

Food Retailers Face New Calorie Disclosure Requirements

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Despite all the publicity over the recently-passed health care legislation, one provision that was “tacked on” received little note but will clearly affect the vast majority of franchise restaurants and many other food retailers across the country.

Section 4205 of the [Patient Protection and Affordable Care Act](#) amends the Federal Food Drug and Cosmetic Act (FDCA) by adding to the existing nutritional requirements for restaurants. The new provision requires restaurants and similar retail food establishments with at least 20 or more locations to provide clear and conspicuous information to consumers, including:

- declaring the number of calories each standard menu item provides as it is typically prepared, and
- presenting the required calorie information in terms of suggested caloric intake in the context of an overall diet.

The caloric information must be adjacent to the name of the standard menu item as it is usually prepared and placed on the actual menu or menu board, including a drive-through menu board, as well as in written form available on premises upon consumer request. Food sold at a salad bar, buffet line, cafeteria line, or similar self-service facility, and for self-service beverages or food that is on display and that is visible to customers and some vending machines are also explicitly covered by this provision.

Affected companies can prepare to participate in the FDA rulemaking process that will define compliance standards by determining the calorie content of their affected food products and evaluating the options available for disclosing the required calorie information.

For more information, please reference the Kelley Drye [client advisory](#).