

HOUSE BILL No. 2595

By Committee on Appropriations

2-2

1 AN ACT concerning restaurants, retail food establishments and vending
2 machines; relating to regulation of consumer incentive items and
3 labeling of food by political subdivisions.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. As used in this act:

7 (a) "Food" means substances, whether in liquid, concentrated, solid,
8 frozen, dried or dehydrated form, that are sold for ingestion by humans
9 and are consumed for their taste or nutritional value. "Food and food
10 ingredients" does not include alcoholic beverages or tobacco.

11 (b) "Food that is a menu item in vending machines" means food
12 dispensed through a machine or other mechanical device that accepts
13 payment.

14 (c) "Retail food establishment" or "food service operation" means any
15 place in which food is served or is prepared on the premises for retail sale
16 or service in a heated state or heated by the seller, mixed or combined by
17 the seller for sale as a single item or sold with eating utensils provided by
18 the seller and is intended for immediate consumption. Such term shall
19 include, but not be limited to, fixed or mobile restaurants, coffee shops,
20 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
21 shops, soda fountains, taverns, private clubs, roadside kitchens,
22 commissaries, drive-in restaurants and any other private, public or
23 nonprofit organization or institution routinely serving food and any other
24 eating or drinking establishment or operation where food is served or
25 provided for the public with or without charge.

26 (d) "Food nutrition information" includes, but is not limited to, the
27 caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein,
28 vitamin, mineral, sodium and allergen content of food. "Food nutrition
29 information" also includes the designation of food as healthy or unhealthy.

30 (e) "Political subdivision" means political or taxing subdivisions of
31 the state, including counties, townships, cities, school districts, authorities
32 or other municipal or public corporations, agencies, boards, commissions,
33 councils, committees, subcommittees and other subordinate groups or
34 administrative units thereof, receiving or expending and supported, in

1 whole or in part, by public funds.

2 (f) "Consumer incentive item" means any licensed media character,
3 toy, game, trading card, contest, point accumulation, club membership,
4 admission ticket, token, code or password for digital access, coupon,
5 voucher, incentive, crayons, coloring placemats or other premium, prize or
6 consumer product that is associated with a meal served by or acquired
7 from a food service operation.

8 Sec. 2. (a) The regulation of consumer incentive items and nutrition
9 labeling for food and nonalcoholic beverages that are menu items in
10 restaurants, retail food establishments or vending machines is reserved to
11 the legislature and may be regulated only by legislation of statewide
12 application enacted after the effective date of this act. The regulation of the
13 provision of food nutrition information and consumer incentive items at
14 food service operations and how food service operations are characterized
15 are matters of general statewide interest that require statewide regulation,
16 and rules and regulations adopted under this section constitute a
17 comprehensive plan with respect to all aspects of the regulation of the
18 provision of food nutrition information and consumer incentive items at
19 food service operations in this state. Rules and regulations adopted under
20 this act shall be applied uniformly throughout this state.

21 (b) The state of Kansas, and any political subdivision thereof, shall
22 not do any of the following:

23 (1) Enact, adopt or continue in effect local legislation relating to the
24 provision or nonprovision of food nutrition information or consumer
25 incentive items at food service operations;

26 (2) condition any license, permit or regulatory approval upon the
27 provision or nonprovision of food nutrition information or consumer
28 incentive items at food service operations;

29 (3) ban, prohibit or otherwise restrict food at food service operations
30 based upon the food's nutrition information or upon the provision or
31 nonprovision of consumer incentive items;

32 (4) condition any license, permit or regulatory approval for a food
33 service operation upon the existence or nonexistence of food-based health
34 disparities;

35 (5) where food service operations are permitted to operate, ban,
36 prohibit or otherwise restrict a food service operation based upon the
37 existence or nonexistence of food-based health disparities as recognized by
38 the department of health, the institute of health or the centers for disease
39 control;

40 (6) restrict the sale, distribution or serving of foods and nonalcoholic
41 beverages that are approved for sale by the United States department of
42 agriculture or other federal or state government agencies; or

43 (7) restrict the growing or raising of livestock or grain, vegetables,

1 fruits or other crops grown or raised for food and approved for sale by the
2 United States department of agriculture or other federal or state
3 government agencies.

4 (c) This act shall not be interpreted as being more restrictive than any
5 federal law or affecting in any manner the regulation of the nutrition
6 labeling of food that is a menu item in restaurants, retail food
7 establishments and vending machines pursuant to the federal food, drug
8 and cosmetic act, 21 U.S.C. § 343(q)(5)(H).

9 **(d) Nothing in this act restricts a political subdivision{,} as
10 defined herein{,} from owning or managing a food service facility and
11 from purchasing and serving food products according to the Kansas
12 food code and their own policies as long as those policies are not laws
13 or ordinances restricting any other entity.**

14 **{(e) Nothing in this act shall be construed as limiting or
15 restricting the zoning authority of a political subdivision authorized
16 by article 7 of chapter 12 or article 29 of chapter 19 of the Kansas
17 Statutes Annotated, and amendments thereto, or by any other
18 provision of law.}**

19 **{(f) Nothing in this act restricts a political subdivision, as defined
20 herein, from creating and promulgating food nutritional information
21 or food-based health disparity information, only in accordance with
22 the United States department of agriculture dietary guidelines for
23 Americans promulgated under 7 U.S.C. § 5341, as long as the
24 information is not contained in a law or ordinance restricting any
25 other entity.}**

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.