

# PUBLIC PLACES SHOULD OFFER BETTER CHOICES.

It's time to Restock our Future™.

## Vending Machine Labeling

A 2012 survey reported that more than half of adults have given a lot of thought to the healthfulness of foods and beverages. Most people want to eat more healthfully, but in order to be successful, they need the food environment to be more supportive and need access to healthy choices. Vending labeling allows people to exercise personal responsibility and make informed choices for what can be a problematic part of their diets.

Many states and localities have adopted healthy vending policies.<sup>i</sup> To support healthy choices, vending policies should include calorie labeling. Most all (more than 99 percent)<sup>ii</sup> food and beverage vending machines will be required by federal law to have calorie labeling by December 1, 2016. However, the Food and Drug Administration will have a difficult job enforcing labeling in the nation's five to six million covered machines.<sup>iii</sup>

Congress passed a national law in March 2010 requiring calories to be posted on vending machines that are owned or operated by vendors with 20 or more machines (the law also requires labeling on menus, menu boards, and for food on display at restaurants, supermarkets, convenience stores, movie theaters, and other food service establishments with 20 or more outlets). [21 U.S.C. 343(q)(5)(H)(viii)]

### National vending labeling requirements:<sup>iv</sup>

- Labeling is required for vended foods and beverages for which the calorie information (provided via the Nutrition Facts label or otherwise) cannot be examined prior to purchase.
- Calorie declarations must be for the full vended item, as offered for sale, and must be listed clearly and conspicuously and placed prominently.
- Calorie information must be placed directly next to the vended item or its selection button.
  - The FDA allows calories to be posted on a sign in, on, or adjacent to the vending machine, as long as the sign is in close proximity and the calorie declaration is visible at the same time as the food, its name, price, selection button, or selection number is visible.
  - The calorie posting must be in a type size no smaller than the name of the food on the machine (not the food label), selection number, or price of the food as displayed on the vending machine, whichever is smallest, and posted with equal prominence and contrast.
  - The information must be available to the purchaser before the purchase.
- A vendor does not have to post calories if the calories, serving size, and servings per container listed on the Nutrition Facts label can be viewed on the vended item without any obstruction or if the prospective purchaser can view the calories per item as sold on the label (such as on front of pack labeling) and the purchaser can easily read the information (the type size of that labeling will be determined in a subsequent rulemaking).

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### Healthy options can be hard to come by in vending:

- A national study found that in vending machines on state and local property:<sup>v</sup>
  - Nearly 60 percent of the beverage options are soda and other sugary drinks
  - Only five percent of vended foods are healthy; 80 percent of vended foods are candy (32%), chips (24%) and sweet baked goods (15%)
- Sugary drinks, such as fruit drinks, sports drinks, sweetened teas, and soda, are the number-one source of added sugars for adults in the United States, with snacks and sweets, such as pastries, cookies, and other sweet baked goods, as the second-largest source.<sup>vi</sup> Snacks and sweets are also the second largest source of saturated fats in Americans' diets.<sup>vii</sup>

### People are interested in healthy options:

- A 2016 survey reported that 80 percent of adults are trying to lose weight or maintain their weight, and two-thirds say that the healthfulness of food has a great impact on their food decisions.<sup>viii</sup>
- A study of healthy vending in Chicago parks showed that 88 percent of park-goers were satisfied with the healthier vending options.<sup>ix</sup>
- People need calorie information to help manage their weight and reduce the risk of or manage heart disease, diabetes, or high blood pressure, which are leading causes of death, disability, and high health-care costs.<sup>x</sup> Two-thirds of adults and one-third of children are overweight or obese.<sup>xi</sup>

### Healthy vending can be good for business:

- Many vendors have found that revenue is unaffected by implementing healthy vending and some vendors have experienced an increase in sales when they increased healthier options.<sup>xii</sup>
- A 2011 analysis reported that sales of healthier snacks are outpacing traditional snack foods and contribute to increased sales growth and profits for food companies.<sup>xiii</sup>

### For more information on vending labeling:

- FDA Final Regulations: <https://www.gpo.gov/fdsys/pkg/FR-2014-12-01/pdf/2014-27834.pdf>
- FDA Small Entity Compliance Guide: <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm513902.htm>
- FDA Draft Guidance for Industry: <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm513910.htm>

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<sup>i</sup> CSPI. *Examples of Policies to Increase Access to Healthier Food Choices for Public Places:*

*National, State, and Local Food and Nutrition Guidelines*. Access at <https://cspinet.org/resource/examples-policies-increase-access-healthier-food-choices-public-places-national-state-and>.

<sup>ii</sup> Food and Drug Administration, Office of Regulations, Policy and Social Science, Center for Food Safety and Applied Nutrition. *Food Labeling: Calorie Labeling of Articles of Food in Vending Machines. Regulatory Impact Analysis*. Docket No. FDA-2011-F-0171. November 2014.

<sup>iii</sup> Ibid.

<sup>iv</sup> Food and Drug Administration, U.S. Department of Health and Human Services. "Food Labeling: Calorie Labeling of Articles of Food in Vending Machines" [Docket No. FDA-2011-F-0171]. *Federal Register* 2014, vol. 79 (no. 230), pp. 71259-71293.

<sup>v</sup> Bishop K, Friedman E, Wootan MG. *Vending Contradictions: Snack and Beverage Options on Public Property*. Washington, D.C.: CSPI, 2014. Access at <http://cspinet.org/vendingcontradictions.pdf>.

<sup>vi</sup> U.S. Department of Health and Human Services (HHS) and U.S. Department of Agriculture (USDA). *Dietary Guidelines for Americans 2015-2020*. 8th Edition. Washington, D.C.: U.S. Government Printing Office. December 2015.

<sup>vii</sup> Ibid.

<sup>viii</sup> International Food Information Council Foundation. *Food Decisions 2016: Food and Health Survey*. IFIC; Washington, D.C., 2016. Accessed at [http://www.foodinsight.org/sites/default/files/2016-Food-and-Health-Survey-Report\\_%20FINAL\\_0.pdf](http://www.foodinsight.org/sites/default/files/2016-Food-and-Health-Survey-Report_%20FINAL_0.pdf).

<sup>ix</sup> Mason M., et. al. "Working with Community Partners to Implement and Evaluate the Chicago Park District's 100% Healthier Snack Vending Initiative." *Preventing Chronic Disease* 2014. Access at [http://www.cdc.gov/pcd/issues/2014/pdf/14\\_0141.pdf](http://www.cdc.gov/pcd/issues/2014/pdf/14_0141.pdf).

<sup>x</sup> American Heart Association Statistics Committee and Stroke Statistics Subcommittee. "Heart Disease and Stroke Statistics—2016 Update: A Report from the American Heart Association." *Circulation* 2015. Accessed at <http://circ.ahajournals.org/content/circulationaha/early/2015/12/16/CIR.0000000000000350.full.pdf>.

<sup>xi</sup> Ogden CL, Carroll MD, Kit BK, Flegal KM. "Prevalence of Childhood and Adult Obesity in the United States, 2011-2012." *Journal of the American Medical Association* 2014, vol. 311(8), pp. 806-814.

<sup>xii</sup> Center for Science in the Public Interest. *Financial Implications of Healthy Vending*. Access at <https://cspinet.org/resource/financial-implications-healthy-vending>.

<sup>xiii</sup> Hudson Institute. *Better-for-You Foods: It's Just Good Business*. Access at <http://dev.hudson.org/content/researchattachments/attachment/943/bfyfoodsexecutivesummary.pdf>.