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1 A bill to be entitled
2 An act relating to the prevention of obesity; amending s.
3 381.0054, F.S.; authorizing the Department of Health to
4 require certain food service establishments to display the
5 number of calories in food items for sale; providing
6 exemptions; providing penalties; providing immunity from
7 liability under certain circumstances; providing
8 conditions under which such nutritional-information
9 requirements may be superseded by federal law, rules, or
10 regulations; providing effective dates.

11
12 WHEREAS, death due to obesity is preventable and more than
13 40,000 Florida residents die annually from obesity-related
14 diseases, and

15 WHEREAS, in 2008, more that 60 percent of the adults and 30
16 percent of the children in Florida were overweight and at least
17 half of these numbers were obese, with a body mass index greater
18 than 30, and

19 WHEREAS, approximately 60 percent of overweight children
20 have at least one risk factor for cardiovascular disease and 25
21 percent of overweight children have two or more risk factors,
22 and

23 WHEREAS, the number of overweight and obese children has
24 tripled in the last 20 years, and

25 WHEREAS, excessive body weight affects virtually every
26 organ system in the body and increases the risks of diabetes,
27 myocardial infarction, stroke, cancer, sleep apnea, and
28 osteoarthritis, and

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29 WHEREAS, obesity-related medical expenditures for adults in
 30 this state total more than 5 billion dollars annually, with over
 31 half of those costs being financed by Medicare and Medicaid, and
 32 the direct economic effects of obesity are far greater than this
 33 figure when missed workdays and other costs outside the medical
 34 care system and the economic valuation of reduced longevity and
 35 quality of life are considered, and

36 WHEREAS, in 2008, almost 50 percent of food dollars were
 37 spent away from the home, and according to a recent poll by
 38 Peter D. Hart Research Associates, 79 percent of registered
 39 voters favor a law that would require restaurants to provide
 40 detailed nutritional information in writing, and

41 WHEREAS, the current economic crisis provides a unique
 42 opportunity to examine questions of fundamental importance to
 43 public health, especially those related to obesity and physical
 44 activity, NOW, THEREFORE,

45

46 Be It Enacted by the Legislature of the State of Florida:

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48 Section 1. Section 381.0054, Florida Statutes, is amended
 49 to read:

50 381.0054 Healthy lifestyles promotion.--

51 (1) The Department of Health shall promote healthy
 52 lifestyles to reduce the prevalence of excess weight gain and
 53 obesity in Florida by implementing appropriate physical activity
 54 and nutrition programs that are directed towards all Floridians
 55 by:

56 (a) Using all appropriate media to promote maximum public
57 awareness of the latest research on healthy lifestyles and
58 chronic diseases and disseminating relevant information through
59 a statewide clearinghouse relating to wellness, physical
60 activity, and nutrition and their impact on chronic diseases and
61 disabling conditions.

62 (b) Providing technical assistance, training, and
63 resources on healthy lifestyles and chronic diseases to the
64 public, county health departments, health care providers, school
65 districts, and other persons or entities, including faith-based
66 organizations, that request such assistance to promote physical
67 activity, nutrition, and healthy lifestyle programs.

68 (c) Developing, implementing, and using all available
69 research methods to collect data, including, but not limited to,
70 population-specific data, and track the incidence and effects of
71 weight gain, obesity, and related chronic diseases. The
72 department shall include an evaluation and data collection
73 component in all programs as appropriate.

74 (d) Partnering with the Department of Education, local
75 communities, school districts, and other entities to encourage
76 Florida schools to promote activities during and after school to
77 help students meet a minimum goal of 60 minutes of activity per
78 day.

79 (e) Partnering with the Department of Education, school
80 districts, and the Florida Sports Foundation to develop a
81 program that recognizes schools whose students demonstrate
82 excellent physical fitness or fitness improvement.

83 (f) Collaborating with other state agencies to develop
 84 policies and strategies for preventing and treating obesity,
 85 which shall be incorporated into programs administered by each
 86 agency and shall include promoting healthy lifestyles of
 87 employees of each agency.

88 (g) Advising, in accordance with s. 456.081, health care
 89 practitioners licensed in this state regarding the morbidity,
 90 mortality, and costs associated with the condition of being
 91 overweight or obese, informing such practitioners of clinical
 92 best practices for preventing and treating obesity, and
 93 encouraging practitioners to counsel their patients regarding
 94 the adoption of healthy lifestyles.

95 (h) Maximizing all local, state, and federal funding
 96 sources, including grants, public-private partnerships, and
 97 other mechanisms, to strengthen the department's current
 98 physical activity and nutrition programs and to enhance similar
 99 county health department programs.

100 (2) The Department of Health shall require standard food
 101 items served or offered for sale at least 30 days per calendar
 102 year in a food service establishment, as defined in s.
 103 500.03(1)(p), to bear a label or display information that
 104 indicates in a clear and conspicuous manner the number of
 105 calories in each food item, to be determined within a reasonable
 106 basis, as follows:

107 (a) Calories displayed on menu board.--The number of
 108 calories shall be displayed on the menu board prior to the point
 109 of purchase by one of the following means:

110 1. On a menu board adjacent to the item or its price;

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111 2. On a sign presenting standard food items in a manner
112 similar to the menu board and located on the same wall as the
113 menu board; or

114 3. On a sign at eye level in the consumer queue prior to
115 the point of purchase.

116 (b) Calories displayed on menu.--The number of calories
117 shall be displayed on the menu prior to the point of purchase by
118 one of the following means:

119 1. In the menu adjacent to the item or its price; or

120 2. In an insert that accompanies or is attached to the
121 menu.

122 (c) Referral statement.--A menu board or a menu shall bear
123 a statement directing the consumer to the location of additional
124 nutritional information that may be known and available but not
125 required, such as, but not limited to, the amount of sodium,
126 trans fat, saturated fat, cholesterol, carbohydrates, sugars,
127 and protein in each food item.

128 (d) Applicability.--This subsection does not apply to:

129 1. Food offered for sale at a not-for-profit food
130 establishment.

131 2. Food offered at no cost.

132 3. Food exempted by the State Surgeon General by rule.

133 (e) One determination per item.--A reasonable basis for
134 determination of nutrition information can be made with
135 appropriate accuracy by consulting nutrient databases,
136 cookbooks, laboratory analyses, or other sources that provide a
137 reasonable basis of information regarding the nutrient content
138 of a food, notwithstanding variability in the portion size,

139 formulation, and other characteristics of such food or its
 140 preparation method.

141 (f) Penalty.--A person who knowingly and willfully
 142 violates this subsection by:

143 1. Willfully failing to make a disclosure required by this
 144 subsection, or

145 2. Making a disclosure under this section with an intent
 146 to deceive,

147
 148 commits a misdemeanor of the second degree, punishable as
 149 provided in s. 775.082 or s. 775.083.

150 (g) Liability.--Unless a food service establishment
 151 knowingly and willfully violates paragraph (f), the
 152 establishment may not be held liable.

153 (3)~~(2)~~ The department may adopt rules pursuant to ss.
 154 120.536(1) and 120.54 to administer this section.

155 (4)~~(3)~~ Subsection (1) ~~This section~~ shall be implemented
 156 contingent on an appropriation in the General Appropriations
 157 Act.

158 (5) Subsection (2) may be superseded by federal law if a
 159 single, consistent national nutrition labeling standard is
 160 established under federal law, rules, or regulations that
 161 accomplish the same purpose of providing responsible nutritional
 162 information to the consumer.

163 Section 2. This act shall take effect January 1, 2010,
 164 and, from January 1, 2010, through December 31, 2010, shall
 165 apply to all food service establishments having five or more

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166 | locations, and, on January 1, 2011, and thereafter, shall apply
167 | to all food service establishments.