



# Public Health Law Program

OFFICE FOR STATE, TRIBAL, LOCAL AND TERRITORIAL SUPPORT

## Other Resources Related to Sodium Reduction for STLTS<sup>1</sup>

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### Nutrition Labeling of Sodium: Summary of Related Laws and Policies

Several states and three localities pursued regulations that required nutrition labeling from food and beverage retailers (restaurants) in order to address a public health issue exempted by the Federal Food Drug and Cosmetic Act of 1990. These laws mandated that nutritional information of products sold be displayed on menu boards and food tags, or on other written formats available on site, such as menus, to encourage consumers to make healthier food choices. The nutritional information could include sodium content or the percentage daily value of sodium in foods and beverages listed, although including the complete set of nutrition facts was not required under every such “menu labeling” law in effect. The laws that required listing foods’ sodium content on the menu or menu board face preemption by the Patient Protection and Affordable Care Act of 2010 (ACA), which requires that restaurants with 20 or more locations as defined under the law post calorie information alone on menu boards.

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Nevertheless, a variety of state provisions regulating menus, food tags, and menu boards include sodium content, as listed in the following Appendix, Table of Laws and Policies Related to Nutrition Labeling of Sodium. California promoted menu labeling and making sodium information available to consumers at food retail establishments, while Oregon specifically mandated that chain restaurants must determine typical values for sodium in foods, list daily intake amounts, and make typical values available to consumers. King County, Washington; Multnomah County, Oregon; and Philadelphia, Pennsylvania passed local laws that required posting nutritional information, including sodium. Philadelphia's ordinance additionally carried \$500 penalties for noncompliance. California, Oregon, and the three localities face preemption by federal law as stated above; however, Philadelphia petitioned the US Food and Drug Administration in 2011 to continue its implementation of the menu labeling law as written.

Other states preempted nutritional labeling by localities prior to the federal law. Georgia, Ohio, and Utah preempted menu board labeling, specifically including sodium information among the nutrients solely regulated by the state. In Massachusetts, a regulation specifically exempts sodium labeling from other requirements for food nutrition labeling. Because the ACA may preempt laws regulating food retailers, nutritional labeling laws that include sodium content have not been passed since 2010. Some of the states listed here have amended their laws to comply with the federal requirements.

Finally, Connecticut, Massachusetts, and New York require labeling certain types of bottled water sold with the milligrams of sodium per serving, among other requirements. Federal laws have not preempted these laws as yet.

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## Other Resources Related to Sodium Reduction for STLTS

### Appendix: Table of Laws and Policies Related to Nutrition Labeling of Sodium

| State | Policy Type                                | Citation  | Authority   | Brief Description   | Effective Date  |
|-------|--|---|---|---|---|
| CA    | Statute<br><i>voluntary</i>                | CAL. HEALTH AND SAFETY CODE § 114094 (West 2008)  | N/A   | Promotes menu labeling and availability of sodium information   | Jan. 1, 2010; some provisions <i>repealed</i> Jan. 1, 2011 in anticipation of federal rules |
| CT    | Statute<br><i>mandatory</i>                | CONN. GEN. STAT. ANN. § 21a-150g (West 2011)  | N/A   | <ul style="list-style-type: none"> <li>• Bottled water labels must display mg of sodium/liter, unless under 20mg/L</li> <li>• Prohibits those without labeling from using terms/classifications specified</li> </ul>                                      | 1986  |
| GA    | Statute<br><i>preemptive</i>               | O.C.G.A. §§ 26-2-370, 26-2-373 (West 2008)  | N/A   | Preempts menu board labeling for sodium   | July 1, 2008  |
| MA    | Regulation<br><i>mandatory</i>             | 105 MASS. CODE REGS. 520.109 (2011)   | MASS. GEN. LAWS. ch. 94, §§ 192, 126, 10I, 65S-U, 119, 125 (2011) | Exempts sodium labeling from the requirements for food nutrition labeling   | Nov. 1, 2010  |
|       | Statute<br><i>mandatory</i>                | MASS. GEN. LAWS. ch. 94, § 10E1/2 (1987)  | N/A   | Bottled water labels must include sodium content/serving of certain products as determined by the Department of Public Health   | 1987  |
| NY    | Regulation<br><i>mandatory</i>             | N.Y. COMP. CODE R. & REGS. tit. 10, § 5-6.12 (1991)   | N.Y. PUBLIC HEALTH LAW § 225 (McKinney 1991)                      | Bottled water labels must include mg sodium/serving and net servings where sodium content information is provided   | June 19, 1991   |
| OH    | Statute<br><i>preemptive</i>               | OHIO REV. CODE ANN. § 3717.53 (West 2008)   | N/A   | Preempts menu board labeling, including sodium information  | Mar. 24, 2008   |
| OR**  | Statute and Regulation<br><i>mandatory</i> | <ul style="list-style-type: none"> <li>• OR. REV. STAT. §§ 616.560, 616.570 (2009)</li> <li>• OR. ADMIN. REGS. 333-015-0110 (2011)</li> </ul> | N/A   | <ul style="list-style-type: none"> <li>• Statute requires restaurant chains operating 15 or more restaurants in the United States to                             <ul style="list-style-type: none"> <li>○ Determine typical values</li> </ul> </li> </ul> | Jan. 1, 2010, subject to final change by the Oregon Office of the Legislative               |

| State | Policy Type                                | Citation  | Authority | Brief Description   | Effective Date  |
|-------|--|---|-----------|---|---|
|       |  |   |           | <ul style="list-style-type: none"> <li>for total mg sodium in foods               <ul style="list-style-type: none"> <li>○ List daily intake amounts recommended by Department of Human Services in a conspicuous place where menu boards or food tags are used</li> </ul> </li> <li>● Regulation requires chain restaurants to make typical nutrient values, including mg sodium, available on site in written format on menus, menu boards, and food tags for items for foods and condiments routinely used or sold for 90 or more days each year</li> </ul>            | Counsel   |
|       | Statute and Regulation<br><i>mandatory</i> | <ul style="list-style-type: none"> <li>● OR. REV. STAT. § 616.575 (2009)</li> <li>● OR. ADMIN. REGS. 333-015-0160 (2011)</li> </ul> | N/A       | <ul style="list-style-type: none"> <li>● Statute provides typical values for alcoholic beverages               <ul style="list-style-type: none"> <li>○ Wine—7mg sodium/5oz</li> <li>○ Beer other than light beer—14mg sodium/12oz</li> <li>○ Light beer—14mg sodium/12oz</li> </ul> </li> <li>● Regulation requires chain restaurants to provide nutrition information for alcoholic beverages offered for more than 90 days each year according to the typical values, combining total typical values for beer, wine, and other ingredients for mixed drinks</li> </ul> | Jan. 1, 2010, subject to final change by the Oregon Office of the Legislative Counsel |
|       | Local ordinance, Multnomah County          | Order No. 08-114 (2009)   | N/A       | Requires chain restaurants to provide sodium information for standard menu items upon request   |   |
| PA**  | Local ordinance, Philadelphia              | Code § 6-102 (2009)   | N/A       | Requires that restaurants with 15 or more units nationally display sodium content on menus or on  |   |

| State | Policy Type                     | Citation                                      | Authority                                    | Brief Description   | Effective Date |
|-------|---------------------------------|---|--|---|----------------|
|       |                                 |   |  | wrappers or boxes, with a \$500 fine for noncompliance.   |                |
| UT    | Statute<br><i>preemptive</i>    | UTAH CODE ANN. §§ 10-8-44.5, 17-50-329 (2009) | N/A  | Preempts regulations of dissemination of nutritional information by municipalities and counties | May 12, 2009   |
| WA**  | Local ordinance,<br>King County | Board of Health Reg. 08-02.2 (2008)           | WASH. REV. CODE ANN. § 70.05.060 (West 1991) | Requires chain restaurants to display sodium information on menus or at the point of ordering   |                |

\*\* Local ordinance included.