

THE COMMON SENSE NUTRITION DISCLOSURE ACT (CSNDA)

SENATORS ROY BLUNT AND ANGUS KING

BACKGROUND

In 2010, legislation passed that mandated national calorie menu-labeling standards for chain restaurants and similar retail food establishments. The FDA published its proposed rule in April 2011. During the rulemaking process, comments were provided to the FDA for the many different ways that foods are prepared and sold to customers, particularly to demonstrate to the FDA that not everything could fit neatly into a “one-size-fits-all” standardized menu. Bipartisan bills were also introduced in the 113th Congress expressing concern over the FDA’s approach.

Final rules were issued in November 2014 and it became clear that the FDA did not fully address the concerns of small businesses and the concerns highlighted by Congressional members. In the final rule, the FDA (i) required establishments to create multiple menus throughout a store; (ii) defined most advertising and marketing materials as menus requiring labels; (iii) rejected alternative, effective approaches to labeling customizable, variable menu items; (iv) did not accommodate requests of restaurants that specialize in food delivery; and, (v) established arbitrary, excessive penalties, including potential criminal penalties and the possibility of jail time for small business owners.

A bipartisan group of members of Congress reached out to the FDA to urge for a delay in the regulation’s compliance date, which the FDA did announce. However, legislation is still needed to address the rigidity of the Final Rule and lessen confusion for consumers and small businesses.

WHAT THIS BILL DOES

The CSNDA maintains the FDA’s objective to provide customers with information they can use to make smart food choices, but it will protect small businesses from unnecessary costs and risks. Specifically:

- Requires restaurants, supermarkets, convenience stores, and other foodservice vendors to designate a “primary” menu where most customers make decisions;
- Clarifies that advertisements such as a coupon for Facebook post are not menus;
- Clarifies that menu labeling regulations only apply to food items sold throughout a chain, to preserve local and fresh food items that may only be sold at one or two locations;
- Permits businesses that offer variable made-to-order items that are tailored by the customer (i.e. pizza and sandwiches) to select one of various methods of providing useful calorie information most helpful to the customer;
- Permits businesses that mainly receive food orders remotely to provide calorie information on a remote access menu, such as one on the Internet, instead of an in-store menu board customers never see;
- Protects businesses from being penalized excessively for inadvertent human error;
- Places responsibility for compliance on corporate officials that design compliance programs and methods rather than local managers only implementing;
- Prohibits frivolous class-action suits;
- Extends the effective date of menu-labeling requirements to provide covered businesses the time to prepare and comply.

CONTACT:

Tracy Henke with Senator Blunt at tracy_henke@Blunt.senate.gov or Aisha Woodward with Senator King at aisha_woodward@king.senate.gov

Organizations
Endorsing the
CSNDA:

