Nutrition Labeling in Chain Restaurants

State and Local Laws/Bills/Regulations: 2009-2010

Implemented

King County (Seattle), Washington http://www.metrokc.gov/health/

Status: On July 19, 2007, the King County Board of Health adopted regulations to require nutrition disclosure on menus and menu boards at fast-food and other chain restaurants. In the Washington State Legislature's 2008 session, House Bill 3160, a bill that would have prohibited local boards of health from adopting restaurant labeling regulations, was passed out of the House of Representatives. The chair of the Commerce and Labor Committee urged the King County Department of Health to compromise with the Washington Restaurant Association (WRA) to avoid state legislation amending or preempting the King County menu labeling regulations.

As a result, the King County Board of Health and the WRA negotiated a set of amendments to the regulations, and the WRA requested that House Bill 3160 not be moved. On April 17, 2008 the King County Board of Health voted to amend their regulations. The negotiated regulations require nutrition disclosure at fast-food and other chain restaurants as of December 31, 2008. Labeling regulations for drive through menu boards go into effect August 1, 2009.

Summary: The regulations require chain restaurants with fifteen or more national locations and \$1 million in annual sales (collectively for the chain) to display calorie, saturated fat, sodium, and carbohydrate information for foods and beverages on menus (or approved methods at the point of ordering including menu inserts, menu appendices, supplemental menus, or electronic kiosks at each table, as long as the menu prominently states on each page the location and means by which nutrition information is provided). If the restaurant uses a menu board, calories must be posted on the board (or other approved, easily readable sign adjacent to the menu board and visible from the line prior to the point of ordering). The remaining nutrition information (saturated fat, sodium, and carbohydrates) must be provided in a plainly visible format at the point of ordering. Exemptions are provided for items on the menu for less than 90 days; unopened, prepackaged foods; foods in salad bars, buffet lines, cafeteria service, and other self serve arrangements; and food served by weight or custom-ordered quantity. Grocery and convenience stores are also exempt.

New York City

www.nyc.gov/health

Status: On December 5, 2006, the Board of Health adopted regulations amending the Health Code (§81.50) to require menu labeling. The regulation was to become effective on July 1, 2007. The regulations were challenged in a lawsuit brought by the New York State Restaurant

Association (NYSRA). On September 11, 2007, a federal judge in the United States District Court for the Southern District of New York held that the regulations were preempted by 21 U.S.C §343(r) because they applied only to restaurants that had voluntarily provided calorie information (voluntary claims in restaurants are regulated at the federal level), as opposed to simply requiring all chain restaurants to post calorie information, which would not be preempted.

The New York City Department of Health redrafted their menu labeling regulations and a revised §81.50 was adopted by the Board of Health on January 22, 2008. The New York State Restaurant Association brought another lawsuit challenging the new regulations. On April 16, 2008, the same federal judge for the U.S. District Court for the Southern District of New York upheld the New York City Board of Health regulations – ruling that the New York City menu labeling regulations are not preempted by federal law, nor do they infringe on restaurant's First Amendment rights. The NYSRA requested a stay to keep the City from enforcing the regulations until an appeal was heard. The judge denied that request on April 18, 2008. The Second Circuit Court of Appeals also denied the NYSRA motion for a stay on April 29, 2008. The Court of Appeals heard the NYSRA's appeal the week of June 9, 2008. They have not yet returned a ruling.

The New York City menu labeling regulations went into effect March 31, 2008; due to litigation, enforcement was delayed until May 5, 2008, and fines for noncompliant fast-food and chain restaurants began being issued starting July 19, 2008.

Summary: The regulations require food-service establishments, which are part of a chain of 15 or more restaurants nationally, to list calories for standard menu items on menu boards, menus, or food item display tags. Font and format used for calorie information must be at least as prominent in size as is used for the name or price of the menu item.

Philadelphia

http://www.phila.gov/citycouncil/index.html

Status: On February 14, 2008, Councilmember Blondell Reynolds Brown introduced a menu labeling ordinance (No. 080167). The bill was voted out of the Committee on Public Health and Human Services on April 10, 2008. On November 6, 2008, the bill passed by a 12 to 5 vote. The Mayor signed the bill into law on November 20, 2008.

Summary: This bill amends the city's health code to require that calories, saturated fat, trans fat, sodium, and carbohydrates be displayed on menus and calories on menu boards and food tags in restaurants with 15 or more units nationally. If a restaurant serves food in wrappers or boxes, it must display the nutrition information on the wrapper or box in a clear and conspicuous manner. The law sets a fine of \$500 for noncompliance. The menu board provisions of the law went into effect on February 1, 2010, and the menu labeling requirement goes into effect April 1, 2010.

Westchester County, New York

http://www.westchesterlegislators.com/index.htm

Status: On January 22, 2008, the bill was introduced in the Westchester County Board of Legislators. The bill was referred to both the Legislation and Community Services Committees. The measure passed out of both committees on September 22, 2008. The bill was passed on November 10, 2008 Westchester County Board of Legislators and enacted on November 13.

Summary: Chapter 708 requires chain food-service establishments with at least 15 locations anywhere to display calorie information on menu boards (including drive-thrus) and menus. With prior approval from the Westchester County Department of Health, chain food service establishments could use alternative means of making calorie information available to patrons, as long as the information is available at the point of purchase and is as prominent as menu labeling. The law will take effect 180 days after enactment (May 12, 2009).

Passed in to law

Albany County, NY

http://www.albanycounty.com/portal-government.asp

Local Law No. "B" for 2009 Introduced on April 13, 2009 by County Legislators Nichols, Higgins, and Scavo.

Status: Referred to the Health Committee on April 13, 2009. Favorable Recommendation by Health Committee on July 29, 2009. Passed by Albany County Legislature 32-3 on August 10, 2009. Signed by County Executive Michael Breslin on September 2, 2009. The policy will take effect 180 days after its filing with the Office of the Secretary of State.

Summary: This law requires chain restaurants with 15 or more locations nationally to post calorie information for regular menu items on menus, menu boards, and food tags. Adjacent stanchions are allowed as an alternative to posting calories on drive-thru menu boards. Items on the menu for less than 30 days a year are exempt.

California

http://www.leginfo.ca.gov/bilinfo.html

<u>SB1420</u>: Introduced February 21, 2008 by Senators Alex Padilla (D) and Carol Midgen (D), with Assembly Member Mark DeSaulnier (D) as principal coauthor.

Status: This bill is a reintroduction of SB120 which was vetoed by Governor Schwarzenegger in 2007. The bill was referred to the Senate Committee on Rules for assignment. Voted out of the Senate Committee on Health on March 27, 2008. Passed by the Senate by a vote of 21 to 17 on May 22, 2008. Referred to the Assembly. Voted out of the Assembly Committee on Health by a

vote of 10 to 5 on June 17, 2008. Voted out of the Assembly Appropriations Committee by a vote of 12 to 4 on August 7, 2008. Passed by the Assembly by a vote of 46 to 28 on August 27, 2008. The amended bill then returned to the Senate where it was passed by a vote of 24 to 13 on August 31, 2008. Governor Schwarzenegger signed the bill on September 31, 2008.

The predecessor of this bill, SB120, was referred to the Senate Committee on Health on February 1, 2007, and voted out of that committee on March 14, 2007. Voted out of Senate Appropriations Committee on April 16, 2007. Passed by the Senate by a vote of 22 to 17 on May 31, 2007. Referred to the Assembly. Voted out of the Assembly Health Committee on June 26, 2007. Passed by the Assembly September 10, 2007 by a vote of 43 to 32. Vetoed by Governor Schwarzenegger on October 14, 2007.

Summary: This law requires fast-food and other chain restaurants that have 20 or more locations in California to post calorie information for all standard menu items on menus, menu boards, and food display tags. The policy allows for a range of nutritional information (minimum to maximum) for combo meals that have options and/or side orders. Calorie information may be provided per serving for family meals and family meal combos intended for more than one person (but not for appetizers or desserts). Nutrition information is not required at grocery stores, for items on the menu for less than 180 days, alcoholic beverages, or self-service items at salad bars or buffet lines. This law supersedes and replaces any existing or future local ordinances in California related to the provision of nutrition information in restaurants.

The law will be phased-in with full implementation by January 1, 2011. The first phase: from July 1, 2009 to December 31, 2010, restaurants must provide a brochure placed at the point of sale that includes at least calories, sodium, saturated fat, and carbohydrate information per menu item. For sit-down restaurants, the information must be provided at the table. Drive-thrus are required to have brochures available upon request and have a notice of the availability at the point of sale. The second phase: By January 2, 2011, calories must be listed on menus, menu boards, and food display tags next to the menu item. Drive-thrus shall continue to have a brochure available upon request and must have a notice that the information is available.

Davidson County, TN

http://health.nashville.gov/default.asp

Status: Regulations were proposed in November 2008 by the Metropolitan Public Health Department. On November 6, 2008, the Metropolitan Board of Health held a public hearing to consider the proposed menu labeling regulations. After amending the regulations, the Board of Health invited additional public comment. On March 5, they voted 4-1 to approve the regulations. Tennessee state legislature passed HB 0950 to overturn the Davidson County regulations on June 19, 2009. Governor vetoed bill July 1, 2009. Legislature overturned veto on February 8, 2010.

Summary: The regulations require chain restaurants with at least fifteen locations nationally to display calorie information on menus, menu boards, and food tags. They exempt entertainment facilities, lodging establishments, alcoholic beverages, and any menu items that are on the menu

for less than 90 days in a calendar year. Menu items can be labeled as more than one serving. The regulation will go into effect March 31, 2010.

Maine

http://janus.state.me.us/legis/

LD 1259 Introduced March 31, 2009 by Speaker Hannah Pingree.

Status: Referred to House Committee on Health and Human Services on March 31, 2009, and the Senate Committee on Health and Human Services on April 7, 2009. May 29, bill reported out of Committee. The bill was amended and passed by House by a vote of 88-56 June 2. On June 9, bill was amended and passed by Senate (18-16). On June 11, House passed amended bill (85-59) and Senate passed the bill to be enacted (20-14). Law signed by Governor on June 15, 2009.

Summary: LD 1259, an Act to Increase Access to Nutrition Information, requires restaurants that have 20 or more locations nationally to provide caloric information per serving for standard menu items on menus, menu boards (including drive-thrus), and food tags. Grocery and convenience stores, hotels, motels, movie theaters, self-serve items such as from a salad bar or buffet, and menu items that are on the menu for 90 days or less per year are exempt. Average calorie values for alcoholic beverages can be posted. For items that come in different flavors and varieties, the median value shall be listed if the calorie contents for all varieties are within 20% of the median. If not, calorie information must be provided for each variety. The law prevents localities from regulating nutrition disclosures in chain restaurants and other information postings on menus, menu boards, or food tags. The law goes into effect on February 1, 2011.

Massachusetts

http://www.mass.gov/dph

Status: In January 2009, the Massachusetts Department of Public Health proposed amendments to 105 CMR 590.000, State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments. Public hearings were held on February 24 and 25, 2009. The calorie posting amendments were adopted May 13, 2009. Implementation of the regulations must take place by November 1, 2010.

Summary: The regulations require chain restaurants with 20 or more locations in Massachusetts to list calories on menus, menu boards (including drive-thrus), and food tags for standard menu items. Nutritional analysis of menu items must be done by a dietitian or nutritionist licensed at the state or national level. Grocery stores, convenience stores, vending machines, and items that are on the menu for less than 30 days are exempt. Alcoholic beverages may be labeled using average calorie values for beers, wines, and spirits.

Montgomery County, Maryland

http://www.montgomerycountymd.gov

Status: On July 31, 2007, Montgomery County Councilmember George Leventhal introduced Bill no. 19-07, which was cosponsored by Councilmember Duchy Trachtenberg. A public hearing was held on September 17, 2007. The bill was voted out of committee on October 15, 2007. The bill passed the County Council November 17, 2009, and was signed by the County Executive November 27, 2009.

Summary: The law requires chain restaurants with at least twenty national locations to display calories on menus and menu boards (including drive-thru menu boards) for standard menu items (on the menu for at least 60 days per year). Additional nutrition information (including total fat, saturated fat, sodium, fiber, and sugars) will be provided in writing on the premises upon request. Calories also must be posted for self-serve items, such as from salad bars, buffets, and food on display. Grocery stores, convenience stores, and movie theaters are exempt. The menu labeling requirement takes effect on July 1, 2010.

Multnomah County, OR

http://www.co.multnomah.or.us/cc/

Status: On July 31, 2008, the Multnomah County Board of Health passed a menu labeling measure (Order No. 08-114) four to one. The policy was reviewed by the Department of Health, which addressed the details of implementing the measure. The final regulations were adopted February 12, 2009. The policy took effect March 12, 2009, and fines for restaurants that are found to be in violation will begin to be levied January 1, 2010. The Multnomah County menu labeling regulations were preempted by Oregon state law on June 17, 2009.

Summary: This policy requires all chain restaurants with 15 or more outlets nationally to post calorie information on menus, menu boards, and food tags for standard menu items with additional nutrition information (saturated fat, trans fat, carbohydrates, and sodium) available upon request. Items that are offered for sale for 90 days or less and movie theaters are exempt.

New Jersey

http://www.njleg.state.nj.us

S2905 Introduced June 15, 2009 by Senators Joseph Vitale, Shirley Turner, Connie Wagner, and Herb Conaway, Jr.

Status: Reported out of Senate Health, Human Services and Senior Citizens Committee with amendments on December 7, 2009. Passed Senate (22-16) on December 10. Received in Assembly December 14. Amended on Assembly floor on January 7, 2010. Passed Assembly (43-32-1) on January 11. Passed Senate (22-15) on January 11. Signed into law January 17, 2010.

Summary: The law requires retail food establishments with 20 or more locations nationally to list calorie information for all standard menu items (on the menu for at least 60 days) on printed menus and menu boards. Calories can be listed either on the drive-through menu board or on an adjacent stanchion visible at the point of ordering. Average values can be used for labeling alcoholic beverages. If a menu item, other than an appetizer or dessert, is intended to serve more than one person, the restaurant can list the number of individuals it is intended to serve and the calorie content for each individual serving. The law prevents localities from regulating dissemination of caloric information or the content required on menus, menu boards or similar signage in restaurants. The bill would take effect one year after passage, January 17, 2011.

Oregon

http://www.leg.state.or.us

HB 2726 Introduced by Representatives Kotek and Greenlick and Senators Bates and Morrisette.

Status: The bill was referred to the Speaker's desk on February 17 and to the Human Services committee on February 24, 2009. A public hearing was held on March 13, 2009. The bill was amended and reported out of Committee do pass on May 1, 2009. Bill was referred to Rules Committee. Public hearing was held May 11. May 13, bill was amended and reported out do pass. Bill passed House 43-15 on May 15, 2009. Bill passed Senate 21-7 on June 1, 2009. Law was signed by the governor on June 17, 2009. The bill goes into full effect January 1, 2011.

Summary: The Oregon menu labeling law requires chain restaurants with 15 or more outlets nationwide to post the calorie content for each menu item on menus, menu boards (including drive-thrus), and food tags. Calorie information for self-serve items must be provided on a menu board or food tag. Chain restaurants also must have the following information for each standard menu item available to customers upon request in the restaurant: saturated fat, trans fat, carbohydrates, and sodium. Movie theaters and items offered for sale less than 90 days per year are exempt. The Department of Human Services shall adopt rules for labeling alcoholic beverages and possible exceptions for drive-thru labeling. If a menu item, other than an appetizer or dessert, is intended to serve more than one person, the restaurant can list the number of individuals it is intended to serve and the calorie content for each individual serving. The bill prevents localities from requiring nutrition disclosures in restaurants.

San Francisco City and County http://www.sfgov.org/site/bdsupvrs_index.asp

Status: On March 18, 2008, the San Francisco Board of Supervisors passed a menu labeling ordinance (File No. 071661, Ordinance No. 40-08) that requires nutrition disclosure on menus, food tags, and posters by July 22, 2008 and menu boards by September 20, 2008 at fast-food and other chain restaurants. This ordinance was superseded by state law signed on September 31, 2008.

Summary: This ordinance amended the city's health code to require that calories for standard menu items be displayed on menu boards and food tags and calories, saturated fat, carbohydrates, and sodium be displayed on menus in chain restaurants with twenty or more units in California. Items placed at the counter for general use, alcoholic beverages, and items that are on the menu for less than 30 days would have been exempt. This ordinance also would have required chain restaurants to provide calories, total fat, saturated fat, sodium, protein, fiber, cholesterol, and carbohydrates on posters that are readily visible to customers. Chain restaurants were required to report annually their nutrition information to the Department of Public Health, which would have made the information available to the public.

San Mateo County, CA

http://www.co.sanmateo.ca.us/smc/department/bos/home/0,,1864_2133,00.html

Status: On August 12, 2008, the San Mateo County Board of Supervisors voted unanimously to adopt a menu labeling ordinance filed by Supervisors Jerry Hill and Rose Jacobs Gibson. Following the passage of the California state policy, this bill was repealed due to state level preemption.

Summary: This ordinance would have required chain restaurants in the unincorporated areas of the county with fifteen or more outlets in California to post calorie information on menu boards and food tags, and calories, saturated fat, trans fat, carbohydrates, and sodium on menus. The policy would have gone into effect on January 1, 2009.

Santa Clara County, CA

http://www.sccgov.org/portal/site/bnc/

Status: On December 4, 2007, Supervisor Liz Kniss recommended that the Administration and County Counsel draft a menu labeling ordinance. The draft ordinance was presented to the Health and Hospital Committee at its April 30, 2008 meeting. On June 3, 2008, the Santa Clara County Board of Supervisors unanimously passed a menu labeling ordinance, Ordinance No. NS-300.793. This ordinance has been superseded by state law signed on September 31, 2008.

Summary: This ordinance would have added Chapter XXII to the Santa Clara County Ordinance Code to require that calories for standard menu items be displayed on menu boards and food tags and that calories, saturated fat, trans fat, carbohydrates, and sodium be displayed on menus in chain restaurants (fourteen or more units in California) located within the unincorporated areas of the County. For restaurants that use menu boards or food tags, saturated fat, trans fat, carbohydrates, and sodium would have been provided in writing at the point of ordering. Items placed at the counter for general use, alcoholic beverages, and items that are on the menu for less than 30 days would have been exempt.

Suffolk County, NY

http://www.co.suffolk.ny.us/legis/

Resolution 2234-2008 Introduced in December 16, 2008 by Legislators D'Amaro and Gregory.

Status: On January 29, 2009 the Health and Human Services Committee of the Suffolk County Legislature heard the Resolution and voted in favor. February 3, 2009 the full legislature held a public hearing and voted 17-1 to pass the Resolution.

Summary: The resolution requires the Commissioner of Health Services and the Board of Health to write and implement regulations to require that chain restaurants with 15 or more locations nationally post calorie content information for all regular menu items on menus and menu boards (including drive-thrus).

Ulster County, NY http://www.co.ulster.ny.us/legislature.html

Local Law No. 1 of 2009 Introduced in January 2009 by Legislator Rob Parete.

Status: The Ulster County Menu Labeling Act passed out of the Health Services Committee on January 22, 2009 and was referred to the committee on Laws and Rules. A public hearing was held on March 4. The legislature voted 17-9 to pass the policy on April 7, 2009 and it was signed by the county executive on April 9, 2009.

Summary: This policy will require chain restaurants with 15 or more locations nationally to post calorie information for regular menu items on menus, menu boards (including drive-thrus), and food tags. The policy will take effect 180 days after adoption (October 5, 2009).

Introduced – Cities and Counties

Lane County, OR http://www.co.lane.or.us/BCC/default.htm

<u>Order #04-1-2</u> is being considered by the Board of County Commissioners of Lane County, sitting as the Lane County Board of Health.

Status: First reading April 1, 2009. Second reading and public hearing on April 15.

Summary: This policy would require chain restaurants with 15 or more locations nationally to post calorie information for regular menu items (including alcohol and self-serve items, such as from salad bars or buffets) on menus, menu boards (including drive-thrus), and food tags. Additional information including saturated fat, trans fat, carbohydrates, and sodium must be available in writing (through a supplemental menu, menu insert, brochure, kiosk, or an alternative method approved by the Department of Health and Human Services) upon request.

Items on the menu for less than 90 days per year, movie and other theatres, grocery stores, convenience stores, and bed and breakfasts are excluded. The rules would take effect on April 15, 2009, with fines going into effect December 31, 2009.

Nassau County, NY

www.nassaucountyny.gov/agencies/legis/index.html

<u>Resolution No. 18-2009</u> Introduced on June 22, 2009 by County Legislator Jeffrey Toback.

Status: Passed out of Finance and Rules Committees on June 22, 2009. On July 7, 2009, the County Legislature held a public hearing and passed the measure.

Summary: This policy would require chain restaurants with 15 or more locations nationally to post calorie information for regular menu items (including alcohol) on menus, menu boards, and food tags. Items on the menu for less than 30 days would be exempt. Adjacent stanchions are allowed as an alternative to posting calories on drive-thru menu boards. The policy would take effect 120 days after passage.

Rockland County, NY

www.co.rockland.ny.us/Legislature/default.html

Referral No. 9435 Introduced on March 26, 2009 by County Legislator Joseph Meyers.

Status: Referred to the in the Multi Services Committee on May 12, 2009. A public hearing was held July 7, 2009. The bill was sent back to the Multi Services Committee.

Summary: This policy would require chain restaurants with 15 or more locations to post calorie information for regular menu items on menus and menu boards (including drive-thrus). The policy would take effect after filing with the Office of the Secretary of State.

Introduced – States

Connecticut

http://www.cga.ct.gov

<u>SB 1080</u> Introduced on February 27, 2009 as a committee bill by Senator Harris and Rep. Ritter.

Status: Referred to Joint Committee on Public Health. A public hearing was held on March 6, 2009. The amended bill passed out of committee on March 26, 2009. The bill was then referred to the Legislative Commissioner's office for fiscal analysis on March 27, was reported out favorably on April 9, and placed on the Senate calendar. May 6, bill referred to Committee on Planning and Development. May 11, passed out of Committee on Planning and Development. Amended bill passed by the full Senate by a vote of 29 to 6 on May 21 and transmitted to the

House. On June 1, the bill passed the full House, as amended by the Senate, by a vote of 89-60. The bill was vetoed by Governor Rell on July 2, 2009.

Summary: This bill would require chain restaurants with 15 or more locations nationally to disclose calorie counts on menus, menu boards (including drive-thrus), and food display tags for standard menu items, including self-serve items such as from salad bars and buffets. Grocery stores, convenience stores, movie theaters, alcohol, and items on the menu for 90 days or less would be exempt. If a menu item is intended to serve more than one person, the restaurant shall list the number of individuals it is intended to serve and the calorie content for each individual serving. The bill would prevent localities from requiring nutrition disclosures in chain restaurants. Menu labeling would be required by July 1, 2010.

Delaware http://legis.delaware.gov/LEGISLATURE.NSF

<u>Senate Bill 81</u> Introduced April 30, 2009 by Senator Sokola and Representative Kowalko, and cosponsored by Senators Hall-Long and Henry, and Representatives Hudson, Longhurst and Schooley.

Status: Assigned to the Senate Small Business Committee on Apr 30, 2009.

Summary: This bill would require a food-service establishment with 10 or more outlets in Delaware or nationally to post calories, saturated fat, carbohydrates, and sodium on menus (including carry out menus). Menu boards (including drive-thrus) and food tags could post only calories, with the additional nutrition information available upon request. Items on the menu for less than 30 days would be exempt. The bill would require the Division of Public Health to conduct an education campaign and an evaluation of menu labeling. The bill would go into effect one year after enactment.

District of Columbia

www.dccouncil.washington.dc.us

<u>B18-0405</u> Introduced July 14, 2009 by Councilmembers Phil Mendelson (D) and Marion Barry (D).

Status: Referred to Health Committee.

Summary: The Menu Education and Labeling (MEAL) Act of 2009 would require restaurants, which are part of a chain having 10 or more locations nationally, to provide nutrition information for standard menu items (including alcohol, self-serve items, and buffets). On printed menus, the information would include calories, saturated plus trans fat, carbohydrates, and sodium. Nutrition information on menu boards (including drive thrus) and food tags could be limited to calories, provided that additional information be made available to customers in writing upon request.

Items on the menu for less than 30 days per year would be exempt. The policy would take effect nine months following enactment.

Florida

http://www.flsenate.gov

<u>S2590</u> Introduced on March 2, 2009 by Senator Gary Siplin (D).

Status: On March 12, the bill was referred to the Committees on Health Regulation, Regulated Industries, Judiciary, and General Government Appropriations. The first reading of the bill was on March 19, 2009.

Summary: This bill would require that chain restaurants with 19 or more locations in the state provide nutrition information on menus, menu boards, and food tags. Alcoholic beverages, buffets, salad bars, and items on the menu for less than 180 days per year would be exempt. If a menu item is intended to serve more than one person, it may list the number of individuals it is intended to serve and the calorie content for each individual serving. The policy would preemption localities from requiring nutrition information in restaurants. The policy includes two phases:

Phase I (January 1-June 30, 2010) – Restaurants with sit-down service must provide nutrition information for each standard menu item on menus, in a menu insert, or on a brochure or menu tent at each table. Restaurants that use a drive-thru or indoor menu board must provide information in a brochure that is available upon request at the point of sale with a notice indicating its availability. The nutrition information to be provided would include: calories, carbohydrates, saturated fat, and sodium.

Phase II (would go into effect July 1, 2010) – Restaurants must post calorie information adjacent to each menu item on menus, indoor menu boards, and food tags.

Hawaii

http://www.capitol.hawaii.gov

HB 5 Introduced January 22, 2009 by Representative K. Mark Takai (D).

Status: Referred to Committee on Health and Committee on Consumer Protection and Commerce.

Summary: This bill would require a food-service establishment with 15 or more outlets nationwide to post calorie information on menus, menu boards, and food tags. Alternatives to drive-thru menu boards would be allowed. Items on the menu for less than 30 days would be exempt. The bill would go into effect on July 1, 2009

Indiana

http://www.in.gov/

HB 1207 Introduced January 12, 2009 by Representative Charlie Brown.

Status: Referred to Committee on Public Health. On January 27, 2009, Committee gave a favorable report. At second reading, on February 2, 2009, the Committee made amendments to the bill. On Feb 25, 2009, passed the out of the full House by a vote of 51-46. Referred to the Senate. On March 3, 2009, referred to the Senate Committee on Commerce and Public Policy & Interstate Cooperation.

Summary: This bill would require chain restaurants of 20 or more outlets in Indiana to post calories and carbohydrates on menus and menu boards. Other information including calories, total fat, saturated fat, trans fat, cholesterol, sodium, carbohydrates, fiber, sugars, and protein must be made available to customers in the restaurant. The effective date would be July 1, 2009.

Kentucky

http://www.lrc.ky.gov/

<u>SB 133</u> Introduced February 12, 2009 by Senator Denise Harper Angel (D).

Status: Referred to the Senate Health and Welfare Committee on February 23, 2009.

Summary: The Consumer Menu Education and Labeling (CMEAL) Act would require chain restaurants with 10 or more locations in Kentucky to provide calorie information for menu items on menus or menu boards, including drive-thrus. Additional information including calories, carbohydrates, saturated fat, and sodium must be made available to customers; the format for that information is not specified.

Maryland

http://mlis.state.md.us/

HB 601 Introduced on February 6, 2009 by Delegate Doyle Niemann (D). Cosponsors are Ali, Benson, Carr, Frush, Glenn, Healey, Holmes, Hubbard, Hucker, Lafferty, Levi, Manno, Montgomery, Nathan-Pulliam, Pena-Melnyk, Ross, Shewell, Stein, V. Turner, and Weir.

Status: Referred to the Committee on Health and Government Operations. Public hearing was held on March 3, 2009. At the request of the Department of Health and Mental Hygiene, the bill was withdrawn for further study.

Summary: This bill would require chain restaurants with 15 or more outlets nationwide to post nutrition information for all standard menu items. Restaurants using printed menus would be required to list calories, carbohydrates, saturated plus trans fat, and sodium. Restaurants may list only calories on menu boards including on drive-thrus, food tags, and for salad bars, buffets and

other foods on display, as long as the other nutrition information is provided in writing at the point of ordering. The Act would take effect October 1, 2010.

<u>SB 142</u> Introduced on January 19, 2009 by Senator David Harrington (D).

Status: Referred to the Senate Finance Committee. Public hearing was held February 19, 2009.

Summary: Same as HB 601 (see above).

Missouri

http://www.moga.mo.gov/

HB 755 Introduced on February 17, 2009 by Representative Jason Grill (D).

Status: Second reading on February 18, 2009.

Summary: This bill would require restaurants with 15 or more outlets nationwide to post calorie contents on menus, menu boards, and food tags for each standard menu item. Restaurants that use drive-thru menus may post calorie information on the menu board or on an adjacent stanchion visible at or prior to the point of ordering. Items on the menu for less than 30 days per year would be exempt.

New York

http://assembly.state.ny.us/leg/

<u>AB 2720A</u> Introduced January 21, 2009 by Assemblymember Ortiz. Cosponsors include Gottfried, Cook, P. Rivera, Mayersohn, Gabryszak, Koon, Galef, Christensen, Fields, Boyland, Paulin, and Barron. Multi-sponsors include Bradley, Brennan, Clark, Dinowitz, Glick, Hooper, Jacobs, Latimer, Lavine, Maisel, McEneny, Millman, Pheffer, J. Rivera, Rosenthal, Towns, and Weisenberg.

Status: Read once and referred to the Committee on Health. Passed out of the Health Committee on February 4, 2009 and referred to the Committee on Codes. Reported out of the Codes Committee on April 27. Advanced to third reading April 30, 2009. Amended on third reading on June 18, 2009 to AB2720A. Amended bill passed Assembly 108-34 on June 22, 2009 and was referred to the Senate Rules Committee.

Summary: This bill would require chain restaurants with 15 or more locations nationally to list calories for all standard menu items on printed menus, menu boards, or food tags. Restaurants may post calories on drive-thru menu boards or adjacent stanchions. Items on the menu for less than 30 days per year, grocery stores, and convenience stores would be exempt. The Commissioner of Health is directed to promulgate regulations to implement the act, including rules for posting menu items meant to provide multiple servings. The bill would preempt the

authority of local governments to adopt and enforce any more stringent menu labeling policies and would take effect one year after enactment.

<u>S 5003</u> Introduced on April 27, 2009 by Senator Thomas Duane (D).

Status: Referred to the Senate Health Committee.

Summary: The bill would require chain restaurants with 15 or more locations nationally and 5 or more locations in New York State to list calorie information for all standard menu items on printed menus and menu boards or signs. Items on the menu for less than 30 days per year would be exempt. The Commissioner of Health is directed to promulgate regulations to implement the act. The bill would take effect 180 days after enactment.

Oklahoma

http://www.lsb.state.ok.us/

<u>SB 1135</u> Introduced February 2, 2009 by Senators Randy Bass and Constance Johnson.

Status: The bill was referred to the Health and Human Services committee on February 9, 2009 and reported Do Pass on February 19. On February 23, the bill was amended and renamed by the Health and Human Services committee and reported Do Pass. The amended bill passed the Senate by a vote of 37-8 on March 9, 2009. On March 10, the bill was engrossed to the House. Representative Wes Hilliard is the coauthor in the House.

Summary: Prior to being amended, the Healthy Choices Act would have required that chain restaurants with 10 or more locations in the state provide nutrition information on menus and menu boards. Grocery stores, convenience stores, drug stores, vending machines, alcoholic beverages, buffets, salad bars, and items on the menu for less than 180 days per year would be exempt. If a menu item is intended to serve more than one person, it could list the number of individuals it is intended to serve and the calorie content for each individual serving. The bill would preempt localities from requiring nutrition disclosures in restaurants. The policy included two phases:

Phase I (July 1, 2010-December 31, 2011) – Restaurants with sit-down service must provide calories, saturated fat, carbohydrates, and sodium content for each standard menu item on menus, in a menu insert, or on a brochure or menu tent on each table. Restaurants that use a drive-thru or indoor menu board must provide information in a brochure that is available upon request at the point of sale under a notice indicating its availability.

Phase II (would go into effect January 1, 2012) – Restaurants must post calorie content information adjacent to each standard menu item on menus, indoor menu boards, and food tags.

The amended bill would create a Task Force on Dining Information and Nutritional Education until November 30, 2009. The task force would be charged with examining the

feasibility of providing nutrition information to consumers in restaurants and recommend any actions or legislation which it deems necessary or appropriate.

Pennsylvania

www.leis.stae.pa.us

HB 1608 Introduced on June 3, 2009 by Representatives Peter Daley, Lawrence Curry and Tim Mahoney.

Status: Referred to the Committee on Commerce.

Summary: This bill would require chain restaurants which have averaged at least \$500,000 in food sales over the last three years to post calories for all standard menu items on menus, indoor menu boards, and food display tags. Calorie information may be provided per serving for menu items and combo meals intended to serve more than one person. Nutrition information would not be required for items on the menu for less than 180 days, alcoholic beverages, and self-serve items at salad bars, buffets, or beverage stations. Within 60 days after enactment, the law would supersede and replace any existing or future local ordinances in Pennsylvania related to menu labeling. Implementation of the policy would be in two phases:

Phase I (January 1, 2011-June 30, 2012) – Restaurants must provide a brochure at the point of sale listing calories, saturated fat, carbohydrates, and sodium content for each standard menu item. For sit-down restaurants, the information must be provided at the table. Drive-thrus would provide information in a brochure that is available upon request at the point of sale under a notice indicating its availability.

Phase II (would go into effect by July 1, 2012) – Restaurants must post calories adjacent to each standard menu item on menus, indoor menu boards, and food tags.

Rhode Island

http://www.rilin.state.ri.us/

H 5520 Introduced on February 24, 2009 by Representatives McNamara and Naughton.

Status: The bill was referred to House Health, Education and Welfare Committee on February 24, 2009. A hearing was held on April 2, 2009. The Committee recommended that the measure be held for further study.

Summary: This bill would require chain restaurants with 15 or more outlets nationwide to post calorie information for each menu item on menus, menu boards (including drive-thrus), and food tags. Items on the menu for less than 30 days per year would be exempt. This policy would take effect on January 1, 2010.

<u>S 0534</u> Introduced on February 25, 2009 by Senators Sosnowski, Perry, and Sheehan.

Status: The bill was referred to Senate Health and Human Services Committee. On April 22, 2009, a hearing was held to consider the bill. The Committee recommended that the measure be held for further study.

Summary: Same as H 5520 (see above).

Tennessee

http://www.legislature.state.tn.us/

HB 2319 Introduced on February 26, 2009 by Representative Michael Turner.

Status: On March 4, 2009 the bill was referred to the Committee on Health and Human Resources and the Committee on Government Operations. On March 11, 2009, it was referred to the Public Health and Family Assistance subcommittee of Health and Human Resources. On April 22, the bill was amended. On May 5, 2009, the bill was sent to a summer study committee by the Public Health and Family Assistance Subcommittee of Health and Human Resources.

Summary: The Tennessee Healthful Menu Act would require a chain restaurant of 20 or more establishments nationwide to disclose, for all standard menu items, the total number calories per serving as usually prepared and offered for sale. The disclosure must be on the menu board (including drive-thrus), a food tag, the menu, or an insert that accompanies the menu that is printed in the same font size as the menu. Additional nutrition information must be located on the premises and available to customers upon request prior to the point of ordering. For each standard menu item, that information must include: calories, calories from fat, total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and protein. Items on the menu for less than 90 days per year would be exempt. The policy would go into effect on January 1, 2010.

In subcommittee, the bill was amended to allow alternatives to labeling on menus and menu boards, including signs instead of menu boards and menu appendices or supplemental menus instead of labeling directly on the menu. Drive-thru menu boards and alcoholic beverages would be exempt. The amended state bill would overturn the menu labeling policy passed in Davidson County and prevent other localities from implementing policies regarding nutrition information in restaurants. The implementation date would be moved back to June 30, 2010.

<u>SB 2314</u> Introduced on February 26, 2009 by Senator James F. Kyle.

Status: On March 2, 2009, the bill was referred to the Committee on General Welfare, Health and Human Resources.

Summary: Same as HB 2319 (see above).

Texas

http://www.legis.state.tx.us/

HB 1522 Introduced on February 19, 2009 by Representative Carol Alvarado.

Status: On March 2, 2009 the bill was referred to the Committee on Public Health and read for the first time.

Summary: This bill would require that chain restaurants with 19 or more locations in the state provide nutrition information on menus and menu boards. Grocery stores, alcoholic beverages, buffets, salad bars, and items on the menu for less than 180 days per year would be exempt. If a menu item is intended to serve more than one person, it may list the number of individuals it is intended to serve and the calorie content for each individual serving. The policy includes two phases:

Phase I (January 1-December 31, 2010) – Restaurants with sit-down service must provide nutrition information for each standard menu item on menus, in a menu insert, or on a brochure or menu tent at each table. Restaurants that use a drive-thru or indoor menu board must provide information in a brochure that is available upon request at the point of sale with a notice indicating its availability. The nutrition information to be provided would include: calories, carbohydrates, saturated fat, and sodium.

Phase II (would go into effect January 1, 2011) – Restaurants must post calorie information adjacent to each menu item on menus, indoor menu boards, and food tags.

Vermont http://www.leg.state.vt.us/

H. 120 Introduced on February 3, 2009 by Representatives Koch, Browning, Clarkson, Devereux, Donahue, Emmons, Frank, Greshin, Hooper, Larocque, Lenes, Martin, McFaun, Reis, Stevens, Turner, and Zuckerman.

Status: On February 3, 2009, the bill was read for the first time and referred to the Committee on Human Services.

Summary: The bill would require restaurants with 10 or more establishments nationwide to post nutrition information next to each item as offered for sale. If a restaurant uses a printed menu, it must include calories, saturated fat, carbohydrates, protein, and sodium for each menu item. If a restaurant uses a menu board, it must post calories next to each item on the menu and have the additional nutrition information available in writing upon request. Grocery and convenience stores and items on the menu for less than 30 days per year would be exempt. The Department of Health would have 12 months from enactment of the bill to adopt rules to implement the policy.

West Virginia

http://www.legis.state.wv.us/

<u>HB 2745</u> Introduced on February 23, 2009 by Delegates Perdue, Hatfield, Marshall, Michael, Moore, and Rodighiero.

Status: Upon introduction, the bill was referred to the Committee on Health and Human Resources, then to the Committee on Government Organization. On March 5, 2009, the Committee on Health and Human Resources reported the bill Do Pass and sent it to Government Organization.

Summary: The bill would create the Healthy Lifestyles Restaurant Calorie Posting Program. The program would require the Governor's Office of Health Enhancement and Lifestyle to propose rules for legislative approval that would require restaurants with 15 or more locations nationally to post calorie information on menus, menu boards, and food tags. The Office would write rules for labeling at or near drive-thru menu boards. All state agencies would be required to market the program to their members.

<u>SB 419</u> Introduced on March 3, 2009 by Senators Foster, Jenkins, Prezioso, and Stollings.

Status: Upon introduction, the bill was referred to the Committee on Health and Human Resources. It passed out of the Committee on March 25, 2009 and was referred to the full Senate. On March 30, the bill was defeated in the Senate. Senator Deem filed a motion to have the bill reconsidered on March 31, 2009. A floor amendment was adopted that would exempt restaurants that are not located in at least 10 states other than West Virginia. The amended bill passed out of the Senate on March 31, 2009 and was referred to the House.

The bill was then amended by the House Committee on Health and Human Resources to eliminate the exemption for restaurants operating in less than 10 other states. It passed out of the Committee on April 3, 2009 and was referred to the House Committee on Government Organization. The Committee on Government Organization defeated the bill on April 7, 2009.

Summary: Same as HB 2745 (see above).

2/16/10