



Français

Healthy Menu Choices Act, 2015

ONTARIO REGULATION 50/16

GENERAL

Consolidation Period: From April 11, 2022 to the e-Laws currency date.

Last amendment: 298/22.

Legislative History: [+]

This is the English version of a bilingual regulation.

Definitions

1. In this Regulation,

“grocery store” means a food service premise where a variety of canned, dry and frozen foods, fresh produce, bakery products, dairy products and household items are offered for sale and includes a convenience store where a variety of such items are offered for sale; (“épicerie”)

“restaurant-type food or drink item” means a food or drink item that is either served in a regulated food service premise or processed and prepared primarily in a regulated food service premise, and that is intended for immediate consumption on the premises or elsewhere without further preparation by a consumer before consumption. (“aliment ou boisson façon restaurant”)
O. Reg. 50/16, s. 1; O. Reg. 321/16, s. 1.

Standard food items

2. (1) For the purposes of the definition of “standard food item” in subsection 1 (1) of the Act, it is an additional requirement that the food or drink item be a restaurant-type food or drink item. O. Reg. 50/16, s. 2 (1).

(2) The following food or drink items are exempt from the definition of “standard food item” in subsection 1 (1) of the Act:

1. Food or drink items that are offered for sale by the regulated food service premise for less than 90 days per calendar year, whether consecutively or non-consecutively.
2. Self-serve condiments that are available free of charge and that are not listed on the menu of the regulated food service premise.
3. Food or drink items that are prepared specifically for,
 - i. inpatients of a hospital within the meaning of the *Public Hospitals Act* or a private hospital within the meaning of the *Private Hospitals Act* or a psychiatric facility within the meaning of the *Mental Health Act*, or
 - ii. residents of a long-term care home within the meaning of the *Fixing Long-Term Care Act, 2021* or a retirement home within the meaning of the *Retirement Homes Act, 2010*.
4. Food or drink items that are prepared on an exceptional basis, in response to a specific customer request, and that deviate from the standard food items offered by the regulated food service premise. O. Reg. 50/16, s. 2 (2); O. Reg. 298/22, s. 1.

Definition, “Menu”

3. (1) For the purposes of the Act and this Regulation,

“menu” means any document or other written means of communicating information that lists standard food items offered for sale by a regulated food service premise and includes,

- (a) a paper menu,
- (b) an electronic menu,
- (c) a menu board,
- (d) a drive-through menu,
- (e) an online menu or a menu application,
- (f) an advertisement, other than a billboard, radio or television advertisement, and
- (g) a promotional flyer. O. Reg. 50/16, s. 3 (1); O. Reg. 321/16, s. 2 (1, 2).

(2) Advertisements, promotional flyers, circulars and magazines distributed or available inside of the regulated food service premise are exempt from the requirements of section 2 of the Act if they do not list prices for standard food items. O. Reg. 472/19, s. 1.

(3) Advertisements, promotional flyers, circulars and magazines distributed or available outside of the regulated food service premise are exempt from the requirements of subsection 2 (3) of the Act if they satisfy at least one of the following criteria:

- 1. They do not list prices for standard food items.
- 2. They do not list standard food items that a person can order for takeaway or delivery ordering and do not provide a method to place an order. O. Reg. 472/19, s. 1.

(4) Online menus and menu applications are exempt from the requirements of subsection 2 (3) of the Act if they do not list prices for standard food items or do not provide a method to place an order. O. Reg. 472/19, s. 1.

(5) Catering menus are exempt from the requirements of section 2 of the Act. O. Reg. 472/19, s. 1.

Additional regulated food service premises

4. Pursuant to clause (b) of the definition of “regulated food service premise” in subsection 1 (1) of the Act, cafeteria-style food service premises that sell food to the general public and that are owned or operated by a person that owns or operates 20 or more cafeteria-style food service premises in Ontario are regulated food service premises for the purposes of the Act and this Regulation.

Exemptions

5. (1) Persons who own or operate the following regulated food service premises are exempt from section 2 of the Act with respect to those food service premises:

- 1. Food service premises that operate for less than 60 days in a calendar year.
- 2. Food service premises that are located in a school or private school within the meaning of the *Education Act*.
- 3. Food service premises that are located in a correctional institution within the meaning of the *Ministry of Correctional Services Act*.
- 4. Food service premises that are located in a child care centre as defined in the *Child Care and Early Years Act, 2014*.

(2) Persons who own or operate regulated food service premises are exempt from clause 2 (2) (b) of the Act with respect to the following standard food items:

- 1. Alcoholic beverages that are on display.
- 2. Standard food items that are on display and that are labelled with a nutrition facts table that meets the requirements of the *Food and Drug Regulations* made under the *Food and Drugs Act* (Canada).
- 3. REVOKED: O. Reg. 472/19, s. 2 (1).

O. Reg. 50/16, s. 5 (2); O. Reg. 321/16, s. 3 (1); O. Reg. 472/19, s. 2 (1).

(3) For greater certainty, persons who own or operate one or more regulated food service premises that are grocery stores are exempt from section 2 of the Act in respect of the following food items sold at the grocery store:

1. Deli meats and cheeses that are normally sold by weight and that are not part of another standard food item.
2. Prepared fruit and vegetables intended for multiple persons.
3. Bread, buns and rolls that are not part of another standard food item.
4. Olives and antipasti that are not part of another standard food item.
5. Food or drink items that are sold outside of a food service section of the grocery store.
6. Standard food items that are labelled with a nutrition facts table that meets the requirements of the *Food and Drug Regulations* made under the *Food and Drugs Act* (Canada) and that are not part of another standard food item. O. Reg. 321/16, s. 3 (2); O. Reg. 472/19, s. 2 (2, 3).

(4) Persons who own or operate regulated food service premises are exempt from section 2 of the Act with respect to the following standard food items:

1. Standard food items in a vending machine.
2. Standard food items that are prepackaged products, as “prepackaged product” is 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.
3. Unprepared whole fruits and vegetables that are normally sold by weight or unit and that are not part of another standard food item. O. Reg. 472/19, s. 2 (4).

(5) In this section,

“food service section” means a section in a grocery store where the food and drink items that are sold or offered for sale, including at a food counter, whether the counter is clerk-served or self-serve, are primarily restaurant-type food and drink items that are not the subject of an exemption under this Regulation. O. Reg. 472/19, s. 2 (4).

How calorie information is to be displayed on menus, etc.

6. (1) The information that, under section 2 of the Act, is required to be displayed on menus, labels and tags shall be displayed in accordance with the following rules:

1. The information must be adjacent to the name or price of the standard food item to which it refers.
2. The information must be in the same font and format as, and must be at least the same size and prominence as, the name or price of the standard food item to which it refers.
3. The information must be unobstructed and readily legible to individuals reading the menu, label or tag.
4. The information with respect to the number of calories of the standard food item must be rounded to,
 - i. the nearest 10 for items with over 50 calories,
 - ii. the nearest five for items with over 5 calories but not over 50 calories,
 - iii. the nearest whole number for items with half a calorie or more but not over 5 calories, and
 - iv. zero for items with less than half a calorie.
5. The term “Calories”, “CALORIES”, “Cals” or “CALS” must appear either,
 - i. as a heading above a column listing the number of calories for each standard food item and in the same size, font and prominence as the calorie numbers, or
 - ii. adjacent to the number of calories for each standard food item, and in the same size, font and prominence as the calorie numbers.
6. For standard food items that are normally intended to be shared among customers, the number of calories of the item may be displayed by either,

- i. displaying the number of calories of the standard food item and the number of servings the standard food item is comprised of, or
- ii. displaying the number of calories of a serving of the standard food item and the number of servings the standard food item is comprised of.

7. Where a standard food item that is available in a number of flavours, varieties or sizes is listed on a menu, label or tag,

- i. if the menu, label or tag does not list the flavours, varieties or sizes of the standard food item that are available, and only includes a general description of the standard food item, the calorie range for the available flavours, varieties or sizes of the item must be displayed,
- ii. if the menu, label or tag lists specific flavours, varieties or sizes of the standard food item, the number of calories for each flavour, variety or size must be displayed, and
- iii. if the menu, label or tag does not list the flavours or varieties of the standard food item that are available and the item is displayed to the customer for purposes of choosing an item, but is displayed in a way that does not show the serving size, the number of calories for a serving of each flavour or variety of the item, and the serving size, must be posted on a sign that complies with the requirements of section 8.

8. For standard food items that are offered for sale with the option of adding standard supplementary items such as toppings, sauces, dressings or condiments that are listed on the menu, label or tag,

- i. the number of calories must be displayed for the basic preparation of the standard food item,
- ii. the number of calories must be separately declared for each standard supplementary item that is listed, and a statement must be included that indicates that the calories are additional to the calories displayed for the basic preparation of the standard food item, and
- iii. the number of calories for each standard supplementary item that is listed on the menu, label or tag must be declared for each size of the standard food item it complements, or declared using a range between the smallest and largest servings of the standard supplementary item.

9. Where a menu, label or tag includes combination meals with two or more variable items, the number of calories for the combination meal must be displayed as a range between the lowest and highest calorie variations of the combination meal that are available. Where the variable items of the combination meal are individually listed on the menu, label or tag, the number of calories for each possible option must be displayed. Where the items that constitute the variable items of the combination meal are displayed to the customer for purposes of choosing an item, but are displayed in a way that does not show the serving size, the number of calories for a serving of each food or drink item, and the serving size, must be posted on a sign that complies with the requirements of section 8. If the menu, label or tag includes an option to increase or decrease the size of a combination meal, the impact of the option on the overall number of calories of the combination meal must be declared for the increased or decreased size.

10. Where, under this section, the number of calories may or must be displayed within a range, the range must be displayed in the format “xx–yy”, where “xx” is the number of calories of the lowest calorie option, and “yy” is the number of calories of the highest calorie option. O. Reg. 50/16, s. 6; O. Reg. 321/16, s. 4 (1-3); O. Reg. 472/19, s. 3.

(2) Where a sign is required to be posted under paragraph 7 or 9 of subsection (1), the person who owns or operates the regulated food service premise is exempt from the requirement to post the sign if the information required to be posted on the sign is set out clearly on a label or tag associated with each food or drink item that complies with subsection (1). O. Reg. 321/16, s. 4 (4).

Signs, alcoholic beverages

7. (1) A person who owns or operates a regulated food service premise is exempt from paragraph 1 of subsection 2 (1) of the Act with respect to standard food items that are alcoholic beverages, as long as the information in the following Table, in substantially the same format as in the Table, is displayed in close proximity to the place where the alcoholic beverage is listed on the menu, label or tag, or, in the case of a menu with multiple pages, in such a way that the information is visible when the menu is opened to any page that lists the alcoholic beverage:

Standard Alcoholic Beverages	Standard Serving Size	Approximate Average Calories per Standard Serving Size
Red Wine (12%)	1 glass (142 mL/5 oz)	130
White Wine (12%)	1 glass (142 mL/5 oz)	120
Regular Beer (5%)	1 bottle (341 mL)	150
Light Beer (4%)	1 bottle (341 mL)	100
Spirits (40%)	1 shot (43 mL/1½ oz)	100
Note: Actual calories of alcoholic beverages may vary; the addition of mixes will increase the calories of these beverages. Standard serving sizes are based on one drink as outlined in Canada's Low-Risk Alcohol Drinking Guidelines.		

(2) The information referred to in subsection (1) must be displayed with at least the same prominence as, and must have text that is at least the same size as, the listing for the alcoholic beverage.

Signs, food and drink that customers serve for themselves

8. (1) For the purposes of subsections 2 (6) and (7) of the Act, every regulated food service premise that sells or offers for sale a restaurant-type food or drink item that customers serve for themselves is required to publicly post one or more signs in close proximity to and clearly associated with the item that,

- (a) set out the number of calories of a serving of the food or drink item and the serving size used to determine the number of calories;
- (b) are positioned in such a way that an individual could reasonably be expected to clearly associate the calorie declaration with the food or drink item; and
- (c) include the name of the food or drink item. O. Reg. 50/16, s. 8 (1).

(2) The term "Calories", "CALORIES", "Cals" or "CALS" must appear on the sign or signs,

- (a) as a heading above a column listing the number of calories for each restaurant-type food or drink item and in the same size, font and prominence as the calorie numbers; or
- (b) adjacent to the number of calories for each restaurant-type food or drink item, and in the same size, font and prominence as the calorie numbers. O. Reg. 50/16, s. 8 (2); O. Reg. 472/19, s. 4 (1).

(3) The sign or signs must be posted in such a manner that at least one sign is readily visible by, and legible to, any individual who is in a place in the regulated food service premise where he or she can order food or drink or serve it to himself or herself. O. Reg. 50/16, s. 8 (3).

(4) For the purposes of subsection (1), serving sizes shall be determined as follows:

- 1. Where the regulated food service premise provides a serving instrument that dispenses uniform amounts of food, by the volume of a serving dispensed by the instrument.

2. Where cups or other vessels are offered for self-serve drinks, by the volume of the cups or vessels, expressed in millilitres or, if applicable, by description of the cup size.
 3. For other food or drink items, by a reasonable serving size determined by the person who owns or operates the regulated food service premise. O. Reg. 50/16, s. 8 (4).
- (5) For the purposes of subsection (1), the number of calories in a restaurant-type food or drink item may be determined by either,
- (a) testing by a laboratory that the person who owns or operates the regulated food service premise reasonably believes will provide accurate results; or
 - (b) a nutrient analysis method that the person who owns or operates the regulated food service premise reasonably believes will accurately estimate the number of calories in the restaurant-type food or drink item. O. Reg. 50/16, s. 8 (5).
- (6) Subsection (1) does not apply to a beverage that customers dispense for themselves from a serving instrument if a readily visible and legible sign is posted in close proximity to the instrument that displays the calorie ranges for each serving size of every category of beverage dispensed by the instrument. O. Reg. 50/16, s. 8 (6).
- (7) Subsection (1) does not apply to the following restaurant-type food or drink items:
1. Food or drink items that are offered for sale by the regulated food service premise for less than 90 days per calendar year, whether consecutively or non-consecutively.
 2. Self-serve condiments that are available free of charge and that are not listed on the menu of the regulated food service premise. O. Reg. 50/16, s. 8 (7).
- (8) Subsections (1) and (2) do not apply if the information that would otherwise be required to be posted on the sign is set out clearly on a label or tag associated with each food or drink item in the manner described in clauses (1) (a) to (c) and subsection (2). O. Reg. 472/19, s. 4 (2).

Contextual statement, certain premises

9. (1) For the purposes of paragraph 2 of subsection 2 (1) of the Act, a person who owns or operates a regulated food service premise is required to post a contextual statement in accordance with the rules set out in subsections (2), (3) and (4) of this section. O. Reg. 321/16, s. 5 (2).

(2) Subject to subsection (4), the contextual statement must be displayed on every menu of the premise, according to the following rules:

1. The contextual statement must read, "Adults and youth (ages 13 and older) need an average of 2,000 calories a day, and children (ages 4 to 12) need an average of 1,500 calories a day. However, individual needs vary." in English or "Les adultes et les jeunes (13 ans et plus) ont besoin, en moyenne, de 2 000 calories par jour et les enfants (4 à 12 ans) ont besoin, en moyenne, de 1 500 calories par jour. Cependant, les besoins individuels varient." in French.
 2. Where a menu is composed of multiple pages, the information must appear in such a way that the information is visible when the menu is opened to any page listing a standard food item.
 3. The information must appear in a place on the menu or page of the menu that is in close proximity to the standard food items listed on the menu or page.
 4. The information must appear in the same font and format as, and in at least the same size and prominence as, the name or price of the standard food items listed on the menu or page. O. Reg. 321/16, s. 5 (2).
- (3) Where an individual in a regulated food service premise is able to order food or drink or serve himself or herself in circumstances where a menu containing the contextual statement is not readily visible by, and legible to, the individual, a person who owns or operates the regulated food service premise must publicly post one or more signs that comply with the following rules:
1. The sign or signs must be posted in such a manner that at least one sign is readily visible by, and legible to, any individual who is in a place in the regulated food service premise where he or she can order food or drink or serve it to himself or herself.

2. Each sign must read, "Adults and youth (ages 13 and older) need an average of 2,000 calories a day, and children (ages 4 to 12) need an average of 1,500 calories a day. However, individual needs vary." in English or "Les adultes et les jeunes (13 ans et plus) ont besoin, en moyenne, de 2 000 calories par jour et les enfants (4 à 12 ans) ont besoin, en moyenne, de 1 500 calories par jour. Cependant, les besoins individuels varient." in French. O. Reg. 321/16, s. 5 (2).

(4) The requirements of subsection (2) do not apply to advertisements, promotional flyers, circulars and magazines that are displayed at a regulated food service premise. O. Reg. 472/19, s. 5.

(5) The requirements of subsection (2) do not apply to advertisements, promotional flyers, circulars and magazines, online menus and menu applications that are distributed or available outside of a regulated food service premise and that do not list prices for standard food items or do not provide a method to place an order. O. Reg. 472/19, s. 5.

Determination of number of calories

10. For the purposes of subsection 2 (8) of the Act, the number of calories in a standard food item may be determined by either,

- (a) testing by a laboratory that the person who owns or operates the regulated food service premise reasonably believes will provide accurate results; or
- (b) a nutrient analysis method that the person who owns or operates the regulated food service premise reasonably believes will accurately estimate the number of calories in the standard food item.

11. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

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