

HOUSE BILL 601

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By: **Delegates Niemann, Ali, Benson, Carr, Frush, Glenn, Healey, Holmes, Hubbard, Hucker, Lafferty, Levi, Manno, Montgomery, Nathan-Pulliam, Pena-Melnyk, Ross, Shewell, Stein, V. Turner, and Weir**

Introduced and read first time: February 6, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Chain Restaurants – Nutrition Information Labeling**

3 FOR the purpose of requiring certain chain restaurants to provide certain nutrition
4 information for certain menu items; establishing how the nutrition information
5 is to be determined; authorizing restaurants voluntarily to provide customers
6 with additional nutrition information; authorizing certain restaurants to limit
7 the display of certain nutrition information under certain circumstances;
8 requiring certain nutrition information to be displayed in a certain manner;
9 requiring certain restaurants to display certain statements regarding daily
10 nutrition requirements; establishing certain exceptions to certain enforcement
11 procedures; authorizing a local health department to enforce certain provisions;
12 providing for certain civil penalties; providing for certain exemptions from
13 certain penalties; defining certain terms; providing for a delayed effective date;
14 and generally relating to nutrition information provided by chain restaurants.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 21–313 and 21–1214
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2008 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 21–353 through 21–356 to be under the new part “Part VIII. Nutrition
23 Information Labeling”
24 Annotated Code of Maryland
25 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

21–313.

(a) [To] **EXCEPT AS PROVIDED IN PART VIII OF THIS SUBTITLE, TO** enforce this subtitle, a representative of the Department, at any reasonable time, may:

(1) Enter and inspect any food establishment; and

(2) Inspect and sample any item of food that is in a food establishment.

(b) A person may not:

(1) Refuse to grant access to a representative of the Department who requests to enter and inspect a food establishment under this section; or

(2) Interfere with any inspection under this section.

21–351. RESERVED.

21–352. RESERVED.

PART VIII. NUTRITION INFORMATION LABELING.

21–353.

(A) **IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(B) **“CHAIN RESTAURANT” MEANS A FOOD ESTABLISHMENT THAT:**

(1) **HAS 15 OR MORE LOCATIONS NATIONALLY;**

(2) **DOES BUSINESS UNDER THE SAME TRADE NAME, REGARDLESS OF THE TYPE OF OWNERSHIP OF THE INDIVIDUAL RESTAURANT LOCATIONS; AND**

(3) **OFFERS PREDOMINANTLY THE SAME TYPE OF MENU IN EACH LOCATION.**

(C) **“STANDARD MENU ITEM” DOES NOT INCLUDE:**

1 (1) A TEMPORARY MENU ITEM THAT APPEARS ON THE MENU FOR
2 LESS THAN 30 DAYS PER YEAR; OR

3 (2) CONDIMENTS AND OTHER ITEMS PLACED ON A TABLE OR
4 COUNTER FOR GENERAL USE WITHOUT CHARGE.

5 **21-354.**

6 (A) (1) A CHAIN RESTAURANT SHALL PROVIDE NUTRITION
7 INFORMATION FOR A STANDARD MENU ITEM, INCLUDING THE TOTAL NUMBER
8 OF:

9 (I) CALORIES;

10 (II) GRAMS OF SATURATED FAT PLUS TRANS FAT;

11 (III) GRAMS OF CARBOHYDRATES; AND

12 (IV) MILLIGRAMS OF SODIUM.

13 (2) THE NUTRITION INFORMATION SHALL BE LISTED PER
14 STANDARD MENU ITEM AS USUALLY PREPARED AND OFFERED FOR SALE.

15 (3) A CHAIN RESTAURANT SHALL OBTAIN NUTRITION
16 INFORMATION USING ANALYTIC METHODS AND EXPRESS NUTRIENT CONTENT IN
17 A MANNER CONSISTENT WITH THE FEDERAL FOOD, DRUG, AND COSMETIC ACT
18 AND ITS IMPLEMENTING REGULATIONS.

19 (B) (1) A CHAIN RESTAURANT MAY LIMIT THE NUTRITION
20 INFORMATION LISTED TO THE TOTAL NUMBER OF CALORIES PER MENU ITEM AS
21 USUALLY OFFERED FOR SALE:

22 (I) LISTED ONLY ON A MENU BOARD; OR

23 (II) THROUGH A SALAD BAR, BUFFET LINE, CAFETERIA
24 SERVICE, OR OTHER ARRANGEMENT WHERE FOOD IS ON DISPLAY.

25 (2) A CHAIN RESTAURANT THAT LIMITS THE NUTRITION
26 INFORMATION LISTED SHALL PROVIDE THE REMAINING NUTRITION
27 INFORMATION IN WRITING AT THE POINT OF ORDERING.

(C) FOR A STANDARD MENU ITEM THAT COMES IN DIFFERENT FLAVORS, VARIETIES, OR COMBINATIONS BUT IS LISTED AS A SINGLE MENU ITEM, THE CHAIN RESTAURANT SHALL LIST:

(1) THE MEDIAN VALUE FOR THE NUTRITION INFORMATION FOR ALL FLAVORS, VARIETIES, OR COMBINATIONS IF THE NUTRITION INFORMATION FOR ALL FLAVORS, VARIETIES, OR COMBINATIONS IS WITHIN 20% OF THE MEDIAN; OR

(2) THE HIGHEST AND LOWEST VALUE FOR THE NUTRITION INFORMATION FOR ALL FLAVORS, VARIETIES, OR COMBINATIONS OF THE STANDARD MENU ITEM IF THE NUTRITION INFORMATION IS NOT WITHIN 20% OF THE MEDIAN.

(D) A CHAIN RESTAURANT MAY PROVIDE ADDITIONAL NUTRITION INFORMATION VOLUNTARILY.

21-355.

(A) THE NUTRITION INFORMATION REQUIRED UNDER § 21-354 OF THIS SUBTITLE SHALL BE:

(1) IN A SIZE AND TYPEFACE OF EQUAL PROMINENCE TO THE PRICE OR NAME OF THE STANDARD MENU ITEM IF IT IS LISTED ON A MENU OR MENU BOARD; OR

(2) ON THE FOOD TAG, NAME PLACARD, OR SIMILAR SIGNAGE IF THE STANDARD MENU ITEM IS ON DISPLAY.

(B) (1) A CHAIN RESTAURANT SHALL DISPLAY, IN A CLEAR AND CONSPICUOUS MANNER, THE FOLLOWING STATEMENT ON A MENU: "RECOMMENDED LIMITS FOR A 2,000 CALORIE DAILY DIET ARE 20 GRAMS OF SATURATED FAT AND 2,300 MILLIGRAMS OF SODIUM. SATURATED FAT NUMBERS INCLUDE TRANS FAT."

(2) IF NO STANDARD MENU ITEM CONTAINS 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.

(C) A CHAIN RESTAURANT SHALL DISPLAY, IN A CLEAR AND CONSPICUOUS MANNER, THE FOLLOWING STATEMENT ON A MENU BOARD: "A 2,000 CALORIE DAILY DIET IS USED AS THE BASIS FOR GENERAL NUTRITION ADVICE; HOWEVER, INDIVIDUAL CALORIE NEEDS MAY VARY."

1 (D) A CHAIN RESTAURANT MAY DISPLAY THE FOLLOWING OR A SIMILAR
2 STATEMENT: “THE NUTRITION INFORMATION IS BASED ON STANDARD RECIPES
3 AND PRODUCT FORMULATIONS; HOWEVER, VARIATIONS MAY OCCUR DUE TO
4 DIFFERENCES IN PREPARATION, SERVING SIZES, INGREDIENTS, OR SPECIAL
5 ORDERS.”

6 **21-356.**

7 (A) (1) A COUNTY MAY DESIGNATE A REPRESENTATIVE FROM THE
8 LOCAL HEALTH DEPARTMENT TO ENFORCE THIS PART.

9 (2) IF A REPRESENTATIVE FROM THE LOCAL HEALTH
10 DEPARTMENT IS NOT DESIGNATED, THIS PART SHALL BE ENFORCED IN
11 ACCORDANCE WITH § 21-313 OF THIS SUBTITLE.

12 (B) THE ENTITY THAT ENFORCES THIS PART:

13 (1) MAY NOT BE REQUIRED TO VERIFY THE ACCURACY OF THE
14 NUTRITION INFORMATION; AND

15 (2) MAY REQUEST THAT A CHAIN RESTAURANT PROVIDE
16 DOCUMENTATION OF THE ACCURACY OF THE NUTRITION INFORMATION.

17 (C) (1) (I) THE ENTITY THAT ENFORCES THIS PART MAY ISSUE A
18 CIVIL CITATION TO A PERSON WHO VIOLATES ANY PROVISION OF THIS PART IN
19 THE SAME MANNER DESCRIBED UNDER ARTICLE 24, § 15-103 OF THE
20 ANNOTATED CODE OF MARYLAND.

21 (II) JUDICIAL PROCEEDINGS FOR VIOLATIONS OF THIS
22 PART ARE GOVERNED BY ARTICLE 24, § 15-104 OF THE ANNOTATED CODE OF
23 MARYLAND.

24 (III) THE ENTITY THAT ENFORCES THIS PART SHALL IMPOSE
25 A CIVIL PENALTY NOT EXCEEDING \$500 FOR THE FIRST VIOLATION AND NOT
26 EXCEEDING \$1,000 FOR EACH SUBSEQUENT VIOLATION OF THIS PART.

27 (IV) THE CIVIL PENALTY IS TO BE COLLECTED IN A CIVIL
28 ACTION IN THE DISTRICT COURT FOR THE COUNTY IN WHICH THE VIOLATION
29 OCCURRED.

30 (2) A PENALTY IMPOSED BY THE LOCAL HEALTH DEPARTMENT
31 AND COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL
32 FUNDS FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED.

1 (3) **EACH INSPECTION MAY NOT RESULT IN MORE THAN ONE**
2 **VIOLATION.**

3 21-1214.

4 (a) **THIS SECTION DOES NOT APPLY TO A VIOLATION OF SUBTITLE 3,**
5 **PART VIII OF THIS TITLE.**

6 **(B)** Any person who violates any provision of Subtitle 3 of this title or any
7 rule or regulation adopted under Subtitle 3 of this title is guilty of a misdemeanor and
8 on conviction is subject to:

9 (1) For a first offense, a fine not exceeding \$1,000 or imprisonment not
10 exceeding 90 days, or both; and

11 (2) For a second offense, a fine not exceeding \$2,500 or imprisonment
12 not exceeding 1 year, or both.

13 **[(b)] (C)** In addition to any criminal penalties imposed under this section, a
14 person who violates any provision of Subtitle 3 of this title or any rule or regulation
15 adopted under Subtitle 3 of this title or any term, condition or limitation of any license
16 or registration issued under Subtitle 3 of this title:

17 (1) Is liable for a civil penalty not exceeding \$5,000, to be collected in a
18 civil action in the District Court for any county; and

19 (2) May be enjoined from continuing the violation.

20 **[(c)] (D)** Each day on which a violation occurs is a separate violation under
21 this section.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2010.