ASSEMBLY, No. 3873

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 23, 2020

Sponsored by:
Assemblywoman YVONNE LOPEZ
District 19 (Middlesex)
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District 31 (Hudson)

SYNOPSIS

Requires children's meals served in restaurants to meet certain nutritional standards.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 7/30/2020)

AN ACT concerning nutritional standards for children's meals served in restaurants and supplementing Title 26 of the Revised Statues.

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

1. The Legislature finds and declares that:

a. Over the past 30 years, the obesity rate in the United States has more than doubled. According to the federal Centers for Disease Control and Prevention, in 2009, nearly two-thirds, or 68.5 percent of American adults were overweight or obese. Approximately one-third of children nationwide are overweight or obese. Obese children are at least twice as likely as non-obese children to become overweight or obese as adults.

b. In 2017, 61.9 percent of adults and 14.9 percent of children, ages zero to 17, in the State of New Jersey were overweight or obese.

c. Obesity-related health conditions have serious economic costs. The medical burden of obesity in the United States is about $147 billion annually, or almost 10 percent of all medical spending. Roughly one-half of these costs are paid through Medicaid and Medicare and, as a result, are incurred by taxpayers throughout the country. In 2018, New Jersey's annual obesity related medical expenditures were estimated at $9.3 million.

d. American children consume 19 percent of their daily calories at fast food and other restaurants. Studies link eating in restaurants with higher caloric intakes and obesity.

e. Therefore, it is in the public interest to establish nutritional standards for children's meals sold at restaurants in order to reduce the number of overweight and obese children, and to promote healthy eating and active living among the citizens of the State.

2. As used in this act:

"Children's meal" means a combination of food items or food items and a beverage, sold together at a single price, primarily intended for consumption by children.

"Restaurant" means any facility or part thereof in which food is prepared and provided or served for consumption on the premises.

3. a. An owner, operator, or the proprietor of a restaurant shall not sell, offer to sell, or serve a children's meal unless the meal adheres to the following nutritional standards:

(1) the meal shall contain no more than:

(a) 600 calories per serving;

(b) 770 milligrams of sodium;

(c) 35 percent of calories from fat;

(d) 35 percent of calories from total sugars

(e) 10 percent of calories from saturated fat; and

(6) 0.5 grams of trans fat;

(2) the meal shall contain at least 0.5 cups of fresh fruits or vegetables, and at least one of the following:

(a) a whole grain product containing no less that 51 percent by weight of a whole grain ingredient or which lists whole grains as its first ingredient;

(b) a lean protein consisting of at least two ounces of meat, one ounce of nuts, seeds, dry beans or peas, or one egg; or

(c) at least 0.5 cups of non-fat or one percent milk, low fat yogurt, or one ounce of reduced fat cheese.

For purposes of this subsection: juices, condiments, jellies, jams, or spreads shall not be considered a fruit or vegetable; and a lean protein shall contain less than 10 grams of fat, 4.5 grams or less of saturated fat, and less than 94 milligrams of cholesterol per 100 grams and per labeled serving; and

(3) if the children's meal is served with a beverage, that beverage shall be:

(a) water, sparkling water, or flavored water with no added natural or artificial sweetener;

(b) nonfat milk, one percent milk, or a non-dairy milk alternative containing no more than 130 calories per container or serving as offered for sale; or

(c) 100 percent fruit juice or fruit juice combined with water or carbonated water, with no added natural or artificial sweetener, in a serving size of no more than eight ounces.

b. (1) A restaurant using a standard printed menu shall list next to a children's meal on the menu, the nutritional content of the meal as required pursuant to subsection a. of this section, using a font and format that is at least as prominent, in size and appearance, as that used to post either the name or price of the children's meal.

(2) A restaurant using a menu board system or similar signage shall list next to the children's meal on the board or sign, the nutritional content of the meal as required pursuant to subsection a. of this section.

(3) If the children's meal includes a beverage, the restaurant using a standard printed menu shall also list next to the children's meal on the menu, the caloric information for the beverage, using a font and format that is at least as prominent, in size and appearance, as that used to post either the name or price of the children's meal.

4. a. The Department of Health or the local board of health or the board, body, or officers exercising the functions of the local board of health according to law shall have the right to enter the premises of a restaurant at which a children's meal is sold, offered for sale, or served, at any time during normal business hours and upon presentation of appropriate credentials, in order to determine

compliance with the provisions of this act, or any rule or regulation adopted pursuant thereto.

b. The Department of Health or the local board of health or the board, body, or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that a violation of this act has occurred, shall, by written notification, advise the owner, operator, or proprietor of the restaurant accordingly and order appropriate action to be taken.

5. a. An owner, operator, or the proprietor of a restaurant who knowingly sells, offers to sell, or serves a children's meal in violation of the provisions of section 3 of this act shall be liable to a civil penalty of up to $1,000 for the first offense, up to $2,000 for the second offense, and up to $3,000 for a subsequent offense, provided that in no case shall the penalty against the owner or operator of the restaurant exceed $15,000 during a 30-day period.

b. Any civil penalty imposed pursuant to subsection a. of this section shall be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law," P.L.1999, c.274 (C.2A:58-1 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and the municipal court shall have jurisdiction to enforce and collect any penalty imposed for a violation of the provisions of this act. Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health or the local board of health as plaintiff.

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

7. This act shall take effect on the first day of the sixth month next following the date of enactment, except that the Commissioner of Health may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

STATEMENT

This bill children's meals sold or offered for sale in restaurants to adhere to certain nutritional standards outlined in the bill.

Specifically, a children's meal sold, offered for sale, or sold by a restaurant would contain no more than: 600 calories per serving, 770 milligrams of sodium, 35 percent of calories from fat, 35 percent of calories from total sugars, 10 percent of calories from saturated fat, 0.5 grams of trans fat, at least 0.5 cups of fresh fruits or vegetables (fruits and vegetables would not include juices,

condiments, jellies, jams, or spreads), and either a whole grain product, a lean protein, or at least 0.5 cups of non-fat or one percent milk, low fat yogurt, or one ounce of reduced fat cheese.

If the children's meal is served with a beverage, that beverage would be: water, sparkling water, or flavored water with no added natural or artificial sweetener; nonfat milk, one percent milk, or a non-dairy milk alternative containing no more than 130 calories per container or serving as offered for sale; or 100 percent fruit juice or fruit juice combined with water or carbonated water, with no added natural or artificial sweetener, in a serving size of no more than eight ounces.

A restaurant using a standard printed menu would be required to list the nutritional content of the meal, as required pursuant to the provisions of the bill, and if the meal includes a beverage, also list the caloric information for the beverage, next to a children's meal on the menu, using a font and format that is at least as prominent, in size and appearance, as that used to post either the name or price of the meal.

As defined in the bill, "children's meal" means a combination of food items or food items and a beverage, sold together at a single price, primarily intended for consumption by children, and "restaurant" means any facility or part thereof in which food is prepared and provided or served for consumption on the premises.

The Department of Health or a local bard of health would: have the right to enter the premises of a restaurant at which a children's meal is sold, offered for sale, or served, at any time during normal business hours and upon presentation of appropriate credentials, in order to determine compliance with the provisions of the bill; and advise the owner, operator, or proprietor of the restaurant and order appropriate action to be taken, if it has reason to suspect that a violation has occurred.

Under the bill's provisions, an owner, operator, or the proprietor of a restaurant who sells, offers to sell, or serves a children's meal in violation of the provisions of the bill would be liable to a civil penalty not to exceed $1,000 for a first offense, $2,000 for the second offense, and $3,000 for each subsequent offense. Penalties against an owner, operator, or the proprietor of the restaurant could not exceed $15,000 during a 30-day period.