

110TH CONGRESS  
2D SESSION

# S. 2784

To amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants.

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## IN THE SENATE OF THE UNITED STATES

MARCH 13, 2008

Mr. HARKIN (for himself, Mrs. FEINSTEIN, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the Howard M. Metzen-  
5 baum “Menu Education and Labeling Act” or the “MEAL  
6 Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) research continues to reveal that—

4 (A) there is a strong link between diet and  
5 health; and

6 (B) diet-related diseases start early in life;

7 (2)(A) increased caloric intake is a key factor  
8 contributing to the alarming increase in obesity in  
9 the United States;

10 (B) according to the Centers for Disease Con-  
11 trol and Prevention,  $\frac{2}{3}$  of American adults are over-  
12 weight or obese, and the rates of obesity have dou-  
13 bled in children and tripled in teens since 1980;

14 (C) obesity increases the risk of diabetes, heart  
15 disease, stroke, several types of cancer, and other  
16 health problems; and

17 (D) the annual cost of obesity to families, busi-  
18 nesses, and governments in the United States is  
19 \$117,000,000,000;

20 (3) over the past 2 decades, there has been a  
21 significant increase in the number of meals prepared  
22 or eaten outside the home, with an estimated  $\frac{1}{3}$  of  
23 calories and almost half of total food dollars being  
24 spent on food purchased from or eaten at res-  
25 taurants and other food-service establishments;

1           (4)(A) excess saturated fat intake is a major  
2 risk factor for heart disease, which is the leading  
3 cause of death in the United States; and

4           (B) heart disease is a leading cause of disability  
5 among working adults and its impact on the United  
6 States economy is significant, estimated in 2005 to  
7 total \$142,000,000,000 in healthcare expenditures  
8 and lost productivity;

9           (5)(A) increased sodium intake is associated  
10 with increased risk of high blood pressure, or hyper-  
11 tension, a condition that can lead to cardiovascular  
12 disease, especially stroke; and

13           (B) the proportion of adults with high blood  
14 pressure is 45 percent at age 50, 60 percent at age  
15 60, and more than 70 percent at age 70;

16           (6) the Nutrition Labeling and Education Act  
17 of 1990 (Public Law 101–535) requires food manu-  
18 facturers to provide nutrition information on almost  
19 all packaged foods, however, restaurant foods are ex-  
20 empt from those requirements unless a nutrient con-  
21 tent or health claim is made for a menu item;

22           (7) about 75 percent of adults report using food  
23 labels on packaged foods, which is associated with  
24 eating more healthful diets, and approximately half  
25 of people report that the nutrition information on

1 food labels has caused them to change their minds  
2 about buying a food product;

3 (8) it is difficult for consumers to limit their in-  
4 take of calories at restaurants, given the limited  
5 availability of nutrition information;

6 (9) studies show that consumers would like nu-  
7 trition information to be provided at the time of or-  
8 dering their food at a restaurant, at the point of the  
9 sale, so as to enable them to make an educated deci-  
10 sion regarding what to order; and

11 (10) a call to action from the Surgeon General  
12 and Secretary of Health and Human Services rec-  
13 ommends that, to reduce the incidence of obesity,  
14 there be increased availability of nutrition informa-  
15 tion for foods eaten and prepared away from home.

16 **SEC. 3. NUTRITION LABELING OF STANDARD MENU ITEMS**  
17 **AT CHAIN RESTAURANTS.**

18 Section 403(q)(5) of the Federal Food, Drug, and  
19 Cosmetic Act (21 U.S.C. 343(q)(5)) is amended—

20 (1) in clause (A)—

21 (A) in subclause (i), by inserting “except  
22 as provided in clauses (H) and (I),” before  
23 “which” the first place it appears; and

1 (B) in subclause (ii), by inserting “except  
2 as provided in clauses (H) and (I),” before  
3 “which” the first place it appears; and  
4 (2) by adding at the end the following:

5 “(H) RESTAURANTS AND RETAIL FOOD ESTABLISH-  
6 MENTS.—

7 “(i) IN GENERAL.—Except for food described in  
8 subclause (iii), in the case of food that is served,  
9 processed, or prepared in a restaurant or similar re-  
10 tail food establishment that is part of a chain with  
11 20 or more locations doing business under the same  
12 trade name (regardless of the type of ownership of  
13 the locations), the restaurant or establishment shall  
14 disclose the information described in subclause (ii).

15 “(ii) INFORMATION REQUIRED TO BE DIS-  
16 CLOSED.—Except as provided in subclause (iii), the  
17 establishment shall disclose—

18 “(I)(aa) in a statement adjacent to the  
19 name of the food on any menu listing the food  
20 for sale, or by any other means deemed equiva-  
21 lent by the Secretary, the number of calories,  
22 grams of saturated fat plus trans fat, and milli-  
23 grams of sodium contained in a standard serv-  
24 ing of the food, as usually offered for sale, in  
25 a clear and conspicuous manner; and

1           “(bb) information, specified by the Sec-  
2           retary by regulation, designed to enable the  
3           public to understand, in the context of a total  
4           daily diet, the significance of the nutrition in-  
5           formation that is provided; and

6           “(II) in a statement adjacent to the name  
7           of the food on any menu board or other sign  
8           listing the food for sale, or by any other means  
9           deemed equivalent by the Secretary—

10           “(aa) the number of calories con-  
11           tained in a serving of the food, as usually  
12           offered for sale, in a clear and conspicuous  
13           manner; and

14           “(bb) notification that the information  
15           required by subitems (aa) and (bb) of item  
16           (I) shall be provided in writing at the re-  
17           quest of a prospective purchaser.

18           “(iii) NONAPPLICABILITY TO CERTAIN FOOD.—

19           This clause does not apply to—

20           “(I) items that are not listed on a menu or  
21           menu board (such as condiments and other  
22           items placed on the table or counter for general  
23           use); or

1           “(II) daily specials, temporary menu items,  
2           or other irregular menu items, as specified by  
3           the Secretary by regulation.

4           “(iv) SELF-SERVICE FACILITIES.—In the case  
5           of food sold at a salad bar, buffet line, cafeteria line,  
6           or similar self-service facility, a restaurant or other  
7           establishment shall place a sign that lists calories  
8           per standard serving adjacent to each food offered.

9           “(v) VOLUNTARY PROVISION OF NUTRITION IN-  
10          FORMATION; STATE REGULATION OF NUTRITION IN-  
11          FORMATION FOR RESTAURANT FOOD.—

12           “(I) RETAIL FOOD ESTABLISHMENTS.—  
13           Nothing in this clause precludes a restaurant or  
14           similar retail food establishment from providing  
15           additional nutrition information, voluntarily, if  
16           the information complies with the nutrition la-  
17           beling requirements contained in this subpara-  
18           graph.

19           “(II) STATE OR LOCAL REQUIREMENTS.—  
20           Nothing in this clause precludes a State or po-  
21           litical subdivision of a State from requiring that  
22           a restaurant or similar food establishment pro-  
23           vide nutrition information in addition to that  
24           required under this clause.

25           “(vi) REGULATIONS.—

1           “(I) PROPOSED REGULATION.—Not later  
2 than 1 year after the date of enactment of this  
3 clause, the Secretary shall promulgate proposed  
4 regulations to carry out this clause.

5           “(II) CONTENTS.—The regulations shall  
6 allow for the variations in serving sizes and in  
7 food preparation that can reasonably be ex-  
8 pected to result from inadvertent human error,  
9 training of food service workers, and other fac-  
10 tors.

11           “(III) FINAL REGULATIONS.—Not later  
12 than 2 years after the date of enactment of this  
13 clause, the Secretary shall promulgate final reg-  
14 ulations to implement this clause.

15           “(IV) FAILURE TO PROMULGATE FINAL  
16 REGULATIONS BY REQUIRED DATE.—If the Sec-  
17 retary does not promulgate final regulations  
18 under item (III) by the date that is 2 years  
19 after the date of enactment of this clause—

20           “(aa) the proposed regulations issued  
21 in accordance with item (I) shall become  
22 effective as the final regulations on the day  
23 after that date; and



1                   “(bb) the Secretary shall publish in  
2                   the Federal Register notice of the final  
3                   regulations.

4                   “(I) VENDING MACHINES.—

5                   “(i) IN GENERAL.—In the case of an article of  
6                   food sold from a vending machine that—

7                   “(I) does not permit a prospective pur-  
8                   chaser to examine the article so as to be able  
9                   to read a statement affixed to the article before  
10                  purchasing the article; and

11                  “(II) is operated by a person that is en-  
12                  gaged in the business of owning and operating  
13                  20 or more vending machines;

14                  the vending machine operator shall provide a con-  
15                  spicuous sign in close proximity to the article that  
16                  includes a statement disclosing the number of cal-  
17                  ories contained in the article.

18                  “(ii) VOLUNTARY PROVISION OF NUTRITION IN-  
19                  FORMATION; STATE REGULATION OF NUTRITION IN-  
20                  FORMATION FOR VENDING MACHINES.—

21                  “(I) VENDING MACHINE OPERATORS.—

22                  Nothing in this clause precludes a vending ma-  
23                  chine operator from providing additional nutri-  
24                  tion information, voluntarily, if the information

1 complies with the nutrition labeling require-  
2 ments contained in this subparagraph.

3 “(II) STATE OR LOCAL REQUIREMENTS.—  
4 Nothing in this title precludes a State or polit-  
5 ical subdivision of a State from requiring that  
6 a vending machine operator provide nutrition  
7 information in addition to that required under  
8 this clause.

9 “(iii) REGULATIONS.—

10 “(I) PROPOSED REGULATION.—Not later  
11 than 1 year after the date of enactment of this  
12 clause, the Secretary shall promulgate proposed  
13 regulations to carry out this clause.

14 “(II) FINAL REGULATIONS.—Not later  
15 than 2 years after the date of enactment of this  
16 clause, the Secretary shall promulgate final reg-  
17 ulations to implement this clause.

18 “(III) FAILURE TO PROMULGATE FINAL  
19 REGULATIONS BY REQUIRED DATE.—If the Sec-  
20 retary does not promulgate final regulations  
21 under item (II) by the date that is 2 years after  
22 the date of enactment of this clause—

23 “(aa) the proposed regulations issued  
24 in accordance with item (I) shall become

1 effective as the final regulations on the day  
2 after that date; and

3 “(bb) the Secretary shall publish in  
4 the Federal Register notice of the final  
5 regulations.”.

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