



# Menu Labeling

## The Issue

The U.S. Food and Drug Administration's (FDA) menu-labeling rule is impossible for retailers to comply with because not even FDA can tell us how to comply. Although implementation of the rule has been delayed until May 2018, problems with the rule must be solved before it goes into effect. Representatives Cathy McMorris Rodgers (R-WA) and Tony Cardenas (D-CA) along with Senators Roy Blunt (R-MO) and Angus King Jr. (I-ME) have legislation - the Common Sense Nutrition Disclosure Act (H.R. 772/S. 261) - to amend the rules and make compliance possible. Enactment of the Common Sense Nutrition Disclosure Act would result in consumers gaining more nutrition information and a greater amount of choices without unduly burdening convenience store operators.

## Retail Impact

Many in the industry have their own foodservice program or partner with other chains. A new uniform standard for the industry to disclose nutrition information could be a positive development, but it must allow for sufficient flexibility to allow everyone to comply. Otherwise, the FDA's menu-labeling rule will subject many convenience stores to unnecessary and burdensome regulatory obligations.

Today, FDA cannot tell businesses what signs are advertisements (that do not require calorie information) and what are menus (that require calorie information). The FDA rule also does not provide any margin of error to account for differences in the calorie and nutrition amounts in foods due to natural variation (such as the sizes of chicken parts) and food preparation differences. Even FDA cannot tell the industry how to account for those differences.

## NACS Position

NACS Supports the Common Sense Nutrition Disclosure Act and urges its passage in both the House and the Senate as soon as possible.

## Latest Updates

On February 6, 2018 the House of Representative passed H.R. 772 by a strong bipartisan vote of 266 - 157

The FDA has delayed the menu labeling rule until May of 2018. In November of 2017 the FDA released a new guidance document that failed to address most of the issues the convenience retailing industry has with the rule.

NACS also led a group of trade associations in filing a lawsuit to stop the City of New York from enforcing menu labeling regulations early. As a result of a settlement of that action the City cannot enforce until May of 2018.

The FDA also settled a lawsuit brought by various nutrition groups challenging their delaying the rule until May 2018.