

**HOUSE BILL No. 2595**

By Committee on Appropriations

2-2

1 AN ACT concerning restaurants, retail food establishments and vending  
2 machines; relating to regulation of consumer incentive items and  
3 labeling of food by political subdivisions.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. As used in this act:

7 (a) "Food" means substances, whether in liquid, concentrated, solid,  
8 frozen, dried or dehydrated form, that are sold for ingestion by humans  
9 and are consumed for their taste or nutritional value. "Food and food  
10 ingredients" does not include alcoholic beverages or tobacco.

11 (b) "Food that is a menu item in vending machines" means food  
12 dispensed through a machine or other mechanical device that accepts  
13 payment.

14 (c) "Retail food establishment" or "food service operation" means any  
15 place in which food is served or is prepared on the premises for retail sale  
16 or service in a heated state or heated by the seller, mixed or combined by  
17 the seller for sale as a single item or sold with eating utensils provided by  
18 the seller and is intended for immediate consumption. Such term shall  
19 include, but not be limited to, fixed or mobile restaurants, coffee shops,  
20 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich  
21 shops, soda fountains, taverns, private clubs, roadside kitchens,  
22 commissaries, drive-in restaurants and any other private, public or  
23 nonprofit organization or institution routinely serving food and any other  
24 eating or drinking establishment or operation where food is served or  
25 provided for the public with or without charge.

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

30 (e) "Political subdivision" means political or taxing subdivisions of  
31 the state, including counties, townships, cities, school districts, authorities  
32 or other municipal or public corporations, agencies, boards, commissions,  
33 councils, committees, subcommittees and other subordinate groups or  
34 administrative units thereof, receiving or expending and supported, in

1 whole or in part, by public funds.

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

8 Sec. 2. (a) The regulation of consumer incentive items and nutrition  
9 labeling for food and nonalcoholic beverages that are menu items in  
10 restaurants, retail food establishments or vending machines is reserved to  
11 the legislature and may be regulated only by legislation of statewide  
12 application enacted after the effective date of this act. The regulation of the  
13 provision of food nutrition information and consumer incentive items at  
14 food service operations and how food service operations are characterized  
15 are matters of general statewide interest that require statewide regulation,  
16 and rules and regulations adopted under this section constitute a  
17 comprehensive plan with respect to all aspects of the regulation of the  
18 provision of food nutrition information and consumer incentive items at  
19 food service operations in this state. Rules and regulations adopted under  
20 this act shall be applied uniformly throughout this state.

21 (b) The state of Kansas, and any political subdivision thereof, shall  
22 not do any of the following:

23 (1) Enact, adopt or continue in effect local legislation relating to the  
24 provision or nonprovision of food nutrition information or consumer  
25 incentive items at food service operations;

26 (2) condition any license, permit or regulatory approval upon the  
27 provision or nonprovision of food nutrition information or consumer  
28 incentive items at food service operations;

29 (3) ban, prohibit or otherwise restrict food at food service operations  
30 based upon the food's nutrition information or upon the provision or  
31 nonprovision of consumer incentive items;

32 (4) condition any license, permit or regulatory approval for a food  
33 service operation upon the existence or nonexistence of food-based health  
34 disparities;

35 (5) where food service operations are permitted to operate, ban,  
36 prohibit or otherwise restrict a food service operation based upon the  
37 existence or nonexistence of food-based health disparities as recognized by  
38 the department of health, the institute of health or the centers for disease  
39 control;

40 (6) restrict the sale, distribution or serving of foods and nonalcoholic  
41 beverages that are approved for sale by the United States department of  
42 agriculture or other federal or state government agencies; or

43 (7) restrict the growing or raising of livestock or grain, vegetables,

1 fruits or other crops grown or raised for food and approved for sale by the  
2 United States department of agriculture or other federal or state  
3 government agencies.

4 (c) This act shall not be interpreted as being more restrictive than any  
5 federal law or affecting in any manner the regulation of the nutrition  
6 labeling of food that is a menu item in restaurants, retail food  
7 establishments and vending machines pursuant to the federal food, drug  
8 and cosmetic act, 21 U.S.C. § 343(q)(5)(H).

9 **(d) Nothing in this act restricts a political subdivision{,} as  
10 defined herein{,} from owning or managing a food service facility and  
11 from purchasing and serving food products according to the Kansas  
12 food code and their own policies as long as those policies are not laws  
13 or ordinances restricting any other entity.**

14 **{(e) Nothing in this act shall be construed as limiting or  
15 restricting the zoning authority of a political subdivision authorized  
16 by article 7 of chapter 12 or article 29 of chapter 19 of the Kansas  
17 Statutes Annotated, and amendments thereto, or by any other  
18 provision of law.}**

19 **{(f) Nothing in this act restricts a political subdivision, as defined  
20 herein, from creating and promulgating food nutritional information  
21 or food-based health disparity information, only in accordance with  
22 the United States department of agriculture dietary guidelines for  
23 Americans promulgated under 7 U.S.C. § 5341, as long as the  
24 information is not contained in a law or ordinance restricting any  
25 other entity.}**

26 Sec. 3. This act shall take effect and be in force from and after its  
27 publication in the statute book.