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SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 529 and SENATE, No. 521

STATE OF NEW JERSEY

219th LEGISLATURE

ADOPTED OCTOBER 8, 2020

Sponsored by:
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SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the Senate on December 2, 2021.

(Sponsorship Updated As Of: 12/16/2020)

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 [1]restaurants[1] and other [1]**[**restaurants**]** retail food establishments[1] . Studies link eating in [1]**[**restaurants**]** retail food establishments[1] with higher caloric intakes and obesity.

e. Therefore, it is in the public interest to establish nutritional standards for children's meals sold at [1]**[**restaurants**]** retail food establishments[1] 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.

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

"Retail food establishment" means a fixed restaurant or any similar place that is part of a chain with 20 or more locations

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate floor amendments adopted December 2, 2021.

nationally, the principal activity of which consists of preparing a meal or food for consumption within the establishment or to be picked up at a drive-through window. "Retail food establishment" shall apply to restaurants that are part of a chain doing business under the same trade name or under common ownership or control, or that are doing business as a franchised outlet of a parent business[1] .

3. a. An owner, operator, or the proprietor of a [1][restaurant] retail food establishment[1] shall not sell, offer to sell, or serve a children's meal unless [1][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

(f) 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 sweeteners;

(b) flavored or unflavored nonfat or one percent fat dairy milk, or flavored or unflavored non-dairy beverage that is nutritionally equivalent to fluid milk, in a serving size of eight ounces or less; or

(c) one hundred percent fruit or vegetable juice, or any combination thereof, with no added natural or artificial sweeteners, in a serving size of eight ounces or less. Such juice may contain water or carbonated water.

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 the 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, using a font and format that is at least as prominent, in size and appearance, as that used to post either the name or the price of the children's meal.

(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 the price of the children's meal**]** at least two of the meals adhere to the most recent nutrition criteria for children's meals provided by the National Restaurant Association in its KidsLiveWell program. If the children's meals are served with a beverage, the default beverage shall meet the most recent default beverage criteria provided by the National Restaurant Association in its KidsLiveWell program.

b. A retail food establishment shall, on all its standard printed menus:

(1) identify, next to the children's meals on the menu, which meals are KidsLiveWell meals; and

(2) provide notice that all individuals may request the nutritional content of the KidsLiveWell meals, as well as the nutritional content of the default beverage if a beverage is included with the meals.

c. Nothing in this act shall restrict the ability of a retail food establishment to sell, or the ability of a customer to purchase, a substitute beverage to replace the default beverage included with a children's meal, if requested by the customer purchasing the meal.

d. In the event that the Restaurant Association updates the nutrition criteria of the KidsLiveWell program, a retail food establishment shall have six months to comply with the program's new criteria[1].

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 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 third or 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.