



2009 ASSEMBLY BILL 664

January 22, 2010 - Introduced by Representatives BENEDICT, POPE-ROBERTS, HILGENBERG, PASCH, KESSLER, DEXTER, COLON, HIXSON and SINICKI, cosponsored by Senators MILLER, LEHMAN and TAYLOR. Referred to Committee on Public Health.

1 **AN ACT to amend** 254.88; and **to create** 254.61 (1m), 254.61 (3g), 254.713 and
2 895.508 of the statutes; **relating to:** requiring certain chain restaurants to post
3 or provide nutritional information, providing immunity for restaurants that
4 provide inaccurate nutritional information, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires certain chain restaurants to disclose nutritional information for menu items. The requirements apply to a restaurant that is one of at least 20 restaurants in this country doing business under the same trade name and offering menus with substantially identical menu items.

Under the bill, a chain restaurant must disclose on a menu or menu board located inside or outside of the chain restaurant, the number of calories in a single order of the menu item. The chain restaurant must also disclose on the menu or menu board the suggested daily caloric intake and a statement that additional nutritional information is available upon request. If a chain restaurant offers food in a salad bar, buffet line, or cafeteria service, the restaurant must disclose the number of calories next to the food. If the chain restaurant offers a menu item in various flavors, varieties, or combinations, the chain restaurant must disclose the median number of calories per single order if the number of calories for each flavor, variety, or combination varies from the median by 20 percent or less. If the number of calories for each flavor, variety, or combination differ from the median by more than 20 percent, the chain restaurant must disclose the number of calories as a range from lowest to highest number of calories.

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The bill requires every chain restaurant to have on the premises and make available to a customer upon request all of the following nutritional information for a single order of each menu item: the number of calories from fat, the number of grams of total fat, the number of grams of saturated fat, the number of grams of carbohydrates, the number of grams of sugar, the number of milligrams of sodium, the number of grams of dietary fiber, and the number of grams of protein.

Under the bill, the Department of Health Services may impose a forfeiture of between \$50 and \$500 for a violation of the requirements to post or provide nutritional information. Any restaurant that provides nutritional information is immune from civil liability as a result of providing inaccurate information, if the restaurant provided the nutritional information in good faith.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 254.61 (1m) of the statutes is created to read:

2 254.61 (1m) “Chain restaurant” means a restaurant in this state that is one
3 of at least 20 restaurants in the United States doing business under the same trade
4 name and offering a menu with substantially identical menu items.

5 **SECTION 2.** 254.61 (3g) of the statutes is created to read:

6 254.61 (3g) “Menu item” does not include any of the following:

7 (a) Items that appear on the menu for fewer than 90 days per year.

8 (b) Condiments and other items placed on a table or counter for use without
9 charge.

10 **SECTION 3.** 254.713 of the statutes is created to read:

11 **254.713 Nutritional information in chain restaurant menus.** (1) (a) A
12 chain restaurant shall disclose for each menu item, as prepared and offered for sale
13 at the chain restaurant, the number of calories of a single order of the menu item.

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1 (b) A chain restaurant shall have on the premises and make available to a
2 customer in writing upon the customer's request all of the following nutritional
3 information regarding a single order of each menu item:

- 4 1. The number of calories from fat.
- 5 2. The number of grams of total fat.
- 6 3. The number of grams of saturated fat.
- 7 4. The number of grams of carbohydrates.
- 8 5. The number of grams of sugar.
- 9 6. The number of milligrams of sodium.
- 10 7. The number of grams of dietary fiber.
- 11 8. The number of grams of protein.

12 (c) If a chain restaurant offers a menu item to customers using a menu, the
13 chain restaurant shall display the calorie information required under par. (a) next
14 to each item on the menu in a size and typeface of equal prominence to the price or
15 name of the menu item.

16 (d) If the chain restaurant offers a menu item to customers using a menu board
17 located inside or outside of the chain restaurant, the chain restaurant shall display
18 the calorie information required under par. (a) on the menu board next to each item
19 in a size and typeface of equal prominence to the price or name of the item.

20 (e) If a chain restaurant offers food to customers in a salad bar, buffet line,
21 cafeteria service, or similar arrangement where prepared food is on display, the chain
22 restaurant shall display the calorie information required under par. (a) next to the
23 food offered in a size and typeface that is prominent and legible to customers.

24 (f) If a chain restaurant offers a menu item in various flavors, varieties, or
25 combinations and lists the item as a single menu item, the chain restaurant shall

ASSEMBLY BILL 664**SECTION 3**

1 display the calorie information required under par. (a) based on the median number
2 of calories for all flavors, varieties, or combinations, if the number of calories for each
3 flavor, variety, or combination differs from the median number by 20 percent or less.
4 If the number of calories for any flavor, variety, or combination differs from the
5 median number by more than 20 percent, the chain restaurant shall list the range
6 of the number of calories from the lowest to highest value. If a menu item that comes
7 in different flavors, varieties, or combinations is on display with a name placard or
8 similar signage, the chain restaurant shall disclose the number of calories per single
9 order of the menu item along with the name of the menu item.

10 (g) If a chain restaurant does not display a menu item on a menu or menu board
11 or offer food in a salad bar, buffet line, or cafeteria service, the chain restaurant shall
12 provide the calorie information required under par. (a) in a brochure, booklet, kiosk,
13 or other device that is available at the chain restaurant and is easily accessible to
14 customers at the point of ordering.

15 (2) A chain restaurant shall include all of the following information on its menu
16 or menu board:

17 (a) A statement describing the suggested daily caloric intake based on
18 recommendations by the U.S. department of agriculture and the federal department
19 of health and human services.

20 (b) A statement that additional nutritional information is available upon
21 request.

22 (3) A chain restaurant may calculate the nutritional information required to
23 be disclosed under sub. (1) (a) or (b) for a single order by dividing the total for the
24 entire amount prepared by the number of orders.

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1 (4) (a) The department may impose a forfeiture of not less than \$50 nor more
2 than \$500 on a person who violates subs. (1) to (3).

3 (b) The department may directly assess a forfeiture provided for under par. (a).
4 If the department decides to assess a forfeiture under par. (a), it shall send a notice
5 of assessment to the chain restaurant. The notice shall specify the amount of the
6 forfeiture assessed, describe the violation, and notify the chain restaurant of the
7 right to a hearing under par. (c).

8 (c) A person may contest an assessment of forfeiture under par. (b) by sending
9 a written request for hearing under s. 227.44 to the division of hearings and appeals
10 in the department of administration within 10 days after the receipt of the notice
11 issued under par. (b). The administrator of the division of hearings and appeals may
12 designate a hearing examiner to preside over the case and recommend a decision to
13 the administrator under s. 227.46. The decision of the administrator of the division
14 of hearings and appeals shall be the final administrative decision. The division of
15 hearings and appeals shall commence the hearing and issue a final decision within
16 60 days after receipt of the request for hearing unless all of the parties consent to a
17 later date. Proceedings before the division of hearings and appeals are governed by
18 ch. 227. In any petition for judicial review of a decision by the division of hearings
19 and appeals, the department, if not the petitioner who was in the proceeding before
20 the division of hearings and appeals, shall be the named respondent.

21 (5) No local ordinance may do any of the following:

22 (a) Impose any requirement to provide calorie or nutritional information, as
23 that term is used in sub. (1) (b), on a restaurant that is not a chain restaurant.

24 (b) Require a chain restaurant to post any nutritional information, as that term
25 is used in sub. (1) (b), that is not required under this section.

