

SENATE
 S. No. **1686**

RECEIVED BY:

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article II, Section 15 provides:

The State shall protect and promote the right to health of the people and instill health consciousness among them.

Cardiovascular disease is the leading cause of mortality in the Philippines. A report from the Department of Health stated that in 2003, it accounted for 30.2% of deaths among Filipinos. Increase in body mass index, also known as obesity or being overweight, is an important cause of chronic disease. The World Health Organization (WHO) expects that the percentage of Filipino obese men over thirty will increase from 23% of the population in 2005 to 24% in 2015, while the rate for women will increase from 34% in 2005 to 44% in 2015. The WHO also noted that 80% of premature heart disease, stroke and type two diabetes and 40% of cancers can be prevented through a healthy diet.

Weight gain occurs when more calories are consumed than are expended. Small calorie excesses over time have a cumulative effect. Eating out, and eating extra calories while eating out, contributes disproportionately to the excess calorie intake that fuels the obesity epidemic. The increase in consumption of away-from-home foods has been facilitated by the expansion of restaurant chains, which serve food that is easily available, inexpensive, and high in calories. There are abundant data to show that people who eat at fast food establishments consume more calories.

Regulation of food service establishments is a core public health function. This includes regulation of food that is commercially prepared and sold by food service establishments, a broad category which includes restaurants. However, consumers lack easily accessible

information to make informed choices when eating in restaurants. Calorie information provided at the time of food selection in food service establishments would enable consumers to make more informed, healthier choices and can reasonably be expected to reduce obesity and the many related health problems which obesity causes.

The systematic underestimation of calories suggests that consumers have distorted perceptions of calorie content and *de facto* have been misled to view oversized, high-calorie portions as “normal” portions, containing acceptable numbers of calories. There is a calorie information gap. This gap is contributing to people choosing higher calorie items and to the obesity epidemic. Providing information about the calorie content of foods and beverages being served in restaurants in a time, place, and manner that can inform decisions will help bridge this gap. Provision of calorie information on menu and menu boards is an important way to accomplish this goal. This bill seeks to address the problem of obesity and the diseases that are caused by it. ¹

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¹ This bill was originally filed in the Fourteenth Congress, Second Regular Session

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1 AN ACT
2 REQUIRING THE POSTING OF CALORIE COUNT INFORMATION
3 ITEMS IN MENU BOARDS OF FOOD SERVICE ESTABLISHMENTS

4 *Be it enacted by the Senate and the House of Representatives of the Philippines in*
5 *Congress assembled:*

6 SECTION 1. *Short Title.* – This Act shall be known as the “Calorie Count Menu Act.”

7 SECTION 2. *Definition of terms.* – As used in this Act, the term–

8 (A) “Covered food service establishment” is a food service establishment that is one of a
9 group of 15 or more food service establishments doing business nationally, offering for
10 sale substantially the same menu items, in servings that are standardized for portion size
11 and content, that operate under common ownership or control, or as franchised outlets of
12 a parent business, or do business under the same name;

13 (B) “Menu” shall mean a printed list or pictorial display of a food item or items, and their
14 price(s), that are available for sale from a covered food service establishment and shall
15 include menus distributed or provided outside of the establishment;

16 (C) “Menu board” shall mean any list or pictorial display of a food item or items and
17 their price(s) posted in and visible within a covered food service establishment or outside
18 of a covered food service establishment for the purpose of ordering from a drive-through
19 window;

20 (D) “Menu item” shall mean any individual food item, or combination of food items,
21 listed or displayed on a menu board or menu that is sold by a covered food service
22 establishment;

1 (E) "Department" refers to the Department of Health;

2 (F) "Secretary" refers to the Secretary of the Department.

3 SECTION 3. *Scope and applicability.* – This Act shall apply to menu items that are
4 served in portions the size and content of which are standardized at a covered food service
5 establishment. This section shall not apply to menu items that are listed on a menu or menu
6 board for less than 30 days in a calendar year.

7 SECTION 4. *Compliance Certificate Requirement.* –

8 (A) A compliance certificate issued by the Department shall be required prior to the
9 operation of any food service establishment. The owner of the establishment shall file an
10 application for a compliance certificate with the Department on a form prescribed by the
11 Department;

12 (B) All certificates issued by the Department under this Act shall expire after three (3)
13 years from date of issue and may be renewed by submission to the Department at least 30
14 days before the expiration date a compliance certificate renewal application;

15 (C) The Department may refuse to renew the certificate of any owner or operator who has
16 been found to be in violation of this Act;

17 (D) Each food service establishment shall be inspected at least once every three years
18 after the initial year in which the establishment was granted a certificate;

19 (F) Existing food service establishments have two years from the date of effectivity of
20 this Act to secure a compliance certificate, subject to reasonable rules to be prescribed by
21 the Secretary.

22 SECTION 5. *Requirements for food establishments.* – Before an operator may be granted
23 a compliance certificate, he must observe the following requirements–

1 (A) All menu boards and menus in any covered food service establishment shall bear the
2 total number of calories derived from any source for each menu item they list. Such
3 information shall be listed clearly and conspicuously, adjacent or in close proximity such
4 as to be clearly associated with the menu item, using a font and format that is at least as
5 prominent, in size and appearance, as that used to post either the name or price of the
6 menu item;

7 (B) Calorie content values (in kilo calories) required by this section shall be based upon a
8 verifiable analysis of the menu item, which may include the use of nutrient databases,
9 laboratory testing, or other reliable methods of analysis, and shall be rounded to the
10 nearest ten (10) calories for calorie content values above 50 calories and to the nearest
11 five (5) calories for calorie content values 50 calories and below;

12 (C) When a food item is displayed for sale with a food item tag, such food item tag shall
13 include the calorie content value for that food item in a font size and format at least as
14 prominent as the font size of the name of the food item;

15 (D) Calorie content values at drive-through windows shall be displayed on either the
16 drive through menu board, or on an adjacent stanchion visible at or prior to the point of
17 ordering, so long as the calorie content values are as clearly and conspicuously posted on
18 the stanchion adjacent to their respective menu item names, as the price or menu item is
19 on the drive through menu board;

20 (E) For menu items offered in different flavors and varieties, including, but not limited to,
21 beverages, ice cream, pizza, and doughnuts, the range of calorie content values showing
22 the minimum to maximum numbers of calories for all flavors and varieties of that item
23 shall be listed on menu boards and menus for each size offered for sale, provided
24 however that the range need not be displayed if calorie content information is included on
25 the food item tag identifying each flavor or variety of the food item displayed for sale;

1 (F) For combinations of different food items listed or pictured as a single menu item, the
2 range of calorie content values showing the minimum to maximum numbers of calories
3 for all combinations of that menu item shall be listed on menu boards and menus. If there
4 is only one possible calorie total for the combination, then that total shall be listed on the
5 menu boards and menus.

6 SECTION 6. *Penalties.* – The Department is empowered to establish and assess penalties
7 or fines against a permit holder for violations of this Act or regulations adopted under this Act. In
8 no circumstance will any penalty or fine exceed P10,000.00 per day for each day the permit
9 holder remains in violation of any provision of this Act.

10 SECTION 7. *Separability Clause.* – If any provision, or part hereof is held invalid or
11 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
12 valid and subsisting.

13 SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance, executive
14 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
15 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

16 SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
17 publication in at least two (2) newspapers of general circulation.

18 Approved,