

FDA Calorie Labeling Rules May Impact More Than Just Restaurants

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This July 18, 2008 file photo shows the calories of each food item at a McDonald's drive-thru menu in New York. Diners could soon see calorie counts on menus of chain restaurants. But what about the roasted chicken sold at grocery stores, or the hot dogs convenience stores sell? Will movie theaters have to tell patrons the number of calories in a giant soda and bucket of popcorn? The food industry is closely watching the Food and Drug Administration to see which establishments are included in the final menu labeling rules, expected this year. (AP Photo/Ed Ou, File)

WASHINGTON (AP) — Diners could soon see calorie counts on the menus of chain restaurants.

But will they be able to get that same clear information at grocery stores, convenience stores, movie theaters or airplanes?

The food industry is closely watching the [Food and Drug Administration](#) [1] to see which establishments are included in the final menu labeling rules, which are expected this year.

The idea is that people may pass on that bacon double cheeseburger if they know that it has 1,000 calories.

But non-restaurant establishments have lobbied hard for exemption, and the rules have been delayed.

FDA Commissioner Margaret Hamburg told Congress earlier this month that writing the rules has been "much more challenging than expected." The agency [issued proposed rules in 2011](#) [2] but has faced pressure to revise them to exclude retail outlets like grocery and convenience stores.

The FDA has sent the rules to the White House, meaning they could be released

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soon.

Five places you may — or may not — see calorie labels once the rules kick in:

RESTAURANTS

The restaurant industry pushed for menu labeling and helped it become law as part of health overhaul in 2010. Chain restaurants that operate all over the country wanted the federal standards because of an evolving patchwork of state and local laws that require calorie labeling and could have forced those outlets to follow different rules in different locations.

Not all restaurants are happy with menu labeling, though. Pizza restaurants, led by delivery giant Domino's, say it doesn't make sense to force their franchisees to order expensive new menu boards when few people walk into their brick-and-mortar outlets. They argue for putting the information online. The pizza companies say there are more than 34 million ways to order a pizza, and they need more flexibility on labeling than other restaurants. Supporters of the rules say pizzas are no different from sandwiches or other foods that have a variety of toppings.

The rules will only apply to restaurants with 20 or more outlets, so independent eateries are exempt. Bakeries, coffee shops and ice cream parlors are all expected to be included if they have enough stores to qualify. But alcohol won't have to be labeled in any of those places under the proposed rules. The FDA proposed exempting it.

SUPERMARKETS AND CONVENIENCE STORES

The supermarket and convenience store industries were perhaps the most unhappy with the rules that the FDA proposed in 2011. The agency proposed requiring those stores to label calories for prepared foods on menu boards and displays.

The restaurant industry has pushed for those outlets to be included, arguing that many of them are promoting their prepared food sales and directly competing with restaurants. Nutrition advocates have also called for those stores to be included, saying that a rotisserie chicken labeled with a calorie count at a restaurant should also be labeled at the grocery store takeout next door. Same with baked goods like muffins, pies or loaves of bread.

The supermarket industry estimates it could cost them a billion dollars to put the rules in place — costs that would be passed on to consumers. Along with convenience stores, the supermarkets say the ever-changing selection at salad bars, deli counters and other prepared food stations would make it difficult and costly to nail down accurate calorie counts and constantly update signs.

Both industries argue that the law is intended for restaurants and not for them. They say the labeling rules will be much easier to put in place at restaurants with fixed menus.

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"The cost of compliance for a convenience store is different than a one-time cost to McDonald's," says Lyle Beckwith of the National Association of Convenience Stores.

MOVIE THEATERS

Movie theater chains lobbied to be exempt and appeared to win that fight when they were exempted in the 2011 proposed rules. But nutrition groups are lobbying to include them in the final rules, especially because movie treats can be so unhealthy.

Nutrition lobbyist Margo Wootan of the Center for Science in the Public Interest says many people don't realize they are eating a day's worth of calories when they stop by the movie concessions counter and grab a large popcorn and extra-large soda.

"If a company is going to serve you 2,000 calories and call it a snack, the least they can do is tell people how many calories are in it," Wootan says.

AIRPLANES AND TRAINS

Passengers will most likely be able to purchase food calorie-blind in the air and on the rails. Along with movie theaters, airlines and trains were exempted from the proposed labeling rules in 2011. The FDA said that it would likely exempt food served in places where the "primary business activity is not the sale of food" and that don't "present themselves publicly as a restaurant." That also includes amusement parks, sports stadiums and hotels, unless restaurants set up in those places are part of a larger chain.

VENDING MACHINES

Vending machines will be required to have labels, but the industry — comprised mostly of smaller operators — is asking for flexibility in how they are required to post them.

Eric Bell of the National Automatic Merchandising Association says the group estimates the rules could cost operators up to \$42,000 a year, which he calls a "huge burden" on those small businesses.

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[1] <https://twitter.com/FDAfood>

[2] <http://www.foodmanufacturing.com/videos/2011/04/fda-proposes-calorie-counting-restaurants>