

ASSEMBLY, No. 1721

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JAMES J. KENNEDY

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires certain restaurant chains to provide sodium information for items offered for sale.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning retail food establishments and supplementing
2 Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. As used in this act:

8 “Combination meal” means a standard menu item that consists
9 of more than one food item. A combination meal may be
10 represented on a menu or menu board in narrative form,
11 numerically, or pictorially, and may include a variable menu item as
12 defined in this section, where the components vary and the
13 customer selects which components will be included in the meal.

14 “Food on display” means food that is visible to the customer
15 before the customer makes a selection, provided there is not an
16 ordinary expectation of further preparation by the customer before
17 consumption.

18 “High sodium content” means any standard menu item or
19 combination meal offered by a retail food establishment which
20 contains 2,300 mg or more of sodium.

21 “Menu” means a printed list of the names or images of an
22 individual food item, beverage item, or combination of food items,
23 and the primary writing of a retail food establishment from which a
24 customer makes an order selection including, but not limited to,
25 breakfast, lunch, and dinner menus; dessert menus; beverage
26 menus; children’s menus; and other specialty menus; and may be in
27 various forms, including booklets, pamphlets, single sheets of
28 paper, or electronic.

29 “Menu board” means a menu posted inside the retail food
30 establishment as well as a menu posted outside a retail food
31 establishment.

32 “Point of purchase” means any place where a customer may
33 order food within a retail food establishment.

34 “Retail food establishment” means a restaurant that is part of a
35 chain with 20 or more locations nationally doing business under the
36 same trade name or under common ownership or control or as
37 franchised outlets of a parent business, the principal activity of
38 which consists of preparing a food item or beverage item, including
39 any combination meal, for consumption.

40

41 2. A retail food establishment in this State that offers for sale
42 any food item or beverage item, including any combination meal,
43 with high sodium content shall display a warning. The warning
44 shall be displayed in the following manner:

45 a. An icon shall appear on a menu or menu board next to a food
46 item or beverage item, including any combination meal, with high
47 sodium content, or on a tag next to any food item or beverage item,
48 including any combination meal, with high sodium content; and

1 b. The icon shall be a black and white equilateral triangle as
2 wide as it is tall and equal in height to the largest letter in the name
3 of the food item or beverage item, as displayed on the menu or
4 menu board, or tag next to any food item or beverage item on
5 display;

6 In addition, the following statement shall be posted
7 conspicuously at the point of purchase: "This icon indicates that the
8 sodium content of this item is higher than the total daily
9 recommended limit (2,300 mg). High sodium intake may increase
10 blood pressure and risk of heart disease and stroke."
11

12 3. A proprietor of a retail food establishment who violates the
13 provisions of this act by failing to provide the information about a
14 food item or beverage item, including any combination meal, as
15 required in section 2 of P.L. , c. (c.) (pending before the
16 Legislature as this bill), or knowingly misstating the sodium content
17 in any food item or beverage item, including any combination meal,
18 shall be subject to a penalty of not less than \$50 or more than \$100
19 for the first offense, and not less than \$250 or more than \$500 for
20 the second or any subsequent offense. A municipal court shall have
21 jurisdiction over proceedings to enforce and collect any penalty
22 imposed because of a violation of this act, if the violation has
23 occurred within the territorial jurisdiction of the court. The
24 proceedings shall be summary and in accordance with the "Penalty
25 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
26 Process shall be in the nature of a summons or warrant and shall
27 issue only at the suit of the Commissioner of Health, or the local
28 board of health, as the case may be, as plaintiff.

29 When the plaintiff is the Commissioner of Health, the penalty
30 recovered shall be paid by the commissioner into the treasury of the
31 State. When the plaintiff is a local board of health, the penalty
32 recovered shall be paid by the local board into the treasury of the
33 municipality where the violation occurred.

34 a. The provisions of this act shall not be construed to create or
35 enhance any claim, right of action, or civil liability that did not
36 previously exist under State law or limit any claim, right of action,
37 or civil liability that otherwise exists under State law.

38 b. There shall be no private right of action against the
39 proprietor of a retail food establishment for failure to comply with
40 the provisions of this act.

41 c. This act supersedes and preempts all ordinances of any
42 county or municipality with regard to requiring retail food
43 establishments to provide warnings concerning sodium content.
44

45 4. The Commissioner of Health shall adopt rules and
46 regulations, pursuant to the "Administrative Procedure Act,"
47 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
48 this act.

1 5. This act shall take effect on the first day of the thirteenth
2 month after the date of enactment, except the Commissioner of
3 Health may take any anticipatory administrative action in advance
4 as shall be necessary for the implementation of this act.

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7 STATEMENT
8

9 This bill requires certain restaurant chains to provide sodium
10 information for a food item or beverage item, including
11 combination meals, offered for sale.

12 While nutrition labeling is currently required on processed and
13 packaged foods, this requirement does not apply in the same
14 manner to retail food establishments in New Jersey. This bill
15 defines “retail food establishment” as a restaurant that is part of a
16 chain with 20 or more locations nationally doing business under a
17 parent business or as part of a franchised outlet such as a fast food
18 or chain restaurant.

19 Currently, retail food establishments are only required to provide
20 nutrition information when a health claim is made for a food or
21 beverage option on the menu. For example, fast food restaurants
22 typically make nutrition information available to consumers only
23 upon request through brochures or on corporate Internet sites, while
24 some other restaurants may disclose the nutrition information of
25 their menus only via the Internet, if at all.

26 According to the U.S. Food and Drug Administration, about 75
27 percent of dietary sodium comes from eating packaged and
28 restaurant foods, whereas only a small portion, 11 percent, comes
29 from salt added to food when cooking or eating. Despite myriad
30 efforts and initiatives to curb sodium consumption by public health
31 and other organizations, the sodium content of fast food, in
32 particular, appears to be on the rise.