

House Bill 2982

Sponsored by Representatives CAMERON, SCHAUFLEER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires chain food facility to determine typical values for certain nutrition information regarding standard menu items offered by facility. Requires chain food facility to disclose nutrition information and to inform customers of information availability. Provides for Department of Human Services to administer and enforce requirements.

Prohibits local government adoption or enforcement of nutrition information determination or disclosure requirements for chain food facilities or other food facilities. Allows department and local government to enter into agreement for local government to enforce nutrition information disclosure requirements for chain food facilities on behalf of department.

Authorizes imposition of civil penalty for violation, not to exceed \$50.

Makes information disclosure requirements operative January 1, 2010.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to nutritional values; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in this section and sections 2, 3, 5 and 7 of this 2009 Act:**

5 (1) **"Chain food facility" means a food facility that is part of an affiliation of 20 or more**
6 **food facilities within the United States:**

7 (a) **Operating under a trade name or service mark, both as defined in ORS 647.005, that**
8 **is identical or substantially similar to the trade names or service marks of the affiliated food**
9 **facilities; and**

10 (b) **Selling standard menu items that constitute 80 percent or more of the standard menu**
11 **items sold in 20 or more of the affiliated food facilities.**

12 (2) **"Food facility" means a business outlet that serves prepared food products or**
13 **beverages in ready-to-eat discrete serving units for consumption on or off the premises.**

14 (3) **"Menu" means a printed list or pictorial display of food items or beverages being of-**
15 **fered for sale that is:**

16 (a) **Distributed to customers at a food facility for the purpose of ordering; and**

17 (b) **Is not used for the purpose of marketing.**

18 (4) **"Menu board" means a list or pictorial display of food items or beverages being of-**
19 **fered for sale at the food facility that is:**

20 (a) **Posted in the food facility at the point of sale; and**

21 (b) **Not used for the purpose of marketing.**

22 (5) **"Standard menu item":**

23 (a) **Means a prepared food product or a group or combination of prepared food products**
24 **that is offered as an article for sale by a chain food facility.**

25 (b) **Does not mean:**

26 (A) **Food products that are offered for sale less than 90 days during a calendar year.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) A prepackaged food product that is subject to the labeling requirements of the federal
2 Nutrition Labeling and Education Act of 1990.

3 (C) An alcoholic beverage that is subject to labeling requirements established by the
4 Bureau of Alcohol, Tobacco, Firearms and Explosives.

5 (D) A food product offered for customer self-service at a salad bar.

6 (E) A food product or beverage offered for customer self-service at a buffet.

7 (F) Condiments.

8 (G) Fresh produce sold separately from other items.

9 **SECTION 2.** (1) A chain food facility shall determine typical values of the following for
10 each standard menu item offered by the facility:

11 (a) Total calories.

12 (b) Total fat and total saturated fat.

13 (c) Total carbohydrates.

14 (d) Total sodium.

15 (2) The typical values described in subsection (1) of this section must be based on calorie
16 and nutrient databases, cookbooks, laboratory analysis or other reliable and verifiable
17 methods for calorie and nutrient contents of standard menu items offered for sale by the
18 chain food facility.

19 (3) Subject to subsection (4) of this section, a chain food facility shall disclose to cus-
20 tomers present at the facility the typical values described in subsection (1) of this section for
21 all standard menu items sold by the chain food facility. The disclosure to customers must
22 be by one or more of the following means:

23 (a) A menu or menu board.

24 (b) Written information on the packaging of the food item.

25 (c) Posters.

26 (d) Making brochures or other printed material available.

27 (e) Electronic media.

28 (f) Any method recognized by the Department of Human Services by rule.

29 (4)(a) If a chain food facility makes the typical value information described in subsection
30 (1)(b) to (d) of this section available to customers upon request, the facility may use a menu
31 or menu board that discloses typical values only for total calories.

32 (b) If the chain food facility uses a means of disclosure other than a menu or menu
33 board, the facility shall display in a conspicuous manner at the location where the customer
34 places the food order a statement that nutrition information is available upon request. Ex-
35 cept as provided in paragraph (c) of this subsection, if there is more than one location at the
36 chain food facility where customers place food orders, each of the locations must either
37 display a menu or menu board or display the statement described in this subsection.

38 (c) If the chain food facility has a drive-thru area:

39 (A) The typical value disclosure to customers using the drive-thru area shall be provided
40 by brochure upon request; and

41 (B) The point of sale for the drive-thru area shall display in a conspicuous manner a
42 notice that nutrition information regarding the standard menu items sold by the facility is
43 available upon request.

44 **SECTION 3.** (1) For a standard menu item that is a group or combination of food pro-
45 ducts:

1 (a) If total calories are the same for each possible group or combination of food products,
2 the disclosure for the standard menu item may state a single total calorie typical value.

3 (b) If total calories for the possible groups or combinations of food products differ,
4 notwithstanding section 2 of this 2009 Act the disclosure for the standard menu item shall
5 state the minimum and maximum typical values for the total calories of the standard menu
6 item.

7 (2) For a standard menu item that is intended to serve more than one individual, in ad-
8 dition to making the disclosure required under section 2 of this 2009 Act, the chain food fa-
9 cility shall disclose the number of individuals that the standard menu item is intended to
10 serve and the resulting typical values for total calories in an individual serving. If the item
11 intended to serve more than one individual is a group or combination of food products:

12 (a) The disclosure of nutritional values for the standard menu item other than total
13 calories shall state the minimum and maximum typical values for each of the nutritional
14 values; and

15 (b) The disclosure shall include the typical values for the total calories of the standard
16 menu item, stated as provided under subsection (1) of this section.

17 **SECTION 4.** The Department of Human Services may adopt all rules the department
18 considers reasonable for the administration and enforcement of sections 2 and 3 of this 2009
19 Act.

20 **SECTION 5.** A local government may not adopt or enforce any requirement for the de-
21 termination or disclosure of nutrition information by a food facility. The Department of Hu-
22 man Services and a local government may enter into an intergovernmental agreement for
23 the local government to enforce sections 2 and 3 of this 2009 Act or department rules adopted
24 under section 4 of this 2009 Act within the local government jurisdiction on behalf of the
25 department.

26 **SECTION 6.** The provisions of sections 1 to 5 of this 2009 Act do not create a cause of
27 action and may not be asserted as the basis for a per se negligence claim.

28 **SECTION 7.** If a chain food facility violates a provision of section 2 or 3 of this 2009 Act
29 or a Department of Human Services rule adopted under section 4 of this 2009 Act, the de-
30 partment may impose a civil penalty for the violation of not more than \$50.

31 **SECTION 8.** Sections 1 to 3 and 5 to 7 of this 2009 Act become operative January 1, 2010.

32 **SECTION 9.** This 2009 Act being necessary for the immediate preservation of the public
33 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
34 on its passage.

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