1	priated \$1,000,000 for fiscal year 2010 to carry out
2	this subsection.
3	SEC. 4205. NUTRITION LABELING OF STANDARD MENU
4	ITEMS AT CHAIN RESTAURANTS.
5	(a) Technical Amendments.—Section 403(q)(5)(A)
6	of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
7	343(q)(5)(A)) is amended—
8	(1) in subitem (i), by inserting at the beginning
9	"except as provided in clause (H)(ii)(III),"; and
10	(2) in subitem (ii), by inserting at the beginning
11	"except as provided in clause (H)(ii)(III),".
12	(b) Labeling Requirements.—Section 403(q)(5) of
13	the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
14	343(q)(5)) is amended by adding at the end the following:
15	"(H) Restaurants, Retail Food Establishments,
16	AND VENDING MACHINES.—
17	"(i) General requirements for res-
18	TAURANTS AND SIMILAR RETAIL FOOD ESTABLISH-
19	MENTS.—Except for food described in subclause (vii),
20	in the case of food that is a standard menu item that
21	is offered for sale in a restaurant or similar retail
22	food establishment that is part of a chain with 20 or
23	more locations doing business under the same name
24	(regardless of the type of ownership of the locations)
25	and offering for sale substantially the same menu

1	items, the restaurant or similar retail food establish-
2	ment shall disclose the information described in sub-
3	clauses (ii) and (iii).
4	"(ii) Information required to be disclosed
5	BY RESTAURANTS AND RETAIL FOOD ESTABLISH-
6	MENTS.—Except as provided in subclause (vii), the
7	restaurant or similar retail food establishment shall
8	disclose in a clear and conspicuous manner—
9	``(I)(aa) in a nutrient content disclosure
10	statement adjacent to the name of the standard
11	menu item, so as to be clearly associated with the
12	standard menu item, on the menu listing the
13	item for sale, the number of calories contained in
14	the standard menu item, as usually prepared
15	and offered for sale; and
16	"(bb) a succinct statement concerning sug-
17	gested daily caloric intake, as specified by the
18	Secretary by regulation and posted prominently
19	on the menu and designed to enable the public
20	to understand, in the context of a total daily
21	diet, the significance of the caloric information
22	that is provided on the menu;
23	"(II)(aa) in a nutrient content disclosure
24	statement adjacent to the name of the standard
25	menu item, so as to be clearly associated with the

1	standard menu item, on the menu board, includ-
2	ing a drive-through menu board, the number of
3	calories contained in the standard menu item, as
4	usually prepared and offered for sale; and
5	"(bb) a succinct statement concerning sug-
6	gested daily caloric intake, as specified by the
7	Secretary by regulation and posted prominently
8	on the menu board, designed to enable the public
9	to understand, in the context of a total daily
10	diet, the significance of the nutrition informa-
11	tion that is provided on the menu board;
12	"(III) in a written form, available on the prem-
13	ises of the restaurant or similar retail establishment
14	and to the consumer upon request, the nutrition infor-
15	mation required under clauses (C) and (D) of sub-
16	paragraph (1); and
17	"(IV) on the menu or menu board, a prominent,
18	clear, and conspicuous statement regarding the avail-
19	ability of the information described in item (III).
20	"(iii) Self-service food and food on dis-
21	PLAY.—Except as provided in subclause (vii), in the
22	case of food sold at a salad bar, buffet line, cafeteria
23	line, or similar self-service facility, and for self-service
24	beverages or food that is on display and that is visible
25	to customers, a restaurant or similar retail food es-

- tablishment shall place adjacent to each food offered
 a sign that lists calories per displayed food item or
 per serving.
 - "(iv) Reasonable Basis.—For the purposes of this clause, a restaurant or similar retail food establishment shall have a reasonable basis for its nutrient content disclosures, including nutrient databases, cookbooks, laboratory analyses, and other reasonable means, as described in section 101.10 of title 21, Code of Federal Regulations (or any successor regulation) or in a related guidance of the Food and Drug Administration.
 - "(v) Menu variability and combination meals, through means determined by the Secretary, including ranges, averages, or other methods."
 - "(vi) Additional information.—If the Secretary determines that a nutrient, other than a nutrient required under subclause (ii)(III), should be disclosed for the purpose of providing information to as-

1	sist consumers in maintaining healthy dietary prac-
2	tices, the Secretary may require, by regulation, disclo-
3	sure of such nutrient in the written form required
4	under subclause (ii)(III).
5	"(vii) Nonapplicability to certain food.—
6	"(I) In general.—Subclauses (i) through
7	(vi) do not apply to—
8	"(aa) items that are not listed on a
9	menu or menu board (such as condiments
10	and other items placed on the table or
11	counter for general use);
12	"(bb) daily specials, temporary menu
13	items appearing on the menu for less than
14	60 days per calendar year, or custom or-
15	ders; or
16	"(cc) such other food that is part of a
17	customary market test appearing on the
18	menu for less than 90 days, under terms
19	and conditions established by the Secretary.
20	"(II) Written forms.—Subparagraph
21	(5)(C) shall apply to any regulations promul-
22	gated under subclauses (ii)(III) and (vi).
23	"(viii) Vending machines.—
24	"(I) In general.—In the case of an article
25	of food sold from a vending machine that—

1	"(aa) does not permit a prospective
2	purchaser to examine the Nutrition Facts
3	Panel before purchasing the article or does
4	not otherwise provide visible nutrition in-
5	formation at the point of purchase; and
6	"(bb) is operated by a person who is
7	engaged in the business of owning or oper-
8	ating 20 or more vending machines,
9	the vending machine operator shall provide a
10	sign in close proximity to each article of food or
11	the selection button that includes a clear and
12	conspicuous statement disclosing the number of
13	calories contained in the article.
14	"(ix) Voluntary provision of nutrition in-
15	FORMATION.—
16	"(I) In general.—An authorized official of
17	any restaurant or similar retail food establish-
18	ment or vending machine operator not subject to
19	the requirements of this clause may elect to be
20	subject to the requirements of such clause, by reg-
21	istering biannually the name and address of
22	such restaurant or similar retail food establish-
23	ment or vending machine operator with the Sec-
24	retary, as specified by the Secretary by regula-
25	tion.

1	"(II) REGISTRATION.—Within 120 days of
2	enactment of this clause, the Secretary shall pub-
3	lish a notice in the Federal Register specifying
4	the terms and conditions for implementation of
5	item (I), pending promulgation of regulations.
6	"(III) Rule of construction.—Nothing
7	in this subclause shall be construed to authorize
8	the Secretary to require an application, review,
9	or licensing process for any entity to register
10	with the Secretary, as described in such item.
11	"(x) Regulations.—
12	"(I) Proposed regulation.—Not later
13	than 1 year after the date of enactment of this
14	clause, the Secretary shall promulgate proposed
15	regulations to carry out this clause.
16	"(II) Contents.—In promulgating regula-
17	tions, the Secretary shall—
18	"(aa) consider standardization of rec-
19	ipes and methods of preparation, reasonable
20	variation in serving size and formulation of
21	menu items, space on menus and menu
22	boards, inadvertent human error, training
23	of food service workers, variations in ingre-
24	dients, and other factors, as the Secretary
25	determines: and

1	"(bb) specify the format and manner of
2	the nutrient content disclosure requirements
3	under this subclause.
4	"(III) Reporting.—The Secretary shall
5	submit to the Committee on Health, Education,
6	Labor, and Pensions of the Senate and the Com-
7	mittee on Energy and Commerce of the House of
8	Representatives a quarterly report that describes
9	the Secretary's progress toward promulgating
10	final regulations under this subparagraph.
11	"(xi) Definition.—In this clause, the term
12	'menu' or 'menu board' means the primary writing of
13	the restaurant or other similar retail food establish-
14	ment from which a consumer makes an order selec-
15	tion."
16	(c) National Uniformity.—Section 403A(a)(4) of
17	the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-
18	1(a)(4)) is amended by striking "except a requirement for
19	nutrition labeling of food which is exempt under subclause
20	(i) or (ii) of section $403(q)(5)(A)$ " and inserting "except
21	that this paragraph does not apply to food that is offered
22	for sale in a restaurant or similar retail food establishment
23	that is not part of a chain with 20 or more locations doing
24	business under the same name (regardless of the type of
25	ownership of the locations) and offering for sale substan-

- 1 tially the same menu items unless such restaurant or simi-
- 2 lar retail food establishment complies with the voluntary
- 3 provision of nutrition information requirements under sec-
- 4 tion 403(q)(5)(H)(ix)".
- 5 (d) Rule of Construction.—Nothing in the amend-
- 6 ments made by this section shall be construed—
- 7 (1) to preempt any provision of State or local
- 8 law, unless such provision establishes or continues
- 9 into effect nutrient content disclosures of the type re-
- 10 quired under section 403(q)(5)(H) of the Federal
- 11 Food, Drug, and Cosmetic Act (as added by sub-
- section (b)) and is expressly preempted under sub-
- 13 section (a)(4) of such section;
- 14 (2) to apply to any State or local requirement
- 15 respecting a statement in the labeling of food that
- provides for a warning concerning the safety of the
- food or component of the food; or
- 18 (3) except as provided in section
- 19 403(q)(5)(H)(ix) of the Federal Food, Drug, and Cos-
- 20 metic Act (as added by subsection (b)), to apply to
- 21 any restaurant or similar retail food establishment
- other than a restaurant or similar retail food estab-
- lishment described in section 403(q)(5)(H)(i) of such
- 24 *Act*.