

108TH CONGRESS
1ST SESSION

H. R. 3444

To amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers receive information about the nutritional content of restaurant foods.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 2003

Ms. DELAURO (for herself, Mr. WAXMAN, Mr. BROWN of Ohio, Ms. ESHOO, Mr. EMANUEL, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers receive information about the nutritional content of restaurant foods.

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; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Menu Education and Labeling Act”.

6 (b) REFERENCES.—Whenever in this Act an amend-
7 ment or repeal is expressed in terms of an amendment
8 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Federal Food, Drug, and Cosmetic Act.

3 **SEC. 2. FINDINGS.**

4 The Congress finds as follows:

5 (1) Research continues to reveal the strong link
6 between diet and health, and that diet-related dis-
7 eases start early in life.

8 (2) Increased caloric intake is a key factor con-
9 tributing to the alarming increase in obesity in the
10 United States. According to the Centers for Disease
11 Control and Prevention, two-thirds of American
12 adults are overweight or obese, and the rates of obe-
13 sity have doubled in children and tripled in teens
14 since 1980. Obesity increases the risk of diabetes,
15 heart disease, stroke, and other health problems.
16 Each year obesity costs families, businesses, and
17 governments \$117 billion.

18 (3) Excess saturated fat intake is a major risk
19 factor for heart disease, which is the leading cause
20 of death in the United States. While it is often
21 thought to primarily affect men and older people,
22 cardiovascular disease is the leading killer of women
23 and kills 61,000 people between the ages of 45 and
24 64 each year. Heart disease is also a leading cause
25 of disability among working adults and its impact on

1 the U.S. economy is significant, estimated in 2001
2 to total \$298 billion in health care expenditures and
3 lost productivity.

4 (4) Increased sodium intake is associated with
5 increased risk of high blood pressure, or hyper-
6 tension, a condition that can lead to cardiovascular
7 disease, especially stroke. The proportion of Ameri-
8 cans with high blood pressure is 45 percent at age
9 50, 60 percent at age 60, and over 70 percent at age
10 70.

11 (5) Over the past two decades, there has been
12 a significant increase in the number of meals pre-
13 pared and/or eaten outside the home, with an esti-
14 mated one-third of calories and almost half (46 per-
15 cent) of total food dollars being spent on food pur-
16 chased from and/or eaten at restaurants and other
17 food-service establishments.

18 (6) While nutrition labeling is currently re-
19 quired on most processed foods, such information is
20 required only for restaurant foods for which nutrient
21 content or health claims are made.

22 (7) Three-quarters of American adults report
23 using food labels on packaged foods, which are re-
24 quired by the Nutrition Labeling and Education Act
25 of 1990. Using food labels is associated with eating

1 more healthful diets, and approximately half (48
 2 percent) of people report that the nutrition informa-
 3 tion on food labels has caused them to change their
 4 minds about buying a food product.

5 (8) It is difficult for consumers to limit their in-
 6 take of calories at restaurants, given the limited
 7 availability of nutrition information, as well as the
 8 popular practice by many restaurants of providing
 9 foods in larger-than-standard servings and “super-
 10 sized” portions. Studies show that people eat greater
 11 quantities of food when they are served more.

12 **SEC. 3. NUTRITION LABELING OF RESTAURANT FOODS.**

13 (a) NUTRITION LABELING FOR FOODS EATEN IN
 14 RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISH-
 15 MENTS.—Section 403(q)(5)(A)(i) (21 U.S.C.
 16 343(q)(5)(A)(i)) is amended by adding at the end the fol-
 17 lowing: “except that food, beverages, and meals served in
 18 restaurants and similar retail food establishments that are
 19 part of a chain with 20 or more outlets doing business
 20 under the same trade name, regardless of the type of own-
 21 ership of the restaurant locations, shall list, adjacent to
 22 each food item listed, on menus, menu boards, and other
 23 signs, the total number of calories, grams of saturated
 24 plus trans fat, and milligrams of sodium per menu item,
 25 as offered for sale, in a clear and conspicuous manner,”.

1 (b) NUTRITION LABELING FOR FOODS PREPARED IN
2 RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISH-
3 MENTS BUT NOT FOR IMMEDIATE CONSUMPTION.—Sec-
4 tion 403(q)(5)(A)(ii) (21 U.S.C. 343(q)(5)(A)(ii)) is
5 amended by adding at the end the following: “except that
6 such food, beverages, and meals when it is processed and
7 prepared primarily in a retail establishment that is part
8 of a chain with 20 or more outlets doing business under
9 the same trade name, regardless of the type of ownership
10 of the restaurant locations, shall list, adjacent to each food
11 item listed, on menus, menu boards, and other signs, the
12 total number of calories, grams of saturated plus trans
13 fat, and milligrams of sodium per menu item, as offered
14 for sale, in a clear and conspicuous manner,”.

15 (c) VENDING MACHINES; RESTAURANT MENU
16 BOARDS.—Section 403(q)(5)(A) (21 U.S.C. 343(q)(5)(A))
17 is amended by adding after and below subclause (v) the
18 following:

19 “For purposes of the exceptions described in subclauses
20 (i) and (ii), nutrition labeling may be limited to the total
21 number of calories for foods, beverages and meals offered
22 for sale in vending machines and posted in restaurants
23 on menu boards.”.

24 (d) REGULATIONS.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services shall issue proposed regulations to
3 implement the amendments made by this section
4 within 12 months after the date of the enactment of
5 this Act. Such regulations shall require the required
6 information to be conveyed to the public in a man-
7 ner that enables the public to understand its relative
8 significance in the context of a total daily diet. Not
9 later than 24 months after the date of the enact-
10 ment of this Act, the Secretary shall issue final reg-
11 ulations to implement the requirements of such sub-
12 section.

13 (2) FAILURE TO PROMULGATE FINAL REGULA-
14 TIONS BY REQUIRED DATE.—If the Secretary of
15 Health and Human Services does not promulgate
16 final regulations under paragraph (1) upon the expi-
17 ration of 24 months after the date of the enactment
18 of this Act, the proposed regulations issued in ac-
19 cordance with paragraph (1) shall be considered as
20 the final regulations upon the expiration of such 24
21 months. There shall be promptly published in the
22 Federal Register notice of the new status of the pro-
23 posed regulations.

1 **SEC. 4. VOLUNTARY PROVISION OF NUTRITION INFORMA-**
2 **TION; STATE REGULATION OF NUTRITION IN-**
3 **FORMATION FOR RESTAURANT FOOD.**

4 (a) RETAIL FOOD ESTABLISHMENTS.—Nothing in
5 this Act precludes restaurants and similar retail food es-
6 tablishments from providing additional nutrition informa-
7 tion, voluntarily, provided that such information complies
8 with the nutrition labeling requirements contained in sec-
9 tion 403(q)(1) of the Federal Food, Drug, and Cosmetic
10 Act.

11 (b) STATE OR LOCAL REQUIREMENTS.—Nothing in
12 this Act precludes any State or political subdivision of a
13 State from requiring that restaurants and similar food es-
14 tablishments provide additional nutrition information be-
15 yond the requirements of this Act.

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