

March 2, 2018

We, the undersigned organizations, write to ask you to oppose the so-called Common Sense Nutrition Disclosure Act (S. 261).

We do not think it is common sense to weaken a policy that would help Americans to make their own, informed choices about how many calories to eat at a time of record high obesity rates. Rather than just providing modest flexibility as touted, S. 261 would repeal and significantly weaken key parts of menu labeling policy:

**The bill would allow food establishments to set arbitrary serving sizes.** The FDA already addressed the pizza industry's concern about labeling calories per slice of pizza. However, unlike the FDA's final regulations, the bill would not require total servings to be listed, which would make it impossible for customers to determine calories for such menu items. Arbitrary serving sizes would make it difficult for customers to determine total calories and to compare calories, such as between appetizers, which could have calories listed for a half, one-third or one-fourth of the item.

**The off-premises and primary listing provisions would deny customers calorie information not only inside pizza chains but inside many fast-food and other chain restaurants.** The bill would exempt food establishments from providing calorie information inside their restaurants even if 49% of orders are placed from in-store menus or menu boards. Online menus are unlikely to help a customer ordering in the store.

**The bill would deny customers calorie information where they need it—at the point of decision making.** At supermarkets and convenience stores, calorie information at the cash register is not as helpful as having it at the location where people choose items.

**The bill would hamper state and local control, and prevent states and localities from petitioning the FDA for any variations from the federal nutrition labeling approach.** For example, Philadelphia has petitioned the FDA to continue to use its already-in-place menu labeling law, which studies have shown to be effective.

**The bill restricts enforcement of menu labeling standards by precluding consumers' ability to take action on noncompliance.** In fact, the bill would preclude consumers from holding chain restaurants accountable even when they knowingly or willfully misrepresent their products.

**The certification provision would also hamper enforcement by not requiring restaurants and other food establishments to keep records on nutrition information.** As a result, there would be no way for inspectors to substantiate accuracy of the calorie and other nutrition information for menu items.

Thank you for your support for providing consumers with nutrition information at chain food service establishments and opposing the anti-menu-labeling bill (S. 261).

Sincerely,

American Association of Justice

American Diabetes Association  
American Heart Association  
Center for Science in the Public Interest  
Consumer Federation of America  
Consumers Union  
Earthjustice  
Food Policy Action  
Food Policy Action - Education Fund  
MomsRising  
National Association of County and City Health Officials  
Public Health Advocates  
Trust for America's Health