

City of Philadelphia



(Bill No. 080167-A)

AN ORDINANCE

Amending Title 6 of The Philadelphia Code, entitled "Health Code," by adding a new section requiring that chain restaurants and retail food establishments make available certain nutrition information for food and beverage items offered for sale, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 6 of The Philadelphia Code is hereby amended to read as follows:

TITLE 6. HEALTH CODE.

CHAPTER 6-100. GENERAL PROVISIONS.

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§6-102. Definitions.

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(6.1) Chain Restaurant. A restaurant or retail food establishment, including but not limited to a convenience store, deli, bakery, cookie counter, ice cream shop or coffee shop, that does business under the same trade name as used by fifteen (15) or more other establishments (whether such other establishments are located in the City or elsewhere and regardless of the type of ownership of each individual establishment).

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(19.2) Food Tag. A written or printed description of food or beverages placed in the vicinity of a sample item, such as a label or placard identifying a type of ice cream or donut.

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(32.1) Menu. A written or printed description of food or beverage items offered for sale, whether in the form of a pamphlet, folio, tablet, sign, board, tag or other form.

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(32.2) *Menu Board.* A list of food or beverages that is posted and intended for joint viewing by multiple customers such as back-lit marquee signs in the area of the point of sale, chalk boards and drive-through menu signs.

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§6-308. *Menu Labeling Requirements For Chain Establishments.*

(1) *Chain restaurants shall provide nutrition information for all food or beverage items listed for sale on menus as follows:*

(a) *The total number of calories (rounded to the nearest ten calories), grams of saturated fat, grams of trans fat, grams of carbohydrates and milligrams of sodium, per menu item as usually prepared and offered for sale shall be provided adjacent to each item on the menu, in a size and typeface similar to price and other information provided about each menu item;*

(b) *When menu boards or food tags are used in lieu of other forms of menus, the nutrition information may be limited to the total number of calories per item, provided that (i) the additional information required in subsection (a) is made available, in writing, to customers upon request; and (ii) a sign on or near the menu board or food tag states in clear and conspicuous typeface: “Additional nutrition information for all menu items available upon request.”*

(c) *The Board of Health may approve a variation in the method of presentation of the required nutrition information, provided that the Board deems such method appropriate for the protection of the public health, and provided that the approved method supplies the required information to the consumer at the point of decision-making as to a food order. Until any variation is approved, the chain restaurant shall comply with the requirements of this section.*

(2) *Every menu provided by a chain restaurant, or written information provided pursuant to subsection (1)(b) when menu boards or food tags are used, shall include, in clear and conspicuous typeface: (i) a statement of the current U.S. Food and Drug Administration recommended limits for grams of saturated fat (including trans fat) and milligrams of sodium for a 2,000 calorie-per-day diet; and (ii) the following statement: “A 2,000 calorie daily diet is used as the basis for general nutrition advice; individual calorie needs, however, may vary.”*

(b) *Menus, menu boards or food tags may also include the following, or a similar statement: “This nutrition information is based on*

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standard recipes and product formulations; however, variations may occur due to differences in preparation, serving sizes, ingredients, or special orders.”

(3) *For menu items that come in different flavors and varieties but that are listed as a single item, such as soft drinks, ice cream, pizza, and doughnuts, the median value for calories or other nutrition information for all flavors or varieties shall be listed if the calorie or other nutrition information for all flavors or varieties are within 20% of the median. If the calories or other nutrition information are not within 20% of the median, then the range for all the flavors or varieties shall be listed. If food tags are used to identify different varieties of similar items, the calories per serving of each item shall be listed on each food tag.*

(4) *Exceptions. Chain restaurants shall not be required to provide nutrition information for:*

(a) items such as specials or limited time offerings that appear on menus for less than thirty (30) days per year;

(b) condiments and other items placed on a table or counter for general use without charge;

(c) items sold in a manufacturer’s original sealed package that contain nutrition information as required by federal law; and

(d) custom orders which do not appear on the menu, menu boards or food tags.

(5) *Any chain restaurant that delivers food or beverage items outside of the premises in wrappers or boxes shall provide the information required by this section in connection with each item delivered on each wrapper and box in a clear and conspicuous manner.*

(6) *Nutrition information must be based upon analytic methods and express nutrient content in a manner consistent with U.S. Food and Drug Administration regulations. A menu is out of compliance with this Ordinance if any nutrition information on the menu for any particular item varies by more than 20% from a nutrient analysis of a representative sample of the menu item.*

(7) *Penalties. A violation of this Section shall be punishable by a fine of up to five hundred dollars (\$500). For the purpose of enforcing the provisions of this Section, notices of violation shall be issued by authorized Health Department inspectors or any other persons authorized to enforce ordinances. Such notices of violation shall be issued under the procedures set forth in §1-112, except that the*

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amount required to be remitted in response to a notice of violation shall be one hundred fifty dollars (\$150).

SECTION 2. This Ordinance shall take effect on January 1, 2010.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 6, 2008. The Bill was Signed by the Mayor on November 19, 2008.



Patricia Rafferty
Chief Clerk of the City Council