Overview

Government has debated the topic of food labeling for nearly 100 years. Its history of legislation passed and court cases settled shows where we’ve come from and sets a precedent for future legislation. In 1906 Congress was concerned with establishing a basic standard for product labels to prevent consumers from being misled. Since then changes in science and public opinion have necessitated drafting new bills that fill gaps in legislation and place more restrictions on product labels to better protect and inform consumers. In the late 1980’s that meant requiring nutritional labels on pre-packaged grids listing calories, fat, sugars, and other food values to inform an increasingly health-conscious America. Now in 2002, America’s growing taste for increased portions of unhealthy fast food must be addressed by filling the gap in the Nutritional Labeling and Education Act exempting fast food from nutritional labels.

Major Legislation and Legal Decisions

59th Congress

H.R. 384: “The Food and Drug Act of 1906.” This act was the first on record in the United States that governed the contents of product labels. The legislature was concerned that manufacturers and distributors were labeling their products in a manner that misled consumers. Product labels that falsified ingredients or other product information were considered “adulterated” by the act. Through this legislation, food and drugs were required to be labeled with “distinctive names” that pertained directly to their contents and to have those names and the manufacturers’ locations printed clearly. To enforce this bill, the Department of Agriculture was empowered to inspect, on demand, all packaged goods manufactured or transported within the United States, levying fines on violators.¹

76th Congress

S.5: “The Federal Food, Drug and Cosmetic Act of 1938.” This legislation was intended to replace the Food and Drug Act and cover a greater variety of products, including cosmetics, with more specific language that clarified vagueness in the 1906 act. The new act regulated items on store shelves (an important addition), broadened the definition of “adulterated” to include spoiled or mishandled food, and placed tighter restrictions on how food could be labeled. If products
claimed to serve specific dietary needs or produce cer-tain health benefits, their labels had to contain a list of ingredients and be approved by the Secretary of Agriculture. The Secretary could now freely inspect not only the goods themselves, but also any factory, warehouse, or establishment that produced, stored, or sold them and freeze the sale of products that could be considered “adulterated.” This was deemed much more effective than fines in deterring violators.²

85th Congress

H.R. 13254: “Food Additives Amendment.” Created to amend the Federal Food, Drug and Cosmetic Act to cover food additives. This amendment shows government recognition of a growing trend in the food industry to use food additives and flavor enhancers with possible adverse health effects in order to lower costs. This amend-ment requires that before any food additive or flavor enhancer is used, its producers must disclose the additive’s chemical composition and the results of a certified health study attesting to the additive’s safety in the specific dosage. The effect was a dramatic decrease in the use of sodium and its derivatives as preserving agents.³

95th Congress

S.1750: “Saccharin Study and Labeling Act of 1977.” This legislation is an extension of the Food Additives Amendment that called for the study of a possible link between saccharin consumption and cancer. At time of passage, saccharin, a sugar substitute, was a tremendously popular product and the implication that its usage could cause can-cer was serious. The study found a conclusive link between saccha-rin usage and increased incidence of cancer in laboratory animals but it could not convince legislators there was a significant risk to hu-mans. Instead of upsetting the marketplace based on “inconclusive” results, the Health, Labor, Education, and Pensions Committee implemented mandatory labeling. All products containing saccharin must clearly state: “Use of this product may be hazardous to your health. This product contains saccharin which has been determined to cause cancer in laboratory animals.” What makes this bill note-worthy is that legislators approved of allowing an ingredient with al-leged health risks to remain on the market provided that it had a clearly stated health advisory on the packaging.⁴
96th Congress

S.1196: “Disease Prevention and Health Promotion Act of 1978.” The applicability of this legislation is its position on the effectiveness of disease prevention programs. The Committee on Health, Labor, Education, and Pensions found that contrary to popular opinion, “Americans are not fully informed about how to improve their own health and want more knowledge, that Federal, State and local governments have a role to play in providing that information, and that government at all levels has the capacity and the responsibility to help communities and individuals reduce the burden of illness through the prevention of disease and the promotion of good health.”

99th Congress

S.541: “Nutrition Information Labeling Act of 1985.” A bill to amend the Federal Food, Drug and Cosmetic Act to require that a food’s product label state the specific, common-name and the amount of each fat or oil contained in the food, the amount of saturated, polyunsaturated, and monounsaturated fats contained in the food, the amount of cholesterol contained in the food, and the amount of sodium and potassium contained in the food. This is the first bill to require nutritional labels, although it does not cover restaurants or raw agricultural products.

99th Congress

H.R. 6940: “Amend Food, Drug and Cosmetic Act.” This bill requires baby formula to contain a prescribed nutritional content in order to be sold in the US. The significance is that government recognizes the need to not only disclose nutritional content but also regulate that content in order to ensure the well-being of the consumer.

Arbitration

In response to two petitions filed by The Center for Science in the Public Interest, New York State filed suit against McDonalds Corp. alleging that their Chicken McNuggets were not the “pure chicken” advertised. In an out-of-court settlement McDonalds Corp. agreed to withdraw the ads and disclose the ingredients and nutritional content of their menu in pamphlets and posters at their New York restaurants. At the same time attorneys general in ten other states began the process of filing suit to require nutritional and ingredient disclosures from McDonalds and other major fast food chains. In a national settlement still in effect, McDonalds, Burger
King, Jack in the Box, Kentucky Fried Chicken, and Wendy’s agreed to offer separately printed nutritional information in pamphlets or on posters in stores around the country. This action resulted in McDonalds cutting back on beef-frying and discontinuing the use of yellow dye No. 5, which has been known to trigger allergies. However long-term compliance with the settlement has been inconsistent and only Jack in the Box has made information consistently available nationally. The rest of the chains only provided them in an average of 33 percent of locations.8,9

100th Congress

S.1325: “Fast Food Ingredient Information Act of 1987.” This bill was written in response to a greater nutritional consciousness and the national settlement mentioned in the lawsuit above. The bill sought to amend the Food, Drug and Cosmetic Act to force fast food restaurants to label pre-packaged goods with nutritional labels and to display nutritional and ingredient information in clearly visible places in their restaurants. The bill also sought to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to allow for nutritional information to be posted in restaurants. President Reagan vetoed this bill because of possible, negative economic consequences.10

101st Congress

H.R. 3562: “The Nutrition Labeling and Education Act of 1989.” An amendment to the Food, Drug and Cosmetic Act designed to expand on the requirements of the Nutritional Labeling and Education Act. The bill states that food will be deemed misbranded unless its label contains: serving size, number of servings, calories per serving and those derived from fat and saturated fat, and the amount of cholesterol, sodium, total carbohydrates, sugars, total protein, and dietary fiber per serving or other unit. Authorizes the Secretary of Health and Human Services to require additional label information.11

Sources


