

HEALTHY MENU CHOICES ACT FACT SHEET

Application of the Act for Prepackaged Products

The *Healthy Menu Choices Act, 2015* and its accompanying regulation (O.Reg 50/16) (“HMCA”) came into effect on January 1st, 2017 and require regulated food service premises to post calories for the food and drink items they serve. This document is intended to help food service premises owners and operators, public health stakeholders, and the general public understand, implement and enforce Ontario's menu labelling legislation as it may apply to regulated food service premises offering prepackaged products. This fact sheet should be used in conjunction with *A Guide to Menu Labelling Requirements in Regulated Food Service Premises in Ontario*.

What is a standard food item?

A “standard food item” is any restaurant-type food or drink item that:

- Is served or processed and prepared primarily in a regulated premises;
- Is intended for immediate consumption without further preparation; and
- Is standardized for portion and content.

How do the HMCA requirements apply to prepackaged products that have a Nutrition Facts table?

When the item is on display

The HMCA exempts calorie posting for standard food items that are labelled with a Nutrition Facts table (NFt) according to the *Food and Drug Regulations* made under the *Food and Drugs Act* (Canada) and that are on display.

Example #1: Scenario of Items with an NFT that are on display



When the item is listed on a menu

- **In food service premises that are not grocery stores:** When a standard food item labelled with an NFT is listed on a menu (e.g. a menu at a quick service restaurant listing bottled pop options), calories must be displayed for that item.
- **In grocery and convenience stores:** Owners and operators of grocery and convenience stores are exempt from the requirement to post calories for a standard food item labelled with an NFT that is listed on a menu (for example, a sign on a pop cooler advertising bottled pop), unless the NFT item is part of another standard food item (e.g. a combination meal).

Example #2: Scenarios of Items with an NfT that are listed on a menu

Items with an NfT are listed on a menu at a regulated food service premises that is not grocery. Calorie posting applies.

Items with an NfT are listed on a menu at a grocery or convenience store. Calorie posting does NOT apply.

When the item is in a combination meal (in all premises)

If the item with an NfT is part of another standard food item, for example a bottled drink with an NfT that is sold in a combination meal with a burger and fries, then the calories for that item (i.e. the bottled drink) would have to be considered in the total calories for the combination meal.

Example #3: Items with an NfT in a Combination Meal (in all premises, Grocery or non-Grocery)

HOT DOG COMBO

Hot dog + Your choice of canned drink
(400-650 Cals) **\$2.99!**

YES

Items with an NfT are listed on a menu as part of a combination meal at any regulated food service premises (grocery or non-grocery). Calorie posting applies.

Do the HMCA requirements apply to prepackaged products that are exempt from having a Nutrition Facts table?

No. The HMCA exempts standard food items that are “prepackaged products” as defined in the *Food and Drug Regulations* made under the *Food and Drugs Act* (Canada), and that are exempt from the Nutrition Facts table requirements of those regulations.

- **Prepackaged product** is defined in the Food and Drugs Regulations as “any food that is contained in a package in the manner in which it is ordinarily sold to or used or purchased by a person.” This does not include self-serve items or items that are clerk-served upon a customer’s request.

Prepackaged products that are usually exempt from carrying a Nutrition Facts table (NFt) under the *Food and Drug Regulations* include:

1. Prepackaged products sold only in the retail establishment where the product is prepared and processed from its ingredients, including from a pre-mix if an ingredient other than water is added to the pre-mix during the preparation and processing of the product.
 - Examples: poultry seasoned and barbequed at the retail premises, in-store squeezed orange juice, cakes topped with fruit and glazed at the store, or a multi-serving tray of cheese that is composed of different foods combined together by the retailer into one package.
2. An individual prepackaged serving that is sold for immediate consumption and that has not been subjected to a process to extend its durable life, including special packaging or freezing.
 - Example: a single-serve pasta dish that is to be heated up by the consumer.
3. Prepackaged products sold only in the retail establishment where the product is packaged, if the product is labelled by means of a sticker and has an Available Display Surface (ADS) of less than 200 cm².
 - Examples: small squares of cheese cut and wrapped at retail, small packages of candy, spices or soup mix packaged from bulk at retail.

Owners and operators as well as inspectors are encouraged to become familiar with the information on foods that are usually exempt from carrying an NfT. For more information, please visit Canadian Food Inspection Agency's website at <https://www.inspection.gc.ca/food-label-requirements/labelling/industry/nutrition-labelling/exemptions/eng/1389198015395/1389198098450?chap=2>.

How do the HMCA requirements apply to prepackaged products in vending machines?

Food or drink items in a vending machine are exempt from the requirements of the HMCA.

Disclaimer

This fact sheet is intended to reflect the policy intent, as supported by the legislation. This document is intended to help owners and operators of regulated food service premises understand and implement the HMCA. This document provides summary information about the *Healthy Menu Choices Act, 2015* and the regulation (O. Reg. 50/16) made under the Act. The ministry recognizes that application to each regulated food service premises is subject to the specific realities of each food service premises. The document is provided for educational use only, and is not complete or exact reproductions of the legislation. It is not intended, or to be used, as legal advice about the requirements for menu labelling. Such advice should be obtained from lawyers. Where there is a discrepancy between anything in this document and a legislative provision, the legislation prevails.

Additional Information

For further information about the HMCA, please access the legislation and regulation at <https://www.ontario.ca/laws/statute/15h07>.

Questions or comments about this fact sheet can be directed to menulabelling@ontario.ca.