

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Conform Maine Menu Labeling Laws to Federal Standards

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2491, sub-§2-A, as enacted by PL 2009, c. 395, §1 and affected by §8, is repealed.

Sec. 2. 22 MRSA §2491, sub-§7-A, as enacted by PL 2009, c. 395, §3 and affected by §8, is repealed.

Sec. 3. 22 MRSA §2491, sub-§7-B, as enacted by PL 2009, c. 395, §4 and affected by §8, is repealed.

Sec. 4. 22 MRSA §2491, sub-§7-C, as enacted by PL 2009, c. 395, §5 and affected by §8, is repealed.

Sec. 5. 22 MRSA §2491, sub-§7-D, as enacted by PL 2009, c. 395, §6 and affected by §8, is repealed.

Sec. 6. 22 MRSA §2500-A, sub-§1, as enacted by PL 2009, c. 395, §7 and affected by §8, is repealed.

Sec. 7. 22 MRSA §2500-A, sub-§2, as enacted by PL 2009, c. 395, §7 and affected by §8, is repealed.

Sec. 8. 22 MRSA §2500-A, sub-§3, as enacted by PL 2009, c. 395, §7 and affected by §8, is repealed.

Sec. 9. 22 MRSA §2500-A, sub-§4, as enacted by PL 2009, c. 395, §7 and affected by §8, is repealed.

Sec. 10. 22 MRSA §2500-A, sub-§5, as enacted by PL 2009, c. 395, §7 and affected by §8, is repealed.

Sec. 11. 22 MRSA §2500-A, sub-§6, as enacted by PL 2009, c. 395, §7 and affected by §8, is repealed.

Sec. 12. 22 MRSA §2500-A, sub-§7, as enacted by PL 2009, c. 395, §7 and affected by §8, is amended to read:

7. Compliance; enforcement. The department or an agent authorized to inspect an eating establishment under section 2499 shall ensure compliance with the provisions of ~~this section but is not required to verify the accuracy of the caloric information required by this section~~ the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 343(2010). Upon request a chain restaurant shall provide to the department documentation of the accuracy of the information required by ~~subsection 4~~ the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 343(2010). A violation of ~~this section~~ the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 343(2010) is a

violation of the Maine Unfair Trade Practices Act, enforceable against the owner or franchisee of the eating establishment, except that no private remedies exist under Title 5, section 213. This section may not be construed to create or enhance any claim, right of action or civil liability that did not exist under state law prior to the effective date of this subsection or limit any claim, right of action or civil liability that otherwise exists under state law. No private right of action arises out of this section. The only mechanism for enforcing this section is as provided in this subsection.

Sec. 13. 22 MRSA §2500-A, sub-§8, as enacted by PL 2009, c. 395, §7 and affected by §8, is amended to read:

8. Uniformity of regulation; preemption. ~~To the extent consistent with federal law, the regulation of disclosure of caloric and nutritional information is a matter of statewide concern, and state law governing that disclosure occupies the whole field of regulation regarding disclosure by chain restaurants of nutritional information and requirements regarding the content required to be posted on menus, menu boards and food display tags. The department shall adopt rules consistent with the requirements of the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 343(2010), to enforce the provisions of that section. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2A. A local government may not adopt an ordinance regulating the dissemination of caloric or nutritional information or requiring information to be placed on menus, menu boards or food display tags by a chain restaurant, and any ordinance or regulation that violates this subsection is void and has no force or effect.~~

SUMMARY

This bill repeals provisions of law regarding menu labeling that have been preempted by the federal Patient Protection and Affordable Care Act, Public Law 111148, Section 4205(2010), which creates a uniform national approach to nutrition labeling for restaurant menus with a primary focus on caloric content. The bill retains the current statutory definition of "chain restaurant" and directs the Department of Health and Human Services to adopt major substantive rules to locally enforce the provisions of 21 United States Code, Section 343(2010).