

H.R. 4061, the “Food Labeling Modernization Act of 2015”

November 23, 2015

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Sec. 2 – Additional Requirements for Front-of-Packaging Labeling for Processed Foods

This section adds additional requirements and clarity for front-of-package labeling for food that is intended for human consumption and is offered for sale. The section specifies that the Secretary of Health and Human Services (Secretary) should take into account reports from the Institute of Medicine and National Academy of Sciences when promulgating regulations regarding the summary nutrition information required.

The labeling is required to be a single, simple, standard system that is easily seen and understood and displays caloric information related to a common serving size and information related to nutrients strongly associated with public health concerns. This information is aimed to promote consumer selection of healthy product options, especially for at-risk populations.

The labeling is also required to clarify the percentage of wheat and grains included in a food product if it is labeled with ‘wheat’, ‘whole wheat’, ‘made with whole grain’, or ‘multigrain.’ The section also clarifies that any added artificial or natural coloring, sweetener, or added artificial or natural flavoring is prominently stated on the display.

Sec. 3 – Claims for Conventional Foods

This section directs the Secretary to promulgate rules with respect to the manner in which a nutrient in food is intended to affect or maintain any purported health claims. The section also gives the Secretary the authority to request that any health claims be substantiated with all the manufacturer’s available documentation within 90 days and directs the Secretary to issue guidance clarifying how such claims can be substantiated.

This section adds trans fats to the list of fats for which FDA can disqualify cholesterol claims, changing “fat or saturated fat,” to “fat, saturated fat, or trans fats.” It specifies that trans-fat free claims cannot be made unless the food contains less than one gram of saturated fat and anything above that must be disclosed. Additionally, the section adds that within three years after the date of the enactment, the Secretary will promulgate a final rule including a disqualifying nutrient level for added sugars.

Sec. 4 –Use of Specific Terms

This section clarifies the definition and usage of the words “natural” and “healthy” in food labeling, especially with regards to instances where artificial food, ingredients, added sugars and whole grains are added. The Secretary is directed to promulgate a final rule within two years of

enactment relating to the use of “natural” taking into consideration consumer surveys and studies. Foods can no longer be labeled “healthy” if less than half of grains are whole grains or if the food contains more than 10 percent daily value of added sugar per serving.

Sec. 5 – Modernization of the Nutrition Facts Panel

This section requires the nutrition facts panel to display the percent of recommended daily calories per serving based on the number of calories determined by the Secretary to be appropriate for members of the general population or subpopulations. This display will be in typeface and design that is more prominent than other information. It also changes the serving size to that which is “packaged in an amount that could reasonably be consumed in a single-eating occasion.” It also requires the labeling of both sugars and “added sugars.”

Sec. 6 – Ingredient Labels

This section directs the Secretary to require the formatting for the ingredient labels be improved for the purposes of readability (i.e., size of lettering, contrast of lettering, bolding, bullet points, etc.). It also clarifies formatting requirements for the primary display panel of a food that refers to a characterizing ingredient or component of the food, and compels the Secretary to report to Congress every two years on the enforcement of characterizing ingredients.

Sec. 7 – Caffeine Content on Information Panel

This section requires that any food with at least 10mg caffeine per serving include a statement of the content of this ingredient.

Sec. 8 – Food Allergen Labeling for Sesame

This section includes sesame on the list of major food allergens, and compels the Secretary to promulgate a final regulation no later than three years following enactment for determining the manner in which sesame must be disclosed.

Sec. 9 – Information about Major Food Allergens in Non-prepackaged Foods

This section requires that, within three years of enactment, signs listing major food allergens be placed adjacent to nonpackaged foods being offered for sale at retail.

Sec. 10 – Submission and Availability of Food Label Information

This section requires the manufacturer or importer of any food to submit to the Secretary all information that is to be included in the labeling of food, specifically: the nutrition facts panel; ingredients; any natural or artificial flavoring; an image of the primary display panel; allergy warnings or information; nutrient content claims; health related claims; and other relevant information as determined by the Secretary.

This section also requires the manufacturer or importer to update or supplement the information to keep the information up-to-date. It provides penalties up to \$10,000 for any violation of these reporting requirements. It also creates a public database containing all information submitted that is searchable by the public.

Sec. 11 – Definitions

This section defines “artificial” and “synthetic” for purposes of the Federal Food, Drug, and Cosmetic Act.

Sec. 12 – Effective Date; Regulations

This section defines the effective dates for the requirements in the bill. Requirements related to claims for conventional foods, use of specific terms, modernizing the Nutrition Facts Panel, ingredient labels, caffeine content, submission of food label information, and the use of the terms “artificial” and “synthetic” take effect two years after enactment. Requirements related to front-of-packaging labeling and listing of major allergens for nonprepackaged foods take effect three years after enactment. The section also specifies the length of time until the Secretary is required to propose regulations.