

LEGISLATURE OF NEBRASKA
 FIRST LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 126

A BILL

1 FOR AN ACT relating to marketing; to adopt the Children’s Health and Responsible Corporate
2 Marketing Act.

3
4 Be it enacted by the people of the State of Nebraska,

5
6 Section 1. This act shall be known and may be cited as the Children’s Health and Responsible
7 Corporate Marketing Act.

8 Sec. 2. (1) Fast food restaurants, full-service restaurants, food establishments, and convenience
9 stores shall not advertise, market, supply, or sell consumer incentive items associated with the purchase of a
10 packaged child’s breakfast unless the packaged child’s breakfast:

- 11 (a) Does not exceed four hundred calories;
- 12 (b) Does not exceed ten percent of calories from saturated fat with a maximum of five grams
13 saturated fat;

- 14 (c) Contains no more than one-half gram artificial trans fat per food or beverage item in the meal;
- 15 (d) Does not exceed ten percent of calories from added sugars;
- 16 (e) Does not exceed four hundred thirty milligrams of sodium;
- 17 (f) If it includes a grain, includes at least fifty percent whole grain; and
- 18 (g) Includes at least one cup of fruit.

19 (2) Fast food restaurants, full-service restaurants, food establishments, and convenience stores shall
20 not advertise, market, supply, or sell consumer incentive items associated with the purchase of a packaged
21 child’s meal unless the packaged child’s meal:

- 22 (a) Does not exceed five hundred calories per packaged child’s meal;
- 23 (b) Does not exceed ten percent of calories from saturated fat with a maximum of six grams
24 saturated fat;

- 25 (c) Contains no more than one-half gram artificial trans fat per food or beverage item in the meal;
- 26 (d) Does not exceed ten percent of calories from added sugars;
- 27 (e) Does not exceed six hundred forty milligrams of sodium;
- 28 (f) If it includes a grain, includes at least fifty percent whole grain; and
- 29 (g) Includes at least one cup of fruit or vegetables, not including fried vegetables.

30 Sec. 3. (1) A fast food restaurant, full-service restaurant, food establishment, or convenience
31 store shall not discount packaged children’s breakfasts or packaged children’s meals that do not meet the
32 requirements of section 16 of this act in order to offset the cost of consumer incentive items as stand-alone
33 products and meet national average sales price for the fast food restaurant’s, full-service restaurant’s, food
34 establishment’s, or convenience store’s standard packaged children’s breakfast or packaged children’s meal
35 that includes a consumer incentive item.

36 (2) A fast food restaurant, full-service restaurant, food establishment, or convenience store may sell
37 consumer incentive items as stand-alone products in a separate transaction.

38 Sec. 4. Violation of the Children’s Health and Responsible Corporate Marketing Act or a final order
39 of the director issued under the act is a Class IV misdemeanor for each violation. Each separate activity
40 or day in which an activity takes place constitutes a separate violation. The county attorney of the county
41 in which any violation of the act occurs, when notified of such violation by the department, shall cause
42 appropriate proceedings to be instituted and pursued in a court of competent jurisdiction.

Fiscal Note

The Department of Agriculture currently carries out food service inspections and testing, but the emphasis of the program and the nature of food testing is based upon the detection of pathogens and toxins and compliance with the federal Food Emergency Response Network (FERN) program. The provisions of LB126 would require nutritional testing and analysis of samples taken at establishments selling pre-packaged children's meals, a type of testing that does not currently occur on samples taken in food service inspections.

Based upon the detailed information provided by the Department of Agriculture, there is no basis to disagree with the estimate of one time laboratory equipment and related set-up costs of \$227,000 and ongoing sample collection, laboratory staffing, sample analysis and enforcement costs of \$238,553. The agency's estimated total costs in FY2013-14 for laboratory set-up and ongoing costs would be \$465,553 and FY2014-15 costs would be \$238,553.

Because LB126 does not establish fees of any sort for this program, it is estimated that all costs would come from the state's budget. If the estimated 315 establishments that would be regulated under LB126 were subject to registration, inspection or testing fees that were deposited in a cash fund, the ongoing costs of the program could be offset by the use of cash fund revenue collected under the program.