

SENATE No. 862

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to the Labeling of Certain Food Products.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This Act may be cited as the `Menu Education and Labeling (MEAL) Act
2 of 2009.

3 SECTION 2. FINDINGS.

4 (a) Research continues to reveal the strong link between diet and health, and that diet-
5 related diseases start early in life.

6 (b) Increased caloric intake is a key factor contributing to the alarming increase in obesity
7 in the United States. According to the Centers for Disease Control and Prevention, two-thirds of
8 American adults are overweight or obese, and the rates of obesity have tripled in children and
9 teens since 1980. Obesity increases the risk of diabetes, heart disease, stroke, and other health
10 problems. Each year obesity costs families, businesses, and governments \$117 billion.

11 (c) Excess saturated fat intake is a major risk factor for heart disease, which is the leading
12 cause of death for men and women in the United States. Heart disease is also a leading cause of

13 disability among working adults and its impact on the U.S. economy is significant, estimated in
14 2005 to cost \$393.5 billion in health care expenditures and lost productivity.

15 (d) Increased sodium intake is associated with increased risk of high blood pressure, a
16 condition that can lead to cardiovascular disease, especially stroke. The proportion of Americans
17 with high blood pressure is 45 percent at age 50, 60 percent at age 60, and over 70 percent at age
18 70.

19 (e) Over the past two decades, there has been a significant increase in the number of
20 meals prepared and/or eaten outside the home, with an estimated one-third of calories and almost
21 half (46 percent) of total food dollars being spent on food purchased from and/or eaten at
22 restaurants and other food-service establishments.

23 (f) Studies link eating out with obesity and higher caloric intakes. Foods that people eat
24 from restaurants and other food-service establishments are generally higher in calories and
25 saturated fat and lower in nutrients, such as calcium and fiber, than home-prepared foods.

26 (g) While nutrition labeling is currently required on most packaged foods, such
27 information is required only for restaurant foods for which nutrient content or health claims are
28 made.

29 (h) Three-quarters of American adults report using food labels on packaged foods, which
30 are required by the Nutrition Labeling and Education Act of 1990. Using food labels is
31 associated with eating more healthful diets, and approximately half (48 percent) of people report
32 that the nutrition information on food labels has caused them to change their minds about buying
33 a food product. Research shows that people make more healthful choices when restaurants
34 provide point-of-purchase nutrition information.

35 (i) It is difficult for consumers to limit their intake of calories at restaurants, given the
36 limited availability of nutrition information, as well as the popular practice by many restaurants
37 of providing foods in larger-than-standard servings and ‘super-sized’ portions. Studies show that
38 people eat greater quantities of food when they are served more.

39 SECTION 3.

40 SECTION 3. Chapter 94 of the General Laws, as appearing in the 2006 Official Edition,
41 is hereby amended by inserting the following new section:

42 Section 306A. Nutritional Labeling of Menu Items

43 (a) A restaurant or food establishment shall provide nutritional information for all
44 standard menu items listed on the menu, including but not limited to the total number of:

- 45 (1) calories;
- 46 (2) grams of saturated fat plus trans fat;
- 47 (3) grams of carbohydrates; and
- 48 (4) milligrams of sodium

49 per serving, as usually prepared and offered for sale.

50 (b) Restaurants that use a standard menu shall provide such information next to each item
51 on the menu in a size and typeface similar to other information about each menu item.

52 (c) A restaurant is exempt if it has fewer than ten locations nationally, doing business
53 under the same trade name, regardless of the type of ownership of the individual restaurant
54 locations, and offering predominantly the same types of meals, foods or menus.

55 (d) If the restaurant or similar retail food establishment uses only a menu board, it may
56 limit the nutritional information listed on the menu board to the total number of calories per
57 serving per item in a size and typeface similar to other information about the item; provided, that
58 the additional nutrition information be made available to customers in writing upon request.

59 (e) If a restaurant or similar retail food establishment uses a drive through menu sign, it
60 may limit the nutritional information list on the drive through menu sign to the total number of
61 calories per serving per item in a size and typeface similar to other information about the item;
62 provided, that the additional nutrition information be made available to customers in writing
63 upon request.

64 (f) If a restaurant or similar retail food establishment provides a salad bar, buffet line,
65 cafeteria service, or similar self-serve arrangement, it may limit the nutritional information
66 provided for items offered in such an arrangement to the total number of calories per standard
67 serving per item next to where the item is offered in a size and typeface that is prominent and
68 legible from where customers are choosing those items; provided, that the additional nutrition
69 information about the item shall be made available to customers in writing upon request.

70 (g) "Standard menu items" do not include (i) temporary menu items, such as specials that
71 appear on the menu for less than 30 days per year; and (ii) condiments and other items placed on
72 the table or counter for general use without charge.

73 SECTION 4. Nothing in this Act precludes restaurants and similar retail food
74 establishments from providing additional nutrition information voluntarily.

75 SECTION 5. (a) For the purposes of this Act, restaurants and similar retail food
76 establishments shall obtain the nutrient analysis required by this Act using analytic methods and
77 express nutrient content in a manner consistent with the Uniform Food, Drug, and Cosmetic Act
78 and implementing regulations. A label is out of compliance with the Act if the label declaration
79 is more than 20% lower than nutrient analysis shows as the average content of a representative
80 sample of the menu item.

81 (b) For menu items that come in different flavors and varieties but that are listed as a
82 single menu item, such as soft drinks, ice cream, pizza, and doughnuts, the median value for
83 calories or other nutrients for all flavors or varieties shall be listed on menus and menu boards if
84 the calorie or other nutrient values for all flavors or varieties are within 20% of the median. If
85 the calories or other nutrient values are not within 20% of the median, then the range for all the
86 flavors or varieties of that menu item shall be listed from the lowest to the highest value. If a
87 menu item that comes in different varieties is on display with a name placard or similar signage,
88 the calories per serving as-offered-for-sale shall be listed on the placard along with the name. If
89 a menu item is not on display, nutrition information for each individual flavor or variety shall be
90 provided by means of an in-store brochure, booklet, kiosk, or other device that is easily
91 accessible to customers. Signage should alert customers to the availability of such information.

92 SECTION 6. (a) The Department of Public Health shall issue proposed regulations to
93 implement the Act within 12 months after the date of the enactment of this Act. Such regulations
94 shall require the required information to be conveyed to the public in a manner that enables the

95 public to readily observe and comprehend such information and to understand its relative
96 significance in the context of a total daily diet. The implementing regulations will take effect 6
97 months after they are finalized. If the Department of Health does not promulgate final
98 regulations within 24 months after the date of the enactment of this Act, the proposed regulations
99 shall be considered as the final regulations.

100 (1) The bottom of each page of a menu must include, in a clear and conspicuous manner,
101 the following statement: “Recommended limits for a 2,000 calorie daily diet are 20 g of saturated
102 fat and 2,300 mg of sodium. Saturated fat numbers include trans fat.” If no items on the menu
103 contain more than 0.5 grams of trans fat from partially hydrogenated oil per serving, the
104 statement “saturated fat numbers include trans fat” can be omitted.

105 (2) When used by chain restaurants, menu boards must include, in a clear and
106 conspicuous manner, the following statement: “A 2,000 calorie diet is used as the basis for
107 general nutrition advice; individual calorie needs, however, may vary.”

108 SECTION 7. The Commissioner or his duly authorized agents or employees who inspect
109 restaurants and food establishments shall be required to determine that the nutrition information
110 required under this section is listed on the menu or menu board and that any additional required
111 information is available for customers upon request. Such inspectors shall not be required to
112 verify the accuracy of the nutritional listings. The Department of Public Health may request that
113 franchisors or corporate owners of chain restaurants and food establishments provide
114 documentation of the accuracy of the nutritional information.

115 SECTION 8. Nothing in this legislation shall prohibit local regulation, provided that such
116 local regulation shall incorporate the requirements of this Act.