

# DRAFT Food and Nutrition Act

## *Summary*

The Food and Nutrition Act preempts towns, counties and other political subdivisions from enacting regulation in regards to food service establishments based upon or regarding food nutrition information, customer incentive items, and a restaurant's designation as quick-service, fast food, casual dining, or sit-down service.

## *Model Legislation*

### **Section 1. {Definitions}**

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

(B) "Political subdivision" means any agency, department, commission, authority, or other governmental instrumentality hierarchically below the state level.

(C) "Local legislation" is any governing action taken by a political subdivision.

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

(E) "Responsible state agency" means the agency, department, commission, authority, or other instrumentality of the state responsible for the provision of the public service which is responsible for regulation and provision of food nutrition information and consumer incentive items at food service operations.

### **Section 2. {Reservation of State Rights}**

(A) The responsible state agency has sole and exclusive authority in this state to regulate the provision of food nutrition information and consumer incentive items at food service operations. The agency may adopt rules for that purpose pursuant with state code, including rules that establish a schedule of civil penalties for violations of this section and rules adopted under it. Subject to state code, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to the provision of food nutrition information and consumer incentive items.

(B) The regulation of the provision of food nutrition information and consumer incentive items at food service operations and how food service operations are characterized are

47 matters of general statewide interest that require statewide regulation, and rules adopted  
48 under this section constitute a comprehensive plan with respect to all aspects of the  
49 regulation of the provision of food nutrition information and consumer incentive items at  
50 food service operations in this state.

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52 (C) Rules adopted under this section shall be applied uniformly throughout this state.  
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54 **Section 3. {Ban on Subdivision Action}**

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56 (A) No political subdivision shall do any of the following:  
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58 (1) Enact, adopt, or continue in effect local legislation relating to the provision or  
59 non-provision of food nutrition information or consumer incentive items at food  
60 service operations;  
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62 (2) Condition any license, permit, or regulatory approval upon the provision or  
63 non-provision of food nutrition information or consumer incentive items at food  
64 service operations;  
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66 (3) Ban, prohibit, or otherwise restrict food at food service operations based upon  
67 the food's nutrition information or upon the provision or non-provision of  
68 consumer incentive items;  
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70 (4) Condition any license, permit, or regulatory approval for a food service  
71 operation upon the existence or non-existence of food-based health disparities;  
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73 (5) Where food service operations are permitted to operate, ban, prohibit, or  
74 otherwise restrict a food service operation based upon the existence or non-  
75 existence of food-based health disparities as recognized by the department of  
76 health, the institute of health, or the centers for disease control.  
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78 **Section 4 {Severability clause}**

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80 **Section 5. {Repealer clause}**

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82 **Section 6. {Effective date}**  
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