

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of section 1 (page 1, lines 2 to 7 in L.D.) and inserting the following:

‘**Sec. 1. 22 MRSA §2491, sub-§2-A** is enacted to read:

2-A. Calories per serving. "Calories per serving" means the caloric information for a food or beverage item being offered for consumption by one person, as usually prepared and as offered for sale on the menu, menu board or food display tag.

Sec. 2. 22 MRSA §2491, sub-§2-B is enacted to read:

2-B. Chain restaurant. "Chain restaurant" means an eating establishment that does business under the same trade name in 20 or more locations, at least one of which is located in the State, that offers predominantly the same type of meals, food, beverages or menus, regardless of the type of ownership of an individual location. "Chain restaurant" does not include a grocery store. "Chain restaurant" does not include a hotel or motel that provides a separately owned eating establishment but does include the separately owned eating establishment if the eating establishment meets the criteria of this subsection.’

Amend the bill by striking out all of section 6 (page 1, lines 25 to 35 and page 2, lines 1 to 40 in L.D.) and inserting the following:

‘**Sec. 6. 22 MRSA §2500-A** is enacted to read:

§ 2500-A. Menu labeling for chain restaurants

The provisions of this section apply to chain restaurants that are located in the State.

1. Caloric information. A chain restaurant shall state on a food display tag, menu or menu board the total amount of calories per serving of each food and beverage item listed for sale on the food display tag, menu or menu board. The statement of calories required in this subsection must be:

A. Clear and conspicuous;

B. Adjacent to or in close proximity and clearly associated with the item to which the statement refers;

C. Printed in a font and format at least as prominent in size and appearance as the name or the price of the item to which the statement refers; and

D. As it pertains to beer, wine and spirits must also meet the requirements of subsection 6.

2. Determining caloric content. The caloric content information required by subsection 1 must be determined on a reasonable basis and may be determined only once per standard menu item if the eating establishment follows a standardized recipe, trains to a consistent method of preparation and maintains a reasonably consistent portion size. For the purposes of this subsection a reasonable basis for determining caloric content means use of a recognized method for determining caloric content, including,

but not limited to, nutrient databases, laboratory testing and other reliable methods of analysis. Caloric content may be rounded to the nearest 10 calories for caloric content above 50 calories and to the nearest 5 calories for caloric content of 50 calories and below.

3. Required statement. A menu or menu board or written nutrition information provided to a customer by a chain restaurant must contain the following statement in a clear and conspicuous manner and in a prominent location: "To maintain a healthy weight, a typical adult should consume approximately 2,000 calories per day; however, individual calorie needs may vary." A menu, menu board or written nutrition information provided to a customer by a chain restaurant may include the following statement or a statement similar to the following: "Nutrition information is based upon standard recipes and product formulations; however, modest variations may occur due to differences in preparation, serving sizes, ingredients or special orders."

4. Different varieties. For a food or beverage item that is listed as a single item but includes more than one variety, the caloric information required under subsection 1 for that item must be the median value of calories for all varieties offered for that item if the caloric information for each variety of the item is within 20% of the median for that item. If the caloric information required by subsection 1 for a variety of a food or beverage item is not within 20% of the median for that item, then the caloric information must be stated for each variety of that item. If a food display tag is used to identify a specific variety of a food or beverage item, the caloric information required by subsection 1 must be for that specific variety of the item.

5. Exceptions. A chain restaurant is not required to provide information pursuant to subsection 1 for:

- A. Food items served at a self-service salad bar or buffet;
- B. An item offered for a limited time that appears on a menu, menu board or food display tag for less than 60 days per year;
- C. A condiment or other item offered to a customer for general use without charge;
- D. An item sold to a customer in a manufacturer's original sealed package that contains nutrition information as required by federal law; or
- E. A custom order for a food or beverage item that does not appear on a menu, menu board or food display tag.

6. Alcoholic beverages. A chain restaurant shall state on a food display tag, menu or menu board the average caloric value for beers, wines and spirits as established by the United States Department of Agriculture, Agriculture Research Service in the National Nutrient Database for Standard Reference. A food display tag, menu or menu board for beer, wine and spirits may include the following statement: "Signature drinks or liqueurs with added ingredients may contain increased caloric content."

7. Compliance; enforcement. The department or an agent authorized to inspect an eating establishment under section 2499 shall ensure compliance with the provisions of this section but is not required to verify the accuracy of the caloric information required by this section. Upon request a chain restaurant shall provide to the department documentation of the accuracy of the information required by subsection 1. A violation of this section is a violation of the Maine Unfair Trade Practices Act, enforceable against the owner or franchisee of the eating establishment, except that no private remedies exist under Title 5, section 213.'

Amend the bill in section 7 in the first line (page 2, line 41 in L.D.) by striking out the following: "May 1, 2010" and inserting the following: 'February 1, 2011'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the majority report of the committee. The amendment adds a definition for "calories per serving," amends the definition of "chain restaurant" by deleting reference to nationwide locations and extends the time period for limited time offerings to 60 days per year. It specifies the process for determining caloric content, allowing rounding of caloric values. It exempts from the definition of "chain restaurant" a hotel or motel that contains a separately owned eating establishment but applies the provisions of the bill to that separately owned eating establishment. It exempts food items provided at a self-service salad bar or buffet. It establishes a separate caloric labeling requirement for beer, wine and spirits. It specifies that enforcement is by the Attorney General against the owner or franchisee of the eating establishment and that there are no private remedies. The amendment provides an effective date of February 1, 2011.

FISCAL NOTE REQUIRED

(See attached)