



Written by [Michael Tennant](#) on March 26, 2013

## Congressmen Introduce Bill to Stop Expansion of Food Labeling Mandate

With the Food and Drug Administration (FDA) set to issue regulations requiring restaurants, supermarkets, and convenience stores to post nutritional information about the prepared foods they sell, a bipartisan group of congressmen has introduced legislation aimed at easing the burden on smaller retailers and take-out food sellers.

The Patient Protection and Affordable Care Act, better known as ObamaCare, requires restaurants with more than 20 locations to provide nutritional information about their wares. Although the provision was originally intended to apply only to large restaurant chains, the FDA decided to apply it to supermarkets, convenience stores, and pizza parlors as well.



In so doing, the agency placed an enormous burden on those businesses, as [The New American](#) reported in February:

Store owners would be mandated to label prepared foods, unpackaged foods found in salad bars and food bars, as well as soups and bakery items.

Erik Lieberman, regulatory counsel at the Food Marketing Institute, asserts that in order for store owners to comply, they would have to test foods with either expensive software or expensive off-site laboratory assessments. Regardless of which method, it would result in increased food costs for consumers.

"This is a huge burden. Before we sell an item — like this apple pie — we have to send it to a laboratory for analysis, we have to compile eight different records on the item, we have to put that sign up there which says 300 calories," Lieberman told Fox News' Shannon Bream last month....

According to Lieberman, the cost of the regulation is estimated to be around \$1 billion in the first year alone.

And that's just for grocery stores. Establishments that sell pizzas, subs, and other custom-prepared foods would also be forced to post menu boards detailing the calorie counts of the various combinations of ingredients customers may select even though many of their customers, who have the foods delivered to them, might not even see the boards. Vending machines, too, must show calorie counts even though their selections change frequently.

The [Common Sense Nutrition Disclosure Act of 2013](#) aims, it says, "to improve and clarify certain disclosure requirements for restaurants, similar retail food establishments, and vending machines." Sponsored by Rep. Cathy McMorris Rodgers (R-Wash.) and cosponsored by 14 other representatives



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from both sides of the aisle, the bill “would limit FDA’s ability to regulate nutritional information for certain food establishments and would apply to chain restaurants exclusively,” according to [CNSNews.com](#).

At a March 21 press conference introducing the bill, McMorris Rodgers “called the [FDA’s] requirements ‘unworkable’ for places like pizza outlets that take custom orders,” CNSNews.com reports. “She also said it would add a substantial financial burden to small businesses that are already experiencing increased cost, such as tax increases, because of Obamacare.” In addition, she pointed out that the Obama “administration’s own Office of Management and Budget has said that this regulation is going to be the third largest regulatory burden of any law.”

With many businesses already operating on razor-thin profit margins, piling on these particularly costly rules will likely force some of them to close up shop altogether. Those that remain in business will do so only by raising prices or reducing their prepared-food offerings. None of this, of course, will benefit consumers.

Even some Democrats seem to understand this.

“Rep. Loretta Sanchez (D-Calif.), one of the co-sponsors of the bill, said that some government regulations to ensure food safety and other protections for the public are good, but some are ‘too much of a burden,’” writes CNSNews.com.

“In those particular cases, I think it’s important to be in a very bipartisan manner to reach across the aisle to work together to ensure that those types of regulations, those types of statutes, are eliminated,” Sanchez said.

Sanchez should, perhaps, have thought of this before [voting for ObamaCare](#).

One of the few Democrats who didn’t vote for the healthcare law — though he later [declined to vote for its repeal](#) — is Rep. John Barrow (D-Ga.), who is also cosponsoring the Common Sense Nutrition Disclosure Act.

Barrow called ObamaCare “legislation that wasn’t fairly vetted enough” — possibly the understatement of the decade — and the FDA’s upcoming regulations “way too onerous.” The bill, he said, would “provide common sense, reasonable relief to those independent and small grocery chains, for convenience stores — for pizza parlors, pizza stores all over the country.”

“I couldn’t go back to Roma Pizza ... in Augusta and order a slice of pizza ... while folks up here are trying to make their business literally impossible,” Barrow [declared](#). Congress, he added, should be trying to make job creation “easier rather than harder.”

The National Grocers Association, Harris Teeter Supermarkets, Inc., Domino’s Pizza, and the National Association of Convenience Stores are among “dozens of food retailers and advocacy organizations” supporting the legislation, according to CNSNews.com. The bill would “return restaurant labeling education and nutrition standards to what was originally intended,” they wrote in letters to McMorris Rodgers and Sanchez.

Not all food retailers are so supportive. The National Restaurant Association, Burger King, and Cracker Barrel, among others, also wrote to Congress to express their opposition to the bill.

On the one hand, they might be viewed as opportunists. As large concerns able to absorb the costs of the new regulations, they could well be seeking to keep them in place to eliminate smaller competitors.



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On the other hand, they do have a point in stating that the bill would “create an unlevel playing field for how nutrition information on restaurant food is treated,” forcing them to absorb costs from which other food retailers would be exempt. But is the best solution to force everyone to live under the same onerous rules or to repeal them in their entirety?

The bill that McMorris Rodgers and company are pushing is welcome as far as it goes, but it would be fairer — and more constitutional — if it simply did away with the nutrition-labeling mandate. Then they could tackle the rest of ObamaCare.



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