

Food & Beverage

LITIGATION UPDATE

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Table of Contents

Legislation, Regulations and Standards

- [1] Iowa Lawmaker Introduces Bill Requiring
Nutrition Disclosure by Restaurants1

Other Developments

- [2] AMA Delegates Take Stand on Salt, Alcohol
Ads and Taxing Soft Drinks1

Litigation

- [3] Consumer Watchdog Sues KFC over Use of
Partially Hydrogenated Cooking Oil2

Scientific/Technical Items

- [4] Coffee Consumption Linked to Decreased
Incidence of Liver Disease2

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LITIGATION UPDATE

Legislation, Regulations and Standards U.S. Congress

[1] Iowa Lawmaker Introduces Bill Requiring Nutrition Disclosure by Restaurants

Senator Tom Harkin (D-Iowa) last week introduced legislation ([S. 3484](#)) that would amend the federal Food, Drug and Cosmetic Act by requiring chain restaurants with 20 or more locations nationwide to provide information about the nutritional content of their food and beverages. “Overweight, poor nutrition and diet-related diseases are public health threats of the first order – contributing to numerous chronic health conditions, including heart disease, cancer, diabetes, and stroke,” Harkin said. “It makes no sense that American consumers can go to a grocery store and find nutrition information on just about anything, but then they are totally in the dark if they go to a restaurant for dinner.”

The Menu Education and Labeling Act (MEAL Act) would require restaurants to post on menu boards or print in menus next to each item information about the number of calories per serving, saturated fat and *trans* fat content, and the amount of sodium. The proposal would also require the operators of 20 or more vending machines to provide “conspicuous” signs that disclose the number of calories contained in each vending machine offering. The

legislation has been referred to the Committee on Health, Education, Labor, and Pensions.

U.S. Representative Rosa DeLauro (D-Ct.) has introduced a companion bill in the House of Representatives. *See Press Release of Senator Tom Harkin*, June 8, 2006.

Other Developments

[2] AMA Delegates Take Stand on Salt, Alcohol Ads and Taxing Soft Drinks

Convening for their annual meeting in Chicago this week, members of the American Medical Association (AMA) called on the food industry and the Food and Drug Administration (FDA) to reduce the nation’s intake of sodium as a way of combating the incidence of fatal heart disease. “Cardiovascular disease remains the No. 1 killer of Americans,” J. James Rohack, M.D., a member of the AMA Board of Directors, was quoted as saying. “We hope these recommendations will encourage food manufacturers and restaurants to modify their current practices of adding unhealthy amounts of sodium to their products,” he said.

Among other things, the group is encouraging FDA to (i) revoke the “generally recognized as safe” (GRAS) status of salt as a food additive, (ii) develop regulatory proposals to restrict sodium in processed and restaurant foods, (iii) improve the language used to disclose sodium content on food package labeling, and (iv) require warnings on food products high in sodium. AMA urges industry to



reduce by 50 percent the amount of sodium in processed foods and restaurant meals over the next 10 years.

Delegates attending the annual meeting also voted to adopt a policy advocating an end to alcohol advertising during college sports broadcasts; the group, however, declined to endorse a proposal for a national soft drink tax whose revenues would fund obesity prevention programs. *See AMA News Releases*, June 13, 2006; *The Wall Street Journal*, June 14, 2006.

Litigation

Deceptive Trade Practices

[3] Consumer Watchdog Sues KFC over Use of Partially Hydrogenated Cooking Oil

Claiming that “it’s harder to avoid *trans* fat at KFC than at any other fast-food chain in America,” the Center for Science in the Public Interest (CSPI) this week filed a [putative class action lawsuit](#) against KFC parent company Yum! Brands, Inc. in the District of Columbia Superior Court. Filed on behalf of a retired Maryland physician who claimed to be unaware that KFC fries are cooked in partially hydrogenated oil because company advertising asserts that KFC products can be consumed as part of a healthy lifestyle, the suit asks the court to prohibit the company from using such oil or, in the alternative, to mandate signs in D.C. outlets of the fast-food chain warning consumers that many KFC offerings are high in *trans* fat. “District of Columbia law allows consumers to seek relief from the courts when companies fail to disclose essential facts about their products,” said Stephen Gardner, CSPI’s director of litigation. “That KFC uses the worst

frying oil imaginable to prepare its chicken is something that KFC should absolutely be required to disclose at the point of purchase.” Though any action taken by the court would be binding only in the District of Columbia, CSPI reportedly hopes the lawsuit will prompt KFC to change its cooking practices nationwide. *See CSPI News Release*, June 12, 2006; *Advertising Age*, June 13, 2006.

Scientific/Technical Items

Coffee

[4] Coffee Consumption Linked to Decreased Incidence of Liver Disease

A study published in this month’s issue of *Archives of Internal Medicine* reports that coffee may have a protective effect for the development of alcoholic liver cirrhosis. (A. Klatsky, et al., “Coffee, Cirrhosis, and Transaminase Enzymes,” *Archives of Internal Medicine* 166(11): 1190-1195, June 12, 2006). The research team evaluated various risk factors for alcoholic cirrhosis in 125,000 men and women in the United States and found that reported daily consumption of coffee reduced the risk of alcoholic cirrhosis by some 30 percent. The risk was reduced further among individuals who consumed one to three cups of coffee daily (a 40% reduced risk), and up to 80 percent among individuals who consumed four or more cups per day. “Not everything enjoyable is bad for you,” the study’s lead author was quoted as saying. “Moderate coffee drinking has no net ill effects on health.” *See The New York Times*, June 13, 2006.



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