reasonable basis" means any reasonable means recognized by
12 the federal Food and Drug Administration of determining
13 nutritional information and calorie content information for a
14 standard menu item, as usually prepared and offered for sale,
15 including nutrient databases and laboratory analyses.

16 "Standard menu item" means food offered for sale that
17 appears on the menu, menu board, or display tag for more than
18 one hundred eighty days per year, except for condiments,
19 customized orders, packaged food otherwise subject to the
20 nutrition labeling requirements of the federal Nutrition



H.B. NO. 1924

1 Labeling and Education Act of 1990, items placed on counters or
2 tables for use without charge to customers, and daily specials."

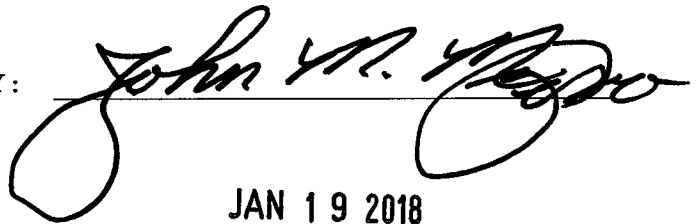
3 SECTION 3. If any provision of this Act or the application
4 thereof is for any reason held invalid, ineffective, or
5 unconstitutional by a court of competent jurisdiction, the
6 remainder of this Act shall not be affected thereby, and to this
7 end, the provisions of this Act are severable.

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2018.

10

INTRODUCED BY:



JAN 19 2018



H.B. NO. 1924

Report Title:

Obesity; Menu Education and Labeling Act

Description:

Requires a franchise retail food establishment to include nutritional information about each standard menu item.
Establishes a penalty for violation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

