



HOUSE BILL 758

Public Health - Chain Restaurants - Nutrition Information Labeling

February 23, 2010

POSITION: Oppose

Mr. Chairman and Members of the Health and Government Operations Committee:

On behalf of the members of the *Restaurant Association of Maryland*, we strongly oppose House Bill 758.

We believe that menu labeling is best handled at the federal level. It is difficult for chain restaurants to comply with a growing patchwork of state and local menu labeling regulations. Furthermore, there is already a precedent for a federal approach to nutrition labeling for packaged foods. Chain restaurants and their customers deserve the same nationwide uniformity. To echo our views on this issue, we have attached a copy of a November 13, 2009 editorial from *The Gazette of Politics and Business* that was published during a similar debate in Montgomery County.

We strongly support bipartisan federal language contained in the health care reform legislation that reflects a negotiated compromise between representatives from both sides of this debate. The *National Restaurant Association* (NRA) and the *Center for Science in the Public Interest* (CSPI) worked hard to reach a compromise that requires restaurant chains with 20 or more locations nationwide (regardless of ownership) to display total calories next to each item on a menu board or printed menu. Additional nutrition information must be made available to customers upon request.

While the sponsor of House Bill 758 claims that this bill was drafted to closely mirror federal menu labeling language, there are, in fact, a significant number of differences between the two approaches that preclude us from supporting this bill.

Among the many problems with this legislation is the fact that it exempts grocery stores, convenience stores, movie theatres, buffet restaurants, salad bars and other foods that are not served in individual portions. Notwithstanding the lack of uniformity on the type of businesses and foods covered, this legislation could never truly mirror the pending federal proposal because there is no way to predict the result of the federal regulatory process that will determine the final outcome on issues such as reasonable variations in serving sizes or formulation of a dish, natural variations in ingredients, menu statements regarding suggested daily caloric intake and the significance of the caloric information in the context of total daily diet, and how to best determine serving sizes for foods like whole pizzas or a bucket of fried chicken.

Restaurant Association of Maryland
February 23, 2010
Page 2

In addition to soaring energy rates and higher labor costs as a result of recent hikes in the minimum wage, all employers are also facing a 300 percent increase in Maryland's unemployment insurance tax. The LAST thing our industry needs right now is another regulatory burden that will ultimately result in Maryland chain restaurants bearing the duplicative costs of redesigning/reprinting menus and menu boards all over again once the new federal standards become law. With a federal menu labeling law within sight, it seems senseless to force Maryland businesses to waste scarce resources at this point.

During the public hearing on similar legislation before this committee last year, we affirmed our commitment to passing federal menu labeling legislation during this Congress. We are proud that we successfully attached menu labeling language to both the House- and Senate-passed versions of health care reform legislation late last year. With our current bipartisan support, we remain confident that menu labeling legislation can pass by the end of this year via another legislative vehicle if the health care reform bill remains stalled indefinitely.

As we told this committee last year, we will work with the Department of Health and Mental Hygiene (DHMH) on statewide menu labeling legislation if we cannot achieve our federal goal during this Congress. We are now in the final year of the two-year congressional term. To prove that we stand by our word, we are willing to sit down with DHMH as early as this summer to begin working on statewide legislation that will be ready to file by next January should we fall short of our federal goal this year. All we ask is that this committee first gives us this chance to finish what we started at the federal level.

For these reasons, we oppose HB 758 and request an unfavorable report.

Respectfully submitted,

A handwritten signature in black ink, reading "Melvin R. Thompson", followed by a long horizontal flourish line extending to the right.

Melvin R. Thompson
Senior Vice President
Government Affairs and Public Policy

Attachment: 1

Editorial

Friday, Nov. 13, 2009

The Gazette

Politics and Business

Counting calories

Rules requiring upfront disclosure by fast-food spots should be national

Montgomery County Council member George Leventhal's resurrected proposal to require that certain chain restaurants in the county post calorie information on their menus or menu boards is ill-timed, unnecessary local meddling.

His proposal, which went nowhere when it was introduced in 2007, would require chain restaurants that have more than 20 establishments nationwide to display calorie information on their menu boards and mandate that other information, such as fat and salt content, be available on request.

An estimated 640 eateries in Montgomery County would have to comply, but little, independent places wouldn't. The enforcers would be health department inspectors, who are already busy enough, and repeat violators could be shut down for three days.

Consumers have a right to nutritional information and the fast-food industry has been responding, largely without the threat of a government clubbing. Consumers have gotten smarter, more demanding.

Federal legislation that matches Leventhal's is attached to the health care reform legislation that passed the House of Representatives and is now before the Senate.

Few would argue that the intent of the menu-data mandate — better information for health-conscious consumers — is misguided. Heart disease is the No. 1 cause of death for men and women, according to the Centers for Disease Control.

That heart disease knows no geographical boundaries is why the matter is best left to federal regulations, similar to those that govern nutritional labeling for packaged foods.

Leventhal points out that waiting for a federal law to pass and be implemented could take as long as three years; if Montgomery County passed its own legislation, the law could be in place within a year. Sometimes being first isn't always the best approach.

It makes sense for restaurants in all states to have to comply with a single set of rules, not a patchwork of county-by-county or state standards. Going back to the packaged goods analogy, imagine the logistical nightmare if food manufacturers had to have different labels for multiple jurisdictions.

While federal health care reform may never pass, it's worth waiting just a couple of months to see what the Senate does with the bill. Federal labeling regulations can be extracted and considered separately. Nutritional data standards are best handled nationally and the fast-food industry has been responsive.