

# SENATE BILL 142

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By: **Senator Harrington**

Introduced and read first time: January 19, 2009

Assigned to: Finance

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## 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)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article - Health - General**

2 21-313.

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

5 (1) Enter and inspect any food establishment; and

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

8 (b) A person may not:

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

11 (2) Interfere with any inspection under this section.

12 **21-351. RESERVED.**13 **21-352. RESERVED.**14 **PART VIII. NUTRITION INFORMATION LABELING.**15 **21-353.**16 (A) **IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS**  
17 **INDICATED.**18 (B) **“CHAIN RESTAURANT” MEANS A FOOD ESTABLISHMENT THAT:**19 (1) **HAS 15 OR MORE LOCATIONS NATIONALLY;**20 (2) **DOES BUSINESS UNDER THE SAME TRADE NAME,**  
21 **REGARDLESS OF THE TYPE OF OWNERSHIP OF THE INDIVIDUAL RESTAURANT**  
22 **LOCATIONS; AND**23 (3) **OFFERS PREDOMINANTLY THE SAME TYPE OF MENU IN EACH**  
24 **LOCATION.**25 (C) **“STANDARD MENU ITEM” DOES NOT INCLUDE:**26 (1) **A TEMPORARY MENU ITEM THAT APPEARS ON THE MENU FOR**  
27 **LESS THAN 30 DAYS PER YEAR; OR**

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

3 **21-354.**

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

7                   **(I) CALORIES;**

8                   **(II) GRAMS OF SATURATED FAT INCLUDING TRANS FAT;**

9                   **(III) GRAMS OF CARBOHYDRATES; AND**

10                   **(IV) MILLIGRAMS OF SODIUM.**

11           **(2) THE NUTRITION INFORMATION SHALL BE CALCULATED AS**  
12 **THE STANDARD MENU ITEM IS USUALLY PREPARED AND OFFERED FOR SALE.**

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

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

20                   **(I) LISTED ONLY ON A MENU BOARD; OR**

21                   **(II) PROVIDED THROUGH A SALAD BAR, BUFFET LINE,**  
22 **CAFETERIA SERVICE, OR OTHER ARRANGEMENT WHERE FOOD IS ON DISPLAY.**

23           **(2) A CHAIN RESTAURANT THAT LIMITS THE NUTRITION**  
24 **INFORMATION LISTED SHALL, AT THE REQUEST OF THE CUSTOMER, PROVIDE**  
25 **THE REMAINING NUTRITION INFORMATION IN WRITING.**

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

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

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

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

11 **21-355.**

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

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

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

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

24           (2) IF NO STANDARD MENU ITEM CONTAINS MORE THAN 0.5  
25 GRAMS OF TRANS FAT FROM PARTIALLY HYDROGENATED OIL PER SERVING,  
26 THE STATEMENT “SATURATED FAT NUMBERS INCLUDE TRANS FAT” CAN BE  
27 OMITTED.

28           (C) A CHAIN RESTAURANT SHALL DISPLAY, IN A CLEAR AND  
29 CONSPICUOUS MANNER, THE FOLLOWING STATEMENT ON A MENU BOARD: “A  
30 2,000 CALORIE DAILY DIET IS USED AS THE BASIS FOR GENERAL NUTRITION  
31 ADVICE; HOWEVER, INDIVIDUAL CALORIE NEEDS MAY VARY.”

32           (D) A CHAIN RESTAURANT MAY DISPLAY THE FOLLOWING STATEMENT:  
33 “THE NUTRITION INFORMATION IS BASED ON STANDARD RECIPES AND  
34 PRODUCT FORMULATIONS; HOWEVER, VARIATIONS MAY OCCUR DUE TO

1 DIFFERENCES IN PREPARATION, SERVING SIZES, INGREDIENTS, OR SPECIAL  
2 ORDERS.”

3 **21-356.**

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

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

9 (B) THE ENTITY THAT ENFORCES THIS PART:

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

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

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

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

21 (III) THE ENTITY THAT ENFORCES THIS PART SHALL IMPOSE  
22 A CIVIL PENALTY NOT EXCEEDING \$500 FOR THE FIRST VIOLATION AND NOT  
23 EXCEEDING \$1,000 FOR EACH SUBSEQUENT VIOLATION OF THIS PART; AND

24 (IV) THE CIVIL PENALTY IS TO BE COLLECTED IN A CIVIL  
25 ACTION IN THE DISTRICT COURT FOR THE COUNTY IN WHICH THE VIOLATION  
26 OCCURRED.

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

30 (3) EACH INSPECTION MAY NOT RESULT IN MORE THAN ONE  
31 VIOLATION.

1 21-1214.

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

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

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

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

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

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

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

18 [(c)] (d) Each day on which a violation occurs is a separate violation under  
19 this section.

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