

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/15/2009 (Per: TJD)




Appendix A


 The 2009 drafting file for LRB-2533/1 (For: Rep. Benedict)


has been copied/added to the drafting file for

2009 LRB-3355 (For: Rep. Benedict)

 Are These “Companion Bills” ?? ... No

If yes, who in the initial requestor’s office authorized the copy/transfer of the drafting history (“guts”) from the original file: _____

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

2009 DRAFTING REQUEST

Bill

Received: **04/02/2009**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Chuck Benedict (608) 266-9967**

By/Representing: **Tara Vasby**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Benedict@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Require restaurant menus to contain nutritional information

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 04/16/2009	bkraft 04/21/2009		_____			
/P1	csundber 05/27/2009	bkraft 05/27/2009	phenry 04/22/2009	_____	cduerst 04/22/2009		State
/P2	csundber 06/10/2009	bkraft 06/10/2009	mduchek 05/27/2009	_____	cduerst 05/27/2009		State
/1			rschlue	_____	cduerst	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			06/10/2009 _____		06/10/2009	06/23/2009	

FE Sent For:

<END>

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1 bjk 6/10

LRB-2533

05/27/2009 02:24:07 PM

Page 2

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MD 5/27
phenry
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P1 cduerst
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1/?	csundber	/Pl bjk 4/21					

FE Sent For:

Handwritten initials: hcr, ph

Handwritten initials: v, p, mn
<END>

Sundberg, Christopher

From: Ryan, Robin
Sent: Wednesday, April 01, 2009 5:20 PM
To: Sundberg, Christopher
Subject: FW: RE: Drafting Menu Labeling legislation

Attachments: labeling_legislation.doc

From: Vasby, Tara
Sent: Wednesday, April 01, 2009 1:02 PM
To: Ryan, Robin
Subject: RE: Drafting Menu Labeling legislation

Robin,
Mary Matthias suggested I contact you to draft this legislation. It was something that was kicked around in the LPOP study committee last summer.

I've attached some "suggested" draft legislation.



labeling_legislation.
doc (43 K...

I think it would be appropriate to eliminate all of Section 2 "Findings".

We would also like to limit this to restaurants that are part of a chain with 15 or more locations nationwide - which I think can go in section 3.

The idea is to do something similar to NYC and California.

If you have any questions, please let me know. Thanks much!

Tara Vasby
Leg. Assistant
Rep. Chuck Benedict

STATE OF _____

Raised Committee Bill No. _____
Referred to Committee on _____

Page 1
LCO No.

General Assembly
February Session, A.D., 2007

Introduced by _____

AN ACT CONCERNING NUTRITION LABELING OF FOOD BY CHAIN RESTAURANTS.
Be it enacted by the Senate and House of Representatives in General Assembly convened:

SECTION 1. This Act may be cited as the 'Menu Education and Labeling (MEAL) Act of 2007.'

SECTION 2. FINDINGS.

(a) Research continues to reveal the strong link between diet and health, and that diet-related diseases start early in life.

(b) Increased caloric intake is a key factor contributing to the alarming increase in obesity in the United States. According to the Centers for Disease Control and Prevention, two-thirds of American adults are overweight or obese, and the rates of obesity have tripled in children and teens since 1980. Obesity increases the risk of diabetes, heart disease, stroke, and other health problems. Each year obesity costs families, businesses, and governments \$117 billion.

(c) Excess saturated fat intake is a major risk factor for heart disease, which is the leading cause of death for men and women in the United States. Heart disease is also a leading cause of disability among working adults and its impact on the U.S. economy is significant, estimated in 2005 to cost \$393.5 billion in health care expenditures and lost productivity.

(d) Increased sodium intake is associated with increased risk of high blood pressure, a condition that can lead to cardiovascular disease, especially stroke. The proportion of Americans with high blood pressure is 45 percent at age 50, 60 percent at age 60, and over 70 percent at age 70.

(e) Over the past two decades, there has been a significant increase in the number of meals prepared and/or eaten outside the home, with an estimated one-third of calories and almost half (46 percent) of total food dollars being spent on food purchased from and/or eaten at restaurants and other food-service establishments.

(f) Studies link eating out with obesity and higher caloric intakes. Foods that people eat from restaurants and other food-service establishments are generally higher in calories and saturated fat and lower in nutrients, such as calcium and fiber, than home-prepared foods.

(g) While nutrition labeling is currently required on most packaged foods, such information is required only for restaurant foods for which nutrient content or health claims are made.

(h) Three-quarters of American adults report using food labels on packaged foods, which are required by the Nutrition Labeling and Education Act and went into effect in 1994. Using food labels is associated with eating more healthful diets, and approximately half (48 percent) of people report that the nutrition information on food labels has caused them to change their minds about buying a food product. Research shows that people make more healthful choices when restaurants provide point-of-purchase nutrition information.

(i) It is difficult for consumers to limit their intake of calories at restaurants, given the limited availability of nutrition information, as well as the popular practice by many restaurants of providing foods in larger-than-standard servings and 'super-sized' portions. Studies show that people eat greater quantities of food when they are served more.

SECTION 3. Sec. 21a-102 of the General Statutes are amended by adding to the end, the following:

(1) (a) A restaurant or food establishment shall provide nutrition information for all standard menu items listed on the menu, including but not limited to the total number of:

- (1) calories;
- (2) grams of saturated fat plus trans fat;
- (3) grams of carbohydrates; and
- (4) milligrams of sodium

per serving, as usually prepared and offered for sale.

(b) Restaurants that use a standard menu shall provide such information next to each item on the menu in a size and typeface of equal prominence to the price or name of the menu item.

(c) A restaurant is exempt if it has fewer than ten locations nationally, doing business under the same trade name, regardless of the type of ownership of the individual restaurant locations, and offering predominantly the same types of meals, foods or menus.

(d) If the restaurant or similar retail food establishment uses only a menu board, it may limit the nutrition information listed on the menu board to the total number of calories per menu item as usually offered for sale in a size and typeface of equal prominence to the price or name of the item; provided, that the additional nutrition information be made available to customers in writing upon request.

(e) If a restaurant or similar retail food establishment provides a salad bar, buffet line, cafeteria service, or arrangement where food is on display, it must provide calories per standard serving per item next to where the item is offered in a size and typeface that is prominent and legible from where customers are choosing those items; provided, that the additional nutrition information about the item shall be made available to customers in writing upon request.

(f) "Standard menu items" do not include (i) temporary menu items, such as specials that appear on the menu for less than 30 days per year; and (ii) condiments and other items placed on a table or counter for general use without charge.

SECTION 4. Nothing in this Act precludes restaurants and similar retail food establishments from providing additional nutrition information voluntarily.

SECTION 5. (a) For the purposes of this Act, restaurants and similar retail food establishments shall obtain the nutrient analysis required by this Act using analytic methods and express nutrient content in a manner consistent with the Uniform Food, Drug, and Cosmetic Act and implementing regulations

(b) For menu items that come in different flavors, varieties, or combinations but that are listed as a single menu item, such as soft drinks, ice cream, pizza, doughnuts, or children's combo meals, the median value for calories or other nutrients for all flavors, varieties, or combinations shall be listed on menus and menu boards if the calorie or other nutrient values for all flavors, varieties or combinations are within 20% of the median. If the calories or other nutrient values are not within 20% of the median, then the range for all the flavors, varieties, or combinations of that menu item shall be listed from the lowest to the highest value. If a menu item that comes in different varieties is on display with a name placard or similar signage, the calories per serving as-offered-for-sale shall be listed on a placard along with the name. If a menu item is not on display, nutrition information for each individual flavor or variety or each individual menu item that can be chosen as part of a combo meal shall be provided by means of an in-store brochure, booklet, kiosk, or other device that is easily accessible to customers at the point of ordering. Signage should alert customers to the availability of such information.

(c) A menu must include, in a clear and conspicuous manner, the following statement: "Recommended limits for a 2,000 calorie daily diet are 20 g of saturated fat and 2,300 mg of sodium. Saturated fat numbers include trans fat." If no items on the menu contain more than 0.5 grams of trans fat from partially hydrogenated oil per serving, the statement "saturated fat numbers include trans fat" can be omitted.

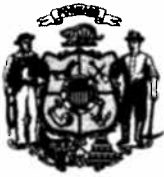
(d) When used by chain restaurants, menu boards must include, in a clear and conspicuous manner, the following statement: "A 2,000 calorie daily diet is used as the basis for general nutrition advice; however individual calorie needs may vary."

(e) Menus or menu boards may include the following or similar statement: The nutrition information is based on standard recipes and product formulations; however, variations may occur due to differences in preparation, serving sizes, ingredients, or special orders.

SECTION 6. (a) This Act shall take effect 12 months after the date of enactment.

SECTION 7. The Commissioner or his duly authorized agents or employees who inspect restaurants and food establishments shall be required to determine that the nutrition information required under this section is listed on the menu or menu board and that any additional required information is available for customers upon request. Such inspectors shall not be required to verify the accuracy of the nutrition listings. The Department of Health may request that franchisors or corporate owners of chain restaurants and food establishments provide documentation of the accuracy of the nutrition information.

4/2/2009



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
X-ref

1 AN ACT ...; relating to: requiring ^enutritional information in the menus of certain
2 chain restaurants and granting rule-making authority.

nutritional

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

ⓑ
Nutritional

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

3 SECTION 1. 100.365 of the statutes is created to read:

4 100.365 ^eNutrition information in chain restaurant menus. (1) In this
5 section:

6 (a) "Chain restaurant" ^emeans a restaurant in this state that is one of at least
7 10 restaurants in the United States doing business under the same trade name and
8 offering menus with substantially identical menu items.

9 (b) "Menu item" does not include any of the following:

10 1. Items that appear on the menu for less than 30 days per year.

1 2. Condiments and other items placed on a table or counter for use without
2 charge.

3 (2) (a) Subject to pars. (c) and (d), a chain restaurant shall disclose for each
4 serving of a menu item, as prepared and offered for sale at the chain restaurant, the
5 size of a single serving of the menu item and all of the following regarding a single
6 serving of the menu item:

- 7 1. The number of calories.
- 8 2. The total number of grams of saturated fat and trans fat.
- 9 3. The number of grams of carbohydrates.
- 10 4. The number of milligrams of sodium.

11 (b) A disclosure required under par. (a) shall appear in a chain restaurant's
12 menu next to each item on the menu in a size and typeface of equal prominence to
13 the price or name of the menu item.

14 (c) If a chain restaurant that only offers menu items to customers using a menu
15 board, the chain restaurant may limit the information displayed on the menu board
16 to the number of calories contained in each item. A disclosure under this paragraph
17 shall appear in a size and typeface of equal prominence to the price or name of the
18 item. A chain restaurant subject to this paragraph shall make the information
19 described in par. (a) 2. to 4. available to a customer in writing upon the customer's
20 written request.

21 (d) A chain restaurant that offers customers a salad bar, buffet line, cafeteria
22 service, or similar arrangement where prepared food is on display shall disclose the
23 number of calories contained in a standard serving of each item offered and the size
24 of a standard serving of the item. A disclosure under this paragraph shall be
25 displayed next to the item offered and shall be made in a size and typeface that is

1 prominent and legible to customers. A chain restaurant subject to this paragraph
2 shall make the information described in par. (a) 2. to 4. available to a customer in
3 writing upon the customer's written request.

4 (e) If a chain restaurant offers a menu item in different flavors, varieties, or
5 combinations and lists the item as a single menu item, the restaurant shall disclose
6 the information required under par. (a) based on the median number of calories,
7 grams of saturated fat and trans fat, grams of carbohydrates, and milligrams of
8 sodium for all flavors, varieties, or combinations, if the number of calories, grams of
9 saturated fat and trans fat, grams of carbohydrates, and milligrams of sodium for
10 each flavor, variety, or combination is less than or equal to 20 percent of the median.
11 If the number of calories, grams of saturated fat and trans fat, grams of
12 carbohydrates, and milligrams of sodium for each flavor, variety, or combination are
13 not less than or equal to 20 percent of the median, the chain restaurant shall list the
14 range of the number of calories, grams of saturated fat and trans fat, grams of
15 carbohydrates, and milligrams of sodium from the lowest to the highest value. If a
16 menu item that comes in different flavors, varieties, or combinations is on display
17 with a name placard or similar signage, the placard or signage shall disclose the
18 number of calories per serving of the menu item along with the name of the menu
19 item. If a chain restaurant does not display a menu item on a menu or menu board,
20 the chain restaurant shall disclose the number of calories, grams of saturated fat and
21 trans fat, grams of carbohydrates, and milligrams of sodium in each menu item that
22 is available to customers using a brochure available at the chain restaurant, a
23 booklet, a kiosk, or other device that is easily accessible to customers at the point of
24 ordering.

Sundberg, Christopher

From: Vasby, Tara
Sent: Thursday, April 23, 2009 3:50 PM
To: Sundberg, Christopher
Subject: RE: LRB 2533 - Menu labeling

Hi Chris,

Thanks for the draft on Menu Labeling. I've got a couple of changes, if possible.

1 - I'd like to cross reference restaurant with Wis Stats 254.61(5) so that we can be sure to EXCLUDE those entities already listed in state statute. My concern is that if these folks are not expressly excluded that they will think that they are included.

2 - Please make the effective date 6 months after the date of publication

3 - Include fine/forfeiture language for no less than \$50 and not more than \$500 for each violation. If possible, I would like to have that money directed to the WI Dept of Health Services Nutrition, Physical Activity and Obesity Program. I'm not sure how that works though.

If you have any questions, please let me know.

Thanks!
Tara Vasby
Leg. Assistant
Rep. Chuck Benedict

Sundberg, Christopher

From: Vasby, Tara
Sent: Tuesday, May 26, 2009 2:01 PM
To: Sundberg, Christopher
Subject: RE: RE: LRB 2533 - Menu labeling

1 - a penalty of not less than \$50 and not more than \$500 for each violation. Which is what CA does.

From: Sundberg, Christopher
Sent: Tuesday, May 26, 2009 1:58 PM
To: Vasby, Tara
Subject: RE: RE: LRB 2533 - Menu labeling

Well, I guess what the constitution wants is twofold:

1. Specify a penalty amount, unless you're okay with the default penalty for ch. 100: \$200 fine, 6 months in jail, or both (see s. 100.26 (1)).
2. Specify a surcharge amount that's based on some reasonable judgment about what the actual cost of enforcement will be. Seems to me this might not be something you can do until you get a fiscal estimate.

From: Vasby, Tara
Sent: Tuesday, May 26, 2009 1:51 PM
To: Sundberg, Christopher
Subject: RE: RE: LRB 2533 - Menu labeling

Dang. Okay, just run with whatever the constitution wants!

From: Sundberg, Christopher
Sent: Tuesday, May 26, 2009 1:50 PM
To: Vasby, Tara
Subject: RE: RE: LRB 2533 - Menu labeling

Well, it's not an issue that's made it to the courts yet, but I suspect a court presented with a surcharge-only provision is likely to view the provision as an impermissible effort to dodge the school fund.

From: Vasby, Tara
Sent: Tuesday, May 26, 2009 1:02 PM
To: Sundberg, Christopher
Subject: RE: RE: LRB 2533 - Menu labeling

Hi Chris,
Sorry this has taken so long.

Per your email on Apr 28

As to the penalty, the WI constitution dictates that the proceeds of all fines and forfeitures must go to the school fund. If you want to make violators pay into some other fund or appropriation, I will need to draft a 'surcharge' rather than (or in addition to) a penalty and then direct the surcharges to the right place. So I need to know: (1) do you want to create a surcharge only or a surcharge (directed to a particular program) plus a penalty (deposited in the school fund)? (2) if you want a surcharge plus a penalty, do you want it to be a fine (i.e., criminal penalty) or a forfeiture (i.e., civil penalty)? (3) where do you want to allocate the surcharges? I don't see the DHS program you mention identified in the statutes, so it may not be a program mandated by the legislature. If not, it's problematic to allocate money for a program that DHS could discontinue or alter without legislative approval.

Can we draft the language so that a *surcharge only* is directed to the school lunch program which is found in chap 115.34 of the statutes??

Thanks!

Tara vasby
Leg. Assistant
Rep. Chuck Benedict

From: Sundberg, Christopher
Sent: Tuesday, April 28, 2009 2:03 PM
To: Vasby, Tara
Subject: RE: RE: LRB 2533 - Menu labeling

Do you think a person who reads the bill could get the impression that a farmer's market or school cafeteria is subject to the disclosure requirements? I don't think so, but as the drafter I've got an obvious bias.

If you want to incorporate the x-ref to 254.61 (5), I'd add to the bill a (1) (c) at the top of page 2: "Restaurant" has the meaning given in s. 254.61 (5).

From: Vasby, Tara
Sent: Tuesday, April 28, 2009 1:51 PM
To: Sundberg, Christopher
Subject: RE: RE: LRB 2533 - Menu labeling

Per the cross referencing - what I want to do is make sure that this bill is clearly directed at national chain restaurants. In anticipation of concerns about who is NOT included in this bill, I thought that cross referencing would be helpful - but perhaps it would be easier to plainly restate who this bill does not affect? This suggestion comes after reading some materials from NYC and California where clarification was needed so that farmers markets, school cafeterias, etc were clearly excluded.

Does that make sense?

I'll have to get back to you on the latter part. So, no, not ready for primetime yet

From: Sundberg, Christopher
Sent: Tuesday, April 28, 2009 1:21 PM
To: Vasby, Tara
Subject: RE: RE: LRB 2533 - Menu labeling

Can you explain a little more what you mean about cross-referencing s. 254.61 (5)? Do you mean that the draft should use the definition of "restaurant" in 254.61 (5), so that it will be clear that the bill does not apply to the establishments exempted from the definition of "restaurant in 254.61 (5) (a) to (h)?

As to the penalty, the WI constitution dictates that the proceeds of all fines and forfeitures must go to the school fund. If you want to make violators pay into some other fund or appropriation, I will need to draft a 'surcharge' rather than (or in addition to) a penalty and then direct the surcharges to the right place. So I need to know: (1) do you want to create a surcharge only or a surcharge (directed to a particular program) plus a penalty (deposited in the school fund)? (2) if you want a surcharge plus a penalty, do you want it to be a fine (i.e., criminal penalty) or a forfeiture (i.e., civil penalty)? (3) where do you want to allocate the surcharges? I don't see the DHS program you mention identified in the statutes, so it may not be a program mandated by the legislature. If not, it's problematic to allocate money for a program that DHS could discontinue or alter without legislative approval.

Finally, are you ready for an introducible /1 draft?

CS

From: Vasby, Tara
Sent: Thursday, April 23, 2009 3:50 PM
To: Sundberg, Christopher
Subject: RE: LRB 2533 - Menu labeling

Hi Chris,

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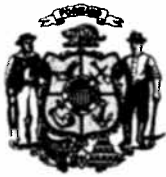
✓ 2 - Please make the effective date 6 months after the date of publication

3 - Include fine/forfeiture language for no less than \$50 and not more than \$500 for each violation. If possible, I would like to have that money directed to the WI Dept of Health Services Nutrition, Physical Activity and Obesity Program. I'm not sure how that works though.

If you have any questions, please let me know.

Thanks!
Tara Vasby
Leg. Assistant
Rep. Chuck Benedict

5/26: Per TV, change penalty to forfe. of \$50 - 500.
Surcharge possibly to follow based on FE.



lu: 5/27/09
State of Wisconsin
2009 - 2010 LEGISLATURE

P2
LRB-2533/PT AMNR
CTS:bjk:ph
Lstays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N

SA

INS
A
regen.

1 AN ACT *to create* 100.365 of the statutes; **relating to:** requiring nutritional
② information in the menus of certain chain restaurants, ~~and~~ granting
③ rule-making authority; and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

- 4 SECTION 1. 100.365 of the statutes is created to read:
- 5 **100.365 Nutritional information in chain restaurant menus.** (1) In this
- 6 section:
- 7 (a) "Chain restaurant" means a restaurant in this state that is one of at least
- 8 10 restaurants in the United States doing business under the same trade name and
- 9 offering menus with substantially identical menu items.
- 10 (b) "Menu item" does not include any of the following:

1 1. Items that appear on the menu for less than 30 days per year.

2 2. Condiments and other items placed on a table or counter for use without
3 charge.

(3) *Handwritten note: A (c) Restaurant has the meaning given in SOA 254061A(5)*

4 (2) (a) Subject to pars. (c) and (d), a chain restaurant shall disclose for each
5 serving of a menu item, as prepared and offered for sale at the chain restaurant, the
6 size of a single serving of the menu item and all of the following regarding a single
7 serving of the menu item:

8 1. The number of calories.

9 2. The total number of grams of saturated fat and trans fat.

10 3. The number of grams of carbohydrates.

11 4. The number of milligrams of sodium.

12 (b) A disclosure required under par. (a) shall appear in a chain restaurant's
13 menu next to each item on the menu in a size and typeface of equal prominence to
14 the price or name of the menu item.

15 (c) If a chain restaurant that only offers menu items to customers using a menu
16 board, the chain restaurant may limit the information displayed on the menu board
17 to the number of calories contained in each item. A disclosure under this paragraph
18 shall appear in a size and typeface of equal prominence to the price or name of the
19 item. A chain restaurant subject to this paragraph shall make the information
20 described in par. (a) 2. to 4. available to a customer in writing upon the customer's
21 written request.

22 (d) A chain restaurant that offers customers a salad bar, buffet line, cafeteria
23 service, or similar arrangement where prepared food is on display shall disclose the
24 number of calories contained in a standard serving of each item offered and the size
25 of a standard serving of the item. A disclosure under this paragraph shall be

1 displayed next to the item offered and shall be made in a size and typeface that is
2 prominent and legible to customers. A chain restaurant subject to this paragraph
3 shall make the information described in par. (a) 2. to 4. available to a customer in
4 writing upon the customer's written request.

5 (e) If a chain restaurant offers a menu item in different flavors, varieties, or
6 combinations and lists the item as a single menu item, the restaurant shall disclose
7 the information required under par. (a) based on the median number of calories,
8 grams of saturated fat and trans fat, grams of carbohydrates, and milligrams of
9 sodium for all flavors, varieties, or combinations, if the number of calories, grams of
10 saturated fat and trans fat, grams of carbohydrates, and milligrams of sodium for
11 each flavor, variety, or combination is less than or equal to 20 percent of the median

12 If the number of calories, grams of saturated fat and trans fat, grams of
13 carbohydrates, and milligrams of sodium for each flavor, variety, or combination are

14 not less than or equal to 20 percent of the median, the chain restaurant shall list the
15 range of the number of calories, grams of saturated fat and trans fat, grams of
16 carbohydrates, and milligrams of sodium from the lowest to the highest value. If a
17 menu item that comes in different flavors, varieties, or combinations is on display
18 with a name placard or similar signage, the placard or signage shall disclose the
19 number of calories per serving of the menu item along with the name of the menu
20 item. If a chain restaurant does not display a menu item on a menu or menu board,
21 the chain restaurant shall disclose the number of calories, grams of saturated fat and
22 trans fat, grams of carbohydrates, and milligrams of sodium in each menu item that
23 is available to customers using a brochure available at the chain restaurant, a
24 booklet, a kiosk, or other device that is easily accessible to customers at the point of
25 ordering.

1 (3) A chain restaurant shall include the following statement on its menus or
 2 menu boards: "A 2,000 calorie daily diet is used as the basis for general nutritional
 3 advice; however individual calorie needs may vary."

***NOTE: The above language is based on language in the drafting instructions.
 Given that the draft does not require nutritional information be expressed as a
 percentage of a standard diet, however, I'm not sure the required statement has much
 meaning.

4 (4) The department shall promulgate rules specifying methods for computing
 5 nutritional information required to be disclosed under sub. (2).

6 **SECTION 2. Effective date.**

7 (1) This act takes effect on the first day of the 12th month beginning after
 8 publication.

9 (END)

INS
4-5

D-note

>

5

6

7

8

9

6

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2533/P2ins
CTS:.....

1

Insert A:

menus

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 ~~10~~ ^{ten} restaurants in the United States doing business under the same trade name and offering with substantially identical menu items.

Under the bill, a covered restaurant must disclose in the menu, for each serving of a menu item, all of the following: 1) the size of a single serving, 2) the number of calories, 3) the total number of grams of saturated fat and trans fat, 4) the number of grams of carbohydrates, and 5) the number of milligrams of sodium. If a covered restaurant only uses a menu board, the restaurant must display ~~the~~ on the menu board the number of calories in each item and make additional information available upon request. If a covered restaurant offers a salad bar, buffet line, or cafeteria service, the restaurant must disclose the size of a single serving and the number of calories next to the item and make additional information available upon request.

Must

If a covered restaurant offers a menu item in different flavors, varieties, or combinations, the restaurant ~~may~~ ^{must} disclose nutritional information based on the median values for all flavors, varieties, or combinations, if the values for the flavors, varieties, or combinations differ from the median values by 20 percent or less. If the values for the flavors, varieties, or combinations differ from the median values by more than 20 percent, a covered restaurant must list the range of values for all flavors, varieties, or combinations from lowest to highest. The bill also requires a covered restaurant to include on its menus or menu boards the following statement: "A 2,000 calorie daily diet is used as the basis for general nutritional advice; however, individual calorie needs may vary."

Violations of the provisions of the bill are subject to a forfeiture of \$50 to \$500.

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

2

Insert 4-5:

(3)

ⓐ (5) A person who violates this section is subject to a forfeiture ^{of} not less than \$50

4

nor more than \$500.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

Date

LRB-2533/P2dn

CTS:.....

Lbjk

Representative Benedict:

Please review this draft carefully to ensure it is consistent with your intent.

Note that I have revised the language specifying disclosure requirements for covered restaurants that offer an item in different flavors, varieties, or combinations to better reflect what I believe is your intent. Is this okay?

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2533/P2dn
CTS:bjk:md

May 27, 2009

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lu: 6/10/09
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2533/

CTS:bjk:md

le
AWR
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2009 BILL

SA

- re gen.
- 1 **AN ACT to create** 100.365 of the statutes; **relating to:** requiring nutritional
 - 2 information in the menus of certain chain restaurants, granting rule-making
 - 3 authority, 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 ten restaurants in the United States doing business under the same trade name and offering menus with substantially identical menu items.

Under the bill, a covered restaurant must disclose in the menu, for each serving of a menu item, all of the following: 1) the size of a single serving, 2) the number of calories, 3) the total number of grams of saturated fat and trans fat, 4) the number of grams of carbohydrates, and 5) the number of milligrams of sodium. If a covered restaurant only uses a menu board, the restaurant must display on the menu board the number of calories in each item and make additional information available upon request. If a covered restaurant offers a salad bar, buffet line, or cafeteria service, the restaurant must disclose the size of a single serving and the number of calories next to the item and make additional information available upon request.

If a covered restaurant offers a menu item in different flavors, varieties, or combinations, the restaurant must disclose nutritional information based on the median values for all flavors, varieties, or combinations, if the values for the flavors, varieties, or combinations differ from the median values by 20 percent or less. If the values for the flavors, varieties, or combinations differ from the median values by more than 20 percent, a covered restaurant must list the range of values for all

flavors, varieties, or combinations from lowest to highest. The bill also requires a covered restaurant to include on its menus or menu boards the following statement: "A 2,000 calorie daily diet is used as the basis for general nutritional advice; however, individual calorie needs may vary."

Violations of the provisions of the bill are subject to a forfeiture of \$50 to \$500.

For further information see the *state* 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.** 100.365 of the statutes is created to read:

2 **100.365 Nutritional information in chain restaurant menus.** (1) In this
3 section:

4 (a) "Chain restaurant" means a restaurant in this state that is one of at least
5 10 restaurants in the United States doing business under the same trade name and
6 offering menus with substantially identical menu items.

7 (b) "Menu item" does not include any of the following:

8 1. Items that appear on the menu for less than 30 days per year.

9 2. Condiments and other items placed on a table or counter for use without
10 charge.

11 (c) "Restaurant" has the meaning given in s. 254.61 (5).

12 **(2)** (a) Subject to pars. (c) and (d), a chain restaurant shall disclose for each
13 serving of a menu item, as prepared and offered for sale at the chain restaurant, the
14 size of a single serving of the menu item and all of the following regarding a single
15 serving of the menu item:

16 1. The number of calories.

17 2. The total number of grams of saturated fat and trans fat.

18 3. The number of grams of carbohydrates.

1 4. The number of milligrams of sodium.

2 (b) A disclosure required under par. (a) shall appear in a chain restaurant's
3 menu next to each item on the menu in a size and typeface of equal prominence to
4 the price or name of the menu item.

5 (c) If a chain restaurant that only offers menu items to customers using a menu
6 board, the chain restaurant may limit the information displayed on the menu board
7 to the number of calories contained in each item. A disclosure under this paragraph
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9 item. A chain restaurant subject to this paragraph shall make the information
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11 written request.

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19 writing upon the customer's written request.

20 (e) If a chain restaurant offers a menu item in different flavors, varieties, or
21 combinations and lists the item as a single menu item, the restaurant shall disclose
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17 menu boards: "A 2,000 calorie daily diet is used as the basis for general nutritional
18 advice; however individual calorie needs may vary."

19 (4) The department shall promulgate rules specifying methods for computing
20 nutritional information required to be disclosed under sub. (2).

21 (5) A person who violates this section is subject to a forfeiture of not less than
22 \$50 nor more than \$500.

23 **SECTION 2. Effective date.**

Basford, Sarah

From: Vasby, Tara
Sent: Tuesday, June 23, 2009 10:59 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-2533/1 Topic: Require restaurant menus to contain nutritional information

Please Jacket LRB 09-2533/1 for the ASSEMBLY.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2533/1
CTS:bjk:rs

2009 BILL

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BILL

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BILL

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BILL

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