

Bill No. 19-07  
Concerning: Eating and Drinking  
Establishments – Nutrition Labeling  
Revised: 7/27/07 Draft No. 3  
Introduced: July 31, 2007  
Expires: February 28, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmember Leventhal

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**AN ACT** to:

- (1) require certain eating and drinking establishments to post certain nutrition information on menu boards and menus; and
- (2) generally amend County law regarding eating and drinking establishments.

By adding

Montgomery County Code  
Chapter 15, Eating and Drinking Establishments  
Section 15-5A

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 15-15A is added as follows:**

2    **15-15A.    Nutrition Labeling.**

3           (a)    Legislative Findings.

4           (1)    Research reveals the strong link between diet and health and that  
5                   diet-related diseases begin early in life.

6           (2)    Increased caloric intake is a key factor contributing to the  
7                   increase in obesity in the United States. According to the Centers  
8                   for Disease Control and Prevention, two-thirds of American  
9                   adults are overweight or obese, and the rates of obesity have  
10                  tripled in children and teens since 1980. Data from the Maryland  
11                  Behavioral Risk Factor Surveillance System indicated that 50.8  
12                  percent of Montgomery County residents were overweight or  
13                  obese in 2005. According to the National Institutes of Health,  
14                  obesity increases the risk for diseases such as diabetes,  
15                  cardiovascular disease (heart disease and stroke), osteoarthritis,  
16                  sleep disorders, and cancer. According to the Maryland Vital  
17                  Statistics 2003 Annual Report, heart disease, cancer, stroke, and  
18                  diabetes accounted for nearly 60 percent of all deaths in  
19                  Maryland in 2003. The Report cites heart disease, cancer, stroke,  
20                  and diabetes as the first, second, third, and fifth leading causes of  
21                  deaths in Maryland in 2003. The United States Department of  
22                  Health and Human Services cited that in 2000 the economic cost  
23                  of obesity was \$117 billion in the United States.

24           (3)    The National Institutes of Health identified saturated fat as the  
25                  biggest dietary cause of high low-density lipoprotein cholesterol.  
26                  High LDL cholesterol levels lead to the build up of cholesterol in  
27                  arteries; the higher the level of LDL in a person's blood, the

28 greater the risk of heart disease. In the United States, heart  
29 disease is the leading cause of death and a leading cause of  
30 disability among working adults. The American Heart  
31 Association estimated that the economic cost of heart disease and  
32 stroke in the United States in 2007 will be \$431.8 billion in health  
33 care expenditures and lost productivity. The Maryland  
34 Behavioral Risk Factor Surveillance System indicated that nearly  
35 34 percent of Maryland adults were diagnosed with high  
36 cholesterol in 2003. Overweight or obese adults were more likely  
37 to have high cholesterol than normal weight adults. The  
38 Maryland Vital Statistics 2003 Report cited heart disease as the  
39 leading cause of death in Maryland during 2003, which  
40 accounted for over 27 percent of all deaths.

41 (4) The National Institutes of Health identified that excess dietary  
42 sodium will contribute to high blood pressure in people who are  
43 sensitive to sodium. High blood pressure can lead to congestive  
44 heart failure, kidney failure, and stroke. Nearly 1 in 3 American  
45 adults have high blood pressure. The Maryland Behavioral Risk  
46 Factor Surveillance System indicated that approximately 25  
47 percent of Maryland adults were diagnosed with high blood  
48 pressure in 2003. As with high cholesterol, obese adults were  
49 more likely to have high blood pressure than normal weight  
50 adults.

51 (5) Over the past 2 decades, there has been a significant increase in  
52 the number of meals prepared and eaten outside of the home. A  
53 study in the USDA Agriculture Information Bulletin reported that  
54 Americans consume approximately one-third of their calories on

55 food purchased in eating and drinking establishments, and the  
56 National Restaurant Association estimated that Americans spend  
57 nearly 48 percent of total food dollars on food purchased from  
58 eating and drinking establishments. Studies in the USDA  
59 Agriculture Information Bulletin, the International Journal of  
60 Obesity, the American Journal of Public Health, and the  
61 American Journal of Epidemiology link eating out with obesity  
62 and higher caloric intake. Studies in the USDA Agriculture  
63 Information Bulletin and the American Journal of Epidemiology  
64 report that food from eating and drinking establishments is  
65 generally higher in calories and saturated fat and lower in  
66 nutrients, such as calcium and fiber, than home-prepared foods.

67 (6) The federal Nutrition Labeling and Education Act, in effect since  
68 1994, requires nutrition labeling on packaged foods sold in retail  
69 stores. Using food labels is associated with healthier diets. The  
70 United States Department of Health and Human Services cited  
71 that three-quarters of American adults report using food labels on  
72 packaged foods, and a report from the Food and Drug  
73 Administration cited that 48 percent of people report that the  
74 nutrition information on food labels has caused them to change  
75 the food product they purchased.

76 (7) Nutrition information is required for food served in an eating and  
77 drinking establishment only if a nutrient content or health claim is  
78 made about the food. It is difficult for consumers to limit caloric  
79 intake at eating and drinking establishments because of the  
80 limited availability of nutrition information and the practice of  
81 serving food in larger-than-standard serving sizes. Studies in the

82 Journal of Marketing and the American Journal of Clinical  
83 Nutrition show that people eat greater quantities of food when  
84 served more. A study in the Journal for Consumer Affairs  
85 indicated that people make healthier choices in eating and  
86 drinking establishments when provided with nutrition  
87 information at the point of purchase.

88 (b) Definitions. In this Section, the following words have the meaning  
89 indicated:

90 (1) “Menu” means a printed or handwritten list, provided at an eating  
91 and drinking establishment, of one or more food or drink items  
92 available at an eating and drinking establishment. A menu  
93 includes a beverage list.

94 (2) “Standardized Menu Item” or “Menu Item” means a food or drink  
95 item served in portions for which the size and content are  
96 standardized. “Standardized menu item” does not include a food  
97 or drink item that:

98 (A) appears on the menu for less than 30 cumulative days per  
99 calendar year; or

100 (B) is placed on a table or counter for general use without  
101 charge.

102 (c) Applicability. This Section applies to an eating or drinking  
103 establishment that is part of a chain with at least 10 locations nationally  
104 and that:

105 (1) Does business under the same trade name, regardless of the  
106 ownership of individual locations; and

107 (2) Offers predominantly the same type of menu.

108 (d) Labeling Required.

109           (1) Except as provided in subsection (e), an eating and drinking  
110           establishment must post the following nutrition information,  
111           calculated according to applicable federal law, for any  
112           standardized menu item on each menu next to or beneath the  
113           listing of that item:

114           (A) number of calories;

115           (B) grams of saturated fat; and

116           (C) milligrams of sodium.

117           (2) The required nutrition information must be located next to or  
118           beneath each menu item in a size and typeface at least as large as  
119           the name of the menu item or its price.

120           (3) *Range of Calorie Content Required for Different Flavors and*  
121           *Varieties.* If an eating and drinking establishment offers a  
122           standardized menu item in more than one flavor or variety and  
123           lists the item as a single menu item, (such as beverages, ice  
124           cream, pizza, or doughnuts), the establishment must post the  
125           range of nutrition information for each size offered for sale. The  
126           range must include the minimum and maximum values for each  
127           flavor or variety of that item.

128           (e) *Menu Boards.* If an eating and drinking establishment uses a menu  
129           board, the establishment may limit the nutrition information posted on  
130           the menu board to the number of calories per menu item. However, the  
131           establishment must provide the additional nutrition information required  
132           in subsection (d)(1) to each customer in writing on request.

133           (f) (1) The bottom of each menu page must contain the following  
134           statement:

135 Recommended limits for a 2,000 calorie daily diet are 20  
136 grams of saturated fat and 2,300 milligrams of sodium.

137 (2) Each menu board must contain the following statement:

138 A 2,000 calorie daily diet is used as the basis for general  
139 nutrition advice; however, individual calorie needs may  
140 vary.

141 (3) An eating and drinking establishment may include the following  
142 statement on a menu or menu board:

143 The nutrition information provided is based on standard  
144 recipes and product formulations. Small variations may  
145 occur because of differences in preparation, serving sizes,  
146 ingredients, or special orders.

147 (g) Substitute Ingredients. An establishment may use a substitute  
148 ingredient for any menu item for no more than 30 days without  
149 replacing the menu or menu board. However, if an establishment  
150 permanently substitutes an ingredient in any menu item, the  
151 establishment must comply with this Section within 90 days.

152 (h) Enforcement. When an eating and drinking establishment is inspected  
153 under Section 15-3, the Director must verify that required nutrition  
154 information is posted. The Director is not required to verify the  
155 accuracy of the information provided, but may request the establishment  
156 to document its accuracy.

## 157 **Sec. 2. Effective Date.**

158 Section 15-15A, inserted by Section 1 of this Act takes effect on:

159 (a) August 1, 2008 for any eating and drinking establishment that must  
160 comply with a similar menu labeling requirement in any other  
161 jurisdiction by August 1, 2008; and

162 (b) August 1, 2009 for all other eating and drinking establishments.

163 *Approved:*

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166 Marilyn J. Praisner, President, County Council Date

167 *Approved:*

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170 Isiah Leggett, County Executive Date

171 *This is a correct copy of Council action.*

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174 Linda M. Lauer, Clerk of the Council Date