

Nutritional Content Information Requirements for Chain Restaurants and Vending Machines¹

In the interest of helping consumers make more informed dietary choices, the health reform law includes new requirements for some chain restaurants and vending machine operators to provide nutritional content information about their products. Specifically, chain restaurants that have 20 or more locations² must disclose nutritional content information about standard menu items and vending machine operators that own or operate 20 or more vending machines must also display nutritional content information for food items.

Additionally, restaurants and vending machine operators that are not required to follow these ACA mandates do have the option to choose to be subject to the requirements by registering directly with the Department of Health and Human Services.

In July 2010, the Food and Drug Administration (FDA) issued a request for comments, and in April 2011, the FDA issued proposed rules on the provision.

Requirements for Chain Retail Food Establishments

For chain retail food establishments, the law mandates that the restaurants display nutrition information on menus and menu boards, including information about each item's calories, as well as information about suggested daily caloric intake. They must also have readily available to customers upon request other information about menu items' nutritional content, such as total fat and cholesterol,³ and note on the menu/menu board that this additional information is available.

These requirements also apply to self-service food, such as salad bar or buffet items. However, certain food items sold in these restaurants are not included in the requirements, such as temporary menu items or condiments.

Requirements for Vending Machine Operators

For vending machines, operators subject to the requirement must display a sign near the food items or the selection buttons that contains information about each item's caloric content, or allow items to be displayed so that individuals can view the nutritional information on each item's packaging prior to purchase.

Existing State & Local Menu Labeling Requirements

A number of states and localities, including counties, have implemented menu labeling requirements prior to the enactment of the ACA, in addition to some local health departments promoting voluntary menu labeling practices. The menu labeling requirements in the health reform law do preempt state and local nutrition labeling laws that do not coincide with new mandates, with the intention being to promote nationwide uniformity in how nutritional content information is displayed. However, state and local governments are permitted to establish nutrition labeling requirements for establishments not covered by the ACA or regulations.

As noted by NACo's affiliate, the National Association of County and City Health Officials (NACCHO), there may be implementation challenges, particularly in localities with existing regulations, ordinances or statutes regarding menu

¹ PPACA Section 4205

² Specifically, the ACA states that the requirements apply to "...chain restaurants and similar retail food establishments with 20 or more locations doing business under the same name and offering for sale substantially the same menu items..."

³ Specifically, the establishments must be able to provide per-serving information in written form about calories, total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, fiber and total protein.

labeling, and therefore it will be important for the FDA to provide clear guidance to state and local governments, particularly regarding enforcement issues.

Additional Information & Resources

FDA's webpage on the proposed labeling requirements:

<http://www.fda.gov/Food/LabelingNutrition/ucm248732.htm>

Brief from Health Reform GPS on ACA nutrition labeling requirements:

<http://healthreformgps.org/resources/nutrition-labeling-of-standard-menu-items-at-chain-restaurants/>