

Regular Session, 2014

SENATE BILL NO. 512

BY SENATOR HEITMEIER

PUBLIC HEALTH. Provides for chain restaurant menu labeling. (1/1/15)

1 AN ACT

2 To enact Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 40:1300.391 through 1300.396, relative to chain restaurant
4 menu labeling; to provide for definitions; to provide for labeling requirements; to
5 provide for exceptions; to provide for penalties; to provide for an effective date; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes
9 of 1950, to be comprised of R.S. 40:1300.391 through 1300.396, is hereby enacted to read
10 as follows:

11 **PART LXXV. CHAIN RESTAURANT MENU LABELING**

12 **§1300.391. Definitions**

13 **For the purposes of this Part, the following terms shall have the following**
14 **meanings unless the context clearly indicates otherwise:**

15 **(1) "Alcoholic beverage" has the meaning as defined in R.S. 32:300.**

16 **(2) "Calories per serving" means the caloric information for a food or**
17 **beverage item being offered for consumption by one person, as usually prepared**

1 and as offered for sale on the menu, menu board, or food display tag.

2 (3) "Chain restaurant" means an eating establishment that does business
3 under the same trade name in fifteen or more locations, at least one of which is
4 located in Louisiana that offers predominantly the same type of meals, food,
5 beverages, or menus, regardless of the type of ownership of an individual
6 location. "Chain restaurant" does not include a grocery store. "Chain
7 restaurant" does not include a hotel or motel that provides a separately owned
8 eating establishment but does include the separately owned eating establishment
9 if the eating establishment meets the criteria of this Part.

10 (4) "Food display tag" means a written or printed description of a food
11 or beverage item, such as a label or placard, placed in the vicinity of the food or
12 beverage item identifying the type or price of the food or beverage.

13 (5) "Grocery store" means a store primarily engaged in the retail sale of
14 canned food, dry goods, fresh fruits, and vegetables, fresh meats, fish, and
15 poultry. "Grocery store" includes a convenience store but does not include a
16 separately owned eating establishment located within a grocery store.

17 (6) "Menu" means a written or printed list describing food or beverage
18 items offered for sale at an eating establishment that may be distributed on or
19 off the premises but does not include a menu board.

20 (7) "Menu board" means a list of food or beverage items offered for sale
21 at an eating establishment that is posted in a public area for viewing by multiple
22 customers, including a backlit marquee sign, chalkboard, or drive-through
23 menu sign.

24 §1300.392. Menu labeling for chain restaurants

25 A. (1) A chain restaurant shall list on a food display tag, menu, or menu
26 board the total amount of calories per serving of each food and beverage item
27 listed for sale on the food display tag, menu, or menu board.

28 (2)(a)The statement of calories required in this Part shall be:

29 (i) Clear and conspicuous.

1 (ii) Adjacent to or in close proximity and clearly associated with the item
2 to which the statement refers.

3 (iii) Printed in a font and format at least as prominent in size and
4 appearance as the name or the price of the item to which the statement refers.

5 (b) As it pertains to an alcoholic beverage, it shall also meet the
6 requirements of R.S. 40:1300.395.

7 §1300.393. Determining caloric content; required statement; different varieties

8 A. The caloric content information required by this Part shall be
9 determined on a reasonable basis and may be determined only once per
10 standard menu item if the eating establishment follows a standardized recipe,
11 trains to a consistent method of preparation, and maintains a reasonably
12 consistent portion size. For the purposes of this Part, a reasonable basis for
13 determining caloric content means use of a recognized method for determining
14 calorie content, including but not limited to nutrient databases, laboratory
15 testing, and other reliable methods of analysis. Caloric content may be rounded
16 to the nearest ten calories for caloric content above fifty calories and to the
17 nearest five calories for caloric content of fifty calories and below.

18 B. (1) A menu, menu board, or written nutrition information provided
19 to a customer by a chain restaurant shall contain the following statement in a
20 clear and conspicuous manner and in a prominent location:

21 "To maintain a healthy weight, a typical adult should consume
22 approximately 2,000 calories per day; however, individual calorie needs may
23 vary."

24 (2) A menu, menu board, or written nutrition information provided to
25 a customer by a chain restaurant may include the following statement or a
26 statement similar to the following:

27 "Nutrition information is based upon standard recipes and product
28 formulations; however, modest variations may occur due to differences in
29 preparation, serving sizes, ingredients, or special orders."

1 **C. For a food or beverage item that is listed as a single item but includes**
2 **more than one variety, the caloric information required in this Part for that**
3 **item shall be the median value of calories for all varieties offered for that item**
4 **if the caloric information for each variety of the item is within twenty percent**
5 **of the median for that item. If the caloric information required by this Part for**
6 **a variety of a food or beverage item is not within twenty percent of the median**
7 **for that item, the caloric information shall be stated for each variety of that**
8 **item. If a food display tag is used to identify a specific variety of a food or**
9 **beverage item, the caloric information required by this Part shall be for that**
10 **specific variety of the item.**

11 **§1300.394. Exceptions**

12 **A chain restaurant shall not be required to provide information**
13 **pursuant to this Part for:**

14 **(1) A condiment or other item offered to a customer for general use**
15 **without charge.**

16 **(2) An item sold to a customer in a manufacturer's original sealed**
17 **package that contains nutrition information as required by federal law.**

18 **(3) A custom order for a food or beverage item that does not appear on**
19 **a menu, menu board, or food display tag.**

20 **§1300.395. Alcoholic beverages**

21 **A. A chain restaurant shall state on a food display tag, menu, or menu**
22 **board the average caloric value for beers, wines, and spirits as established by**
23 **the United States Department of Agriculture, Agricultural Research Service, in**
24 **the National Nutrient Database for Standard Reference.**

25 **B. A food display tag, menu, or menu board for an alcoholic beverage**
26 **may include the following statement:**

27 **"Signature drinks or liqueurs with added ingredients may contain**
28 **increased caloric content."**

29 **§1300.396. Enforcement; penalties**

1 **A. The Department of Health and Hospitals may inspect chain**
 2 **restaurants for compliance with this Part. The person operating the chain**
 3 **restaurant shall, upon request of the department, permit access to all parts of**
 4 **the restaurant and any records in the possession of the restaurant regarding**
 5 **nutritional values or menu items and provide menu item samples for nutritional**
 6 **value testing by the department.**

7 **B. If a chain restaurant violates any provision of this Part, the**
 8 **department shall provide the restaurant with written notice informing the**
 9 **restaurant of the violation and stating that the restaurant may avoid a civil**
 10 **penalty for the violation by curing the violation within sixty days. If the chain**
 11 **restaurant fails to cure the violation within sixty days, the department may**
 12 **impose a civil penalty of not less than two hundred fifty dollars and not more**
 13 **than one thousand dollars for the violation. For a continuing violation, each**
 14 **thirty day period that the violation continues after the preceding imposition of**
 15 **a civil penalty is a separate offense subject to a separate civil penalty. The**
 16 **department is not required to provide the chain restaurant with an opportunity**
 17 **to cure the continuing violation before imposing a civil penalty for the**
 18 **continuing violation.**

19 Section 2. This Act shall become effective on January 1, 2015.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

Heitmeier (SB 512)

Proposed law provides a chain restaurant shall list on a food display tag, menu, or menu board the total amount of calories per serving of each food and beverage item listed for sale on the food display tag, menu, or menu board.

Proposed law provides definitions.

Proposed law provides the statement of calories shall be:

- (1) Clear and conspicuous.
- (2) Adjacent to or in close proximity and clearly associated with the item to which the statement refers.

- (3) Printed in a font and format at least as prominent in size and appearance as the name or the price of the item to which the statement refers.

Proposed law further provides the caloric content information shall be determined on a reasonable basis and may be determined only once per standard menu item if the eating establishment follows a standardized recipe, trains to a consistent method of preparation, and maintains a reasonably consistent portion size.

Proposed law provides menu, menu board, or written nutrition information provided to a customer by a chain restaurant shall contain the following statement in a clear and conspicuous manner and in a prominent location:

"To maintain a healthy weight, a typical adult should consume approximately 2,000 calories per day; however, individual calorie needs may vary."

Proposed law provides a menu, menu board, or written nutrition information provided to a customer by a chain restaurant may include the following statement or a statement similar to the following:

"Nutrition information is based upon standard recipes and product formulations; however, modest variations may occur due to differences in preparation, serving sizes, ingredients, or special orders."

Proposed law provides for a food or beverage item that is listed as a single item but includes more than one variety, the caloric information required under proposed law for that item shall be the median value of calories for all varieties offered for that item if the caloric information for each variety of the item is within twenty percent of the median for that item. If the caloric information required by proposed law for a variety of a food or beverage item is not within 20 percent of the median for that item, then the caloric information shall be stated for each variety of that item. If a food display tag is used to identify a specific variety of a food or beverage item, the caloric information required by proposed law shall be for that specific variety of the item.

Proposed law provides a chain restaurant shall not be required to provide information pursuant to proposed law for:

- (1) A condiment or other item offered to a customer for general use without charge.
- (2) An item sold to a customer in a manufacturer's original sealed package that contains nutrition information as required by federal law.
- (3) A custom order for a food or beverage item that does not appear on a menu, menu board, or food display tag.

Proposed law provides a chain restaurant shall state on a food display tag, menu, or menu board the average caloric value for beers, wines, and spirits as established by the United States Department of Agriculture, Agricultural Research Service, in the National Nutrient Database for Standard Reference.

Proposed law provides the Department of Health and Hospitals (department) may inspect chain restaurants for compliance. Further, the person operating the chain restaurant shall, upon request of the department, permit access to all parts of the restaurant and any records in the possession of the restaurant regarding nutritional values or menu items and provide menu item samples for nutritional value testing by the department.

Proposed law provides if a chain restaurant violates proposed law, the department shall provide the restaurant with written notice informing the restaurant of the violation and stating that the restaurant may avoid a civil penalty for the violation by curing the violation

within 60 days. If the chain restaurant fails to cure the violation within 60 days, the department may impose a civil penalty of not less than \$250 and not more than \$1,000 for the violation. For a continuing violation, each 30 day period that the violation continues after the preceding imposition of a civil penalty is a separate offense subject to a separate civil penalty. The department is not required to provide the chain restaurant with an opportunity to cure the continuing violation before imposing a civil penalty for the continuing violation.

Effective January 1, 2015.

(Adds R.S. 40:1300.391-1300.396)