

By Senator Peaden

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1                   A bill to be entitled  
2           An act relating to obesity prevention; amending s.  
3           381.0054, F.S.; providing definitions; requiring the  
4           operator of a food service establishment that has five  
5           or more locations in the state to conspicuously  
6           disclose the number of calories of certain food items  
7           served or offered for sale in the food service  
8           establishment; providing the manner and requirements  
9           for the disclosure; providing exceptions; providing  
10          that certain actions constitute a violation of the  
11          act; providing immunity from liability for the  
12          operator under certain circumstances; providing for  
13          the disclosure requirement to be superseded by federal  
14          law under certain circumstances; providing for the  
15          disclosure requirement to apply to all food service  
16          establishments after a specified date; providing an  
17          effective date.

18  
19          WHEREAS, in 2008 more than 60 percent of adults and 30  
20          percent of children in Florida are overweight, and at least half  
21          of these persons are obese and have a body mass index greater  
22          than 30, and

23          WHEREAS, approximately 60 percent of overweight children  
24          have at least one risk factor for cardiovascular disease and 25  
25          percent of overweight children have two or more risk factors,  
26          and

27          WHEREAS, the incidence of overweight and obese children has  
28          tripled in the last 20 years, and

29          WHEREAS, excessive weight affects virtually every organ

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30 system in the body, increasing the risk of diabetes, myocardial  
31 infarction, stroke, cancer, sleep apnea, osteoarthritis, and

32 WHEREAS, obesity as a cause of death is preventable and  
33 more than 40,000 Floridians die annually from obesity-related  
34 diseases, and

35 WHEREAS, obesity-related medical expenditures for adults in  
36 this state total more than \$5 billion yearly, with over half of  
37 those costs being financed by Medicare and Medicaid, and the  
38 direct economic effects of obesity may be twice this figure when  
39 the cost of missed workdays and other costs outside the medical  
40 care system are considered, not counting the economic valuation  
41 of reduced longevity and quality of life, and

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

47 WHEREAS, the current economic crisis provides a unique  
48 opportunity to examine questions of fundamental importance to  
49 public health, especially those related to obesity and physical  
50 activity, NOW, THEREFORE,

51  
52 Be It Enacted by the Legislature of the State of Florida:

53  
54 Section 1. Section 381.0054, Florida Statutes, is amended  
55 to read:

56 381.0054 Healthy lifestyles promotion.—

57 (1) The Department of Health shall promote healthy  
58 lifestyles to reduce the prevalence of excess weight gain and

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59 obesity in Florida by implementing appropriate physical activity  
60 and nutrition programs that are directed towards all Floridians  
61 by:

62 (a) Using all appropriate media to promote maximum public  
63 awareness of the latest research on healthy lifestyles and  
64 chronic diseases and disseminating relevant information through  
65 a statewide clearinghouse relating to wellness, physical  
66 activity, and nutrition and their impact on chronic diseases and  
67 disabling conditions.

68 (b) Providing technical assistance, training, and resources  
69 on healthy lifestyles and chronic diseases to the public, county  
70 health departments, health care providers, school districts, and  
71 other persons or entities, including faith-based organizations,  
72 that request such assistance to promote physical activity,  
73 nutrition, and healthy lifestyle programs.

74 (c) Developing, implementing, and using all available  
75 research methods to collect data, including, but not limited to,  
76 population-specific data, and track the incidence and effects of  
77 weight gain, obesity, and related chronic diseases. The  
78 department shall include an evaluation and data collection  
79 component in all programs as appropriate.

80 (d) Partnering with the Department of Education, local  
81 communities, school districts, and other entities to encourage  
82 Florida schools to promote activities during and after school to  
83 help students meet a minimum goal of 60 minutes of activity per  
84 day.

85 (e) Partnering with the Department of Education, school  
86 districts, and the Florida Sports Foundation to develop a  
87 program that recognizes schools whose students demonstrate

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88 excellent physical fitness or fitness improvement.

89 (f) Collaborating with other state agencies to develop  
90 policies and strategies for preventing and treating obesity,  
91 which shall be incorporated into programs administered by each  
92 agency and shall include promoting healthy lifestyles of  
93 employees of each agency.

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

101 (h) Maximizing all local, state, and federal funding  
102 sources, including grants, public-private partnerships, and  
103 other mechanisms, to strengthen the department's current  
104 physical activity and nutrition programs and to enhance similar  
105 county health department programs.

106  
107 This subsection shall be administered contingent on an  
108 appropriation in the General Appropriations Act.

109 (2) As used in subsections (3)-(9), the terms:

110 (a) "Consumer queue" means a line of people waiting to  
111 purchase food or to be served food in a food service  
112 establishment.

113 (b) "Menu" or "menu board" means the primary writing in a  
114 food service establishment from which a consumer makes his or  
115 her order selection of food.

116 (c) "Reasonable basis" means any reasonable means of

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117 determining nutrition information for a food item, as recognized  
118 by the federal Food and Drug Administration.

119 (3) The operator of each food service establishment that  
120 operates five or more locations in this state, including, but  
121 not limited to, a sit-down restaurant, a grocery store or deli  
122 that serves food to go, or a quick-service or fast-food  
123 restaurant, shall conspicuously disclose at the point of  
124 purchase the number of calories in each food item:

125 (a) On a menu board adjacent to the food item or its price;

126 (b) On a sign that lists each food item in a manner similar  
127 to the menu board and is located on the same wall as the menu  
128 board;

129 (c) On a sign at eye level in the consumer queue before the  
130 point of purchase;

131 (d) In the menu adjacent to the food item or its price; or

132 (e) In an insert that accompanies or is attached to the  
133 menu.

134 (4) Each menu or menu board in the food service  
135 establishment must include a statement that directs the consumer  
136 to a location for obtaining additional nutritional information  
137 that may be known and available but is not listed on the menus  
138 or menu board of the food establishment, including, but not  
139 limited to, the amount of sodium, trans fat, saturated fat,  
140 cholesterol, carbohydrates, sugars, and protein in each food  
141 item.

142 (5) Subsection (3) does not apply to a food item that is:

143 (a) Offered for sale in a nonprofit food service  
144 establishment.

145 (b) Served or sold in a food service establishment that

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146 serves or offers food for sale less than 30 days within a  
147 calendar year.

148 (c) Served for free.

149 (d) Exempted by the State Surgeon General by rule or law.

150 (6) The operator of each food service establishment shall  
151 obtain a reasonable basis for determining calorie information  
152 for food items sold in the establishment by consulting nutrient  
153 databases, cookbooks, laboratory analyses, or other sources,  
154 notwithstanding variability in the portion size, formulation,  
155 and other characteristics of such food or its preparation  
156 method.

157 (7) The operator of a food service establishment violates  
158 the requirements of subsection (3) if he or she:

159 (a) Knowingly or willfully fails to make a disclosure  
160 required by subsection (3); or

161 (b) Makes a disclosure under subsection (3) with an intent  
162 to deceive.

163 (8) An operator of a food service establishment is not  
164 liable for any cause of action related to the disclosure  
165 requirement provided in subsection (3) unless the operator  
166 knowingly and willfully violates subsection (3).

167 (9) The provisions of subsections (3)-(8) are superseded if  
168 a federal law is enacted which provides a single, consistent  
169 standard of nutrition labeling and accomplishes the same purpose  
170 of providing responsible nutritional information to the  
171 consumer.

172 (10)-(2) The department may adopt rules pursuant to ss.  
173 120.536(1) and 120.54 to administer this section.

174 (3) This section shall be implemented contingent on an

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175 ~~appropriation in the General Appropriations Act.~~

176       Section 2. Effective January 1, 2011, s. 381.0054(3)-(9),  
177 Florida Statutes, applies to all food service establishments in  
178 this state.

179       Section 3. This act shall take effect January 1, 2010.