

Calorie Labeling in New York City Restaurants: An Approach to Inform Consumers

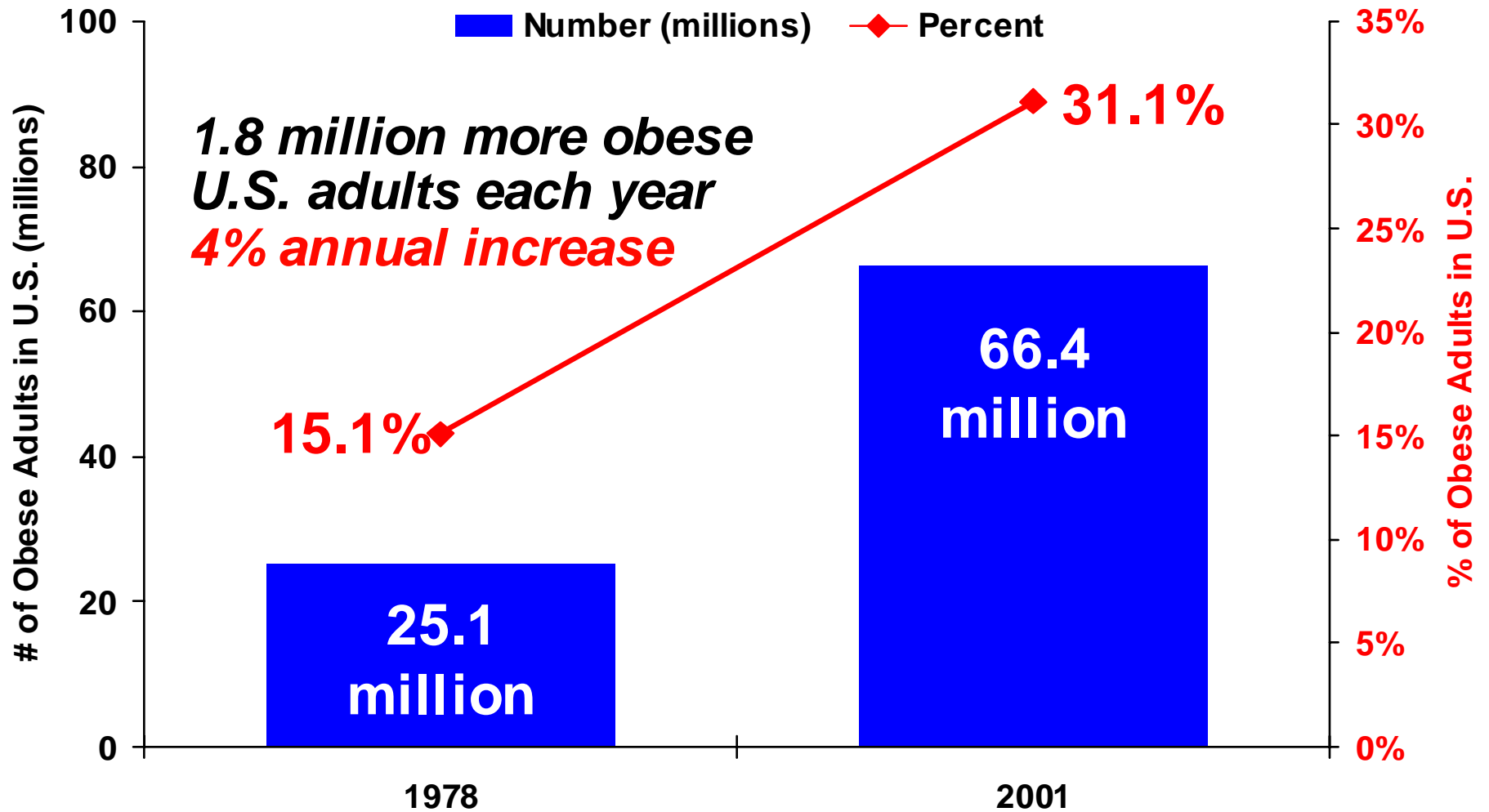
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Obesity is Epidemic in the U.S.

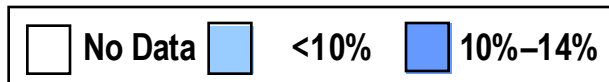
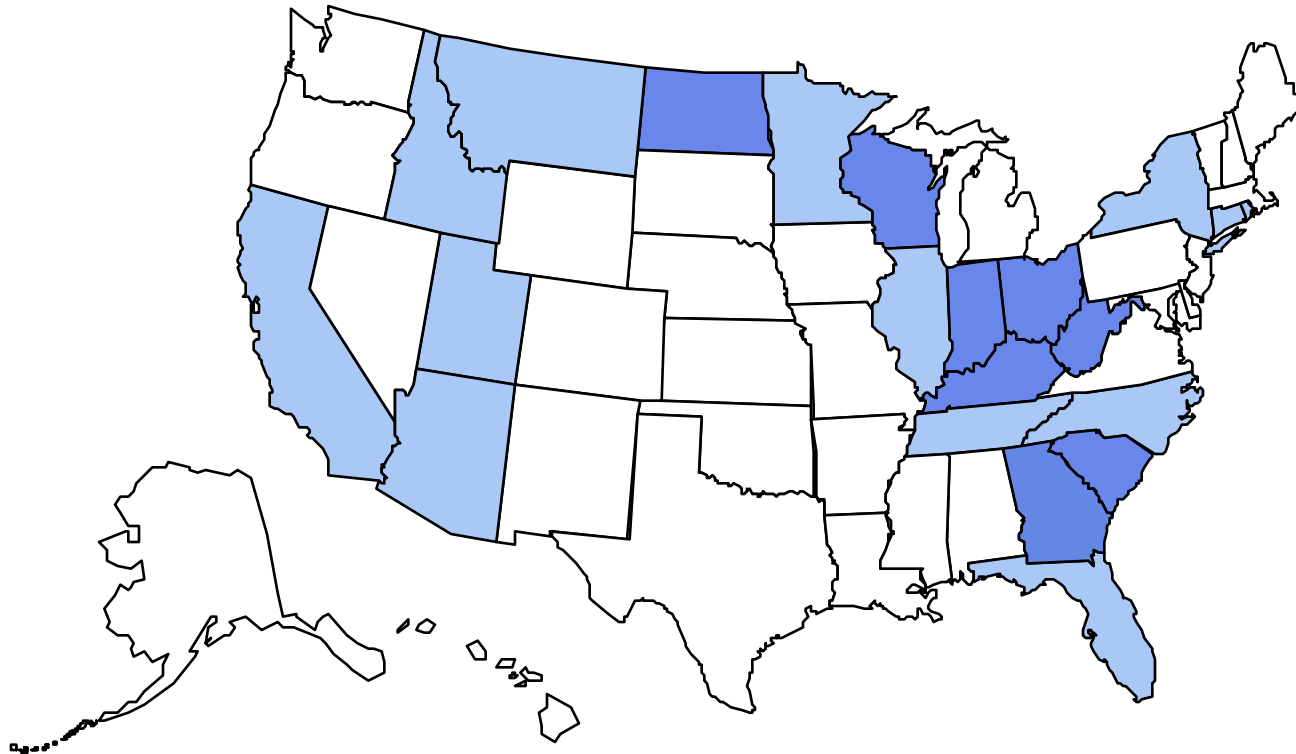


Data from CDC

Obesity Trends* Among U.S. Adults

BRFSS, 1985

(*BMI ≥ 30 , or ~ 30 lbs overweight for 5' 4" person)



Obesity is Epidemic in New York City

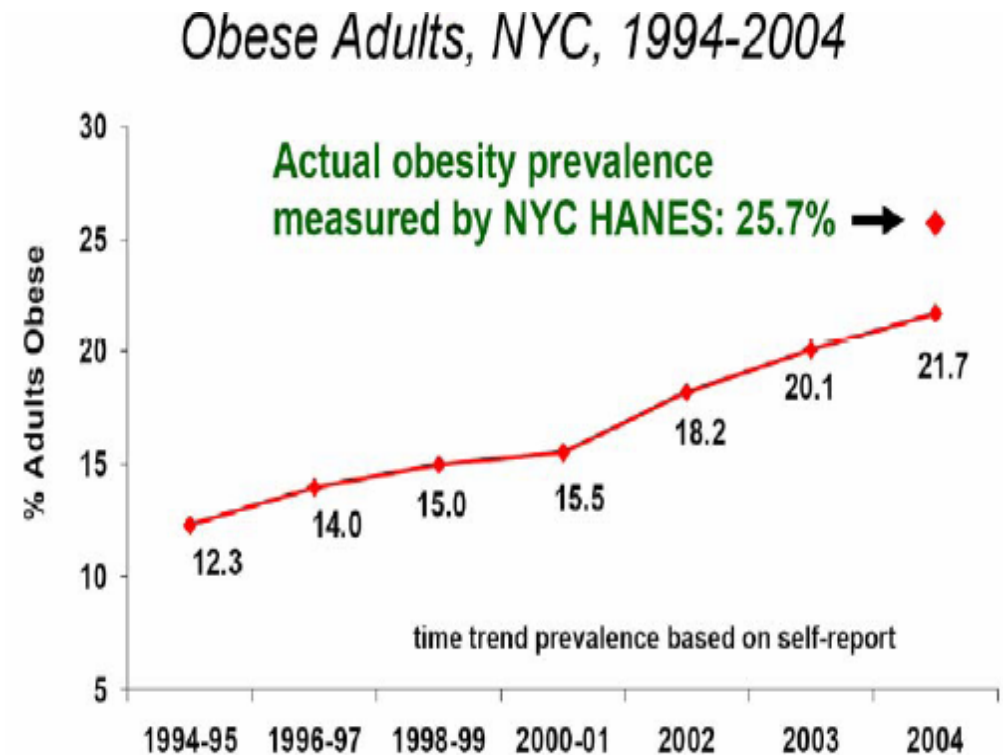


Key Considerations

- Obesity is epidemic and is the second leading cause of preventable death
- Multifaceted approaches to change our food and physical activity environments are needed now
- The evidence base for what to do is still being built

In NYC Obesity Prevalence Increased >70% in Past Decade

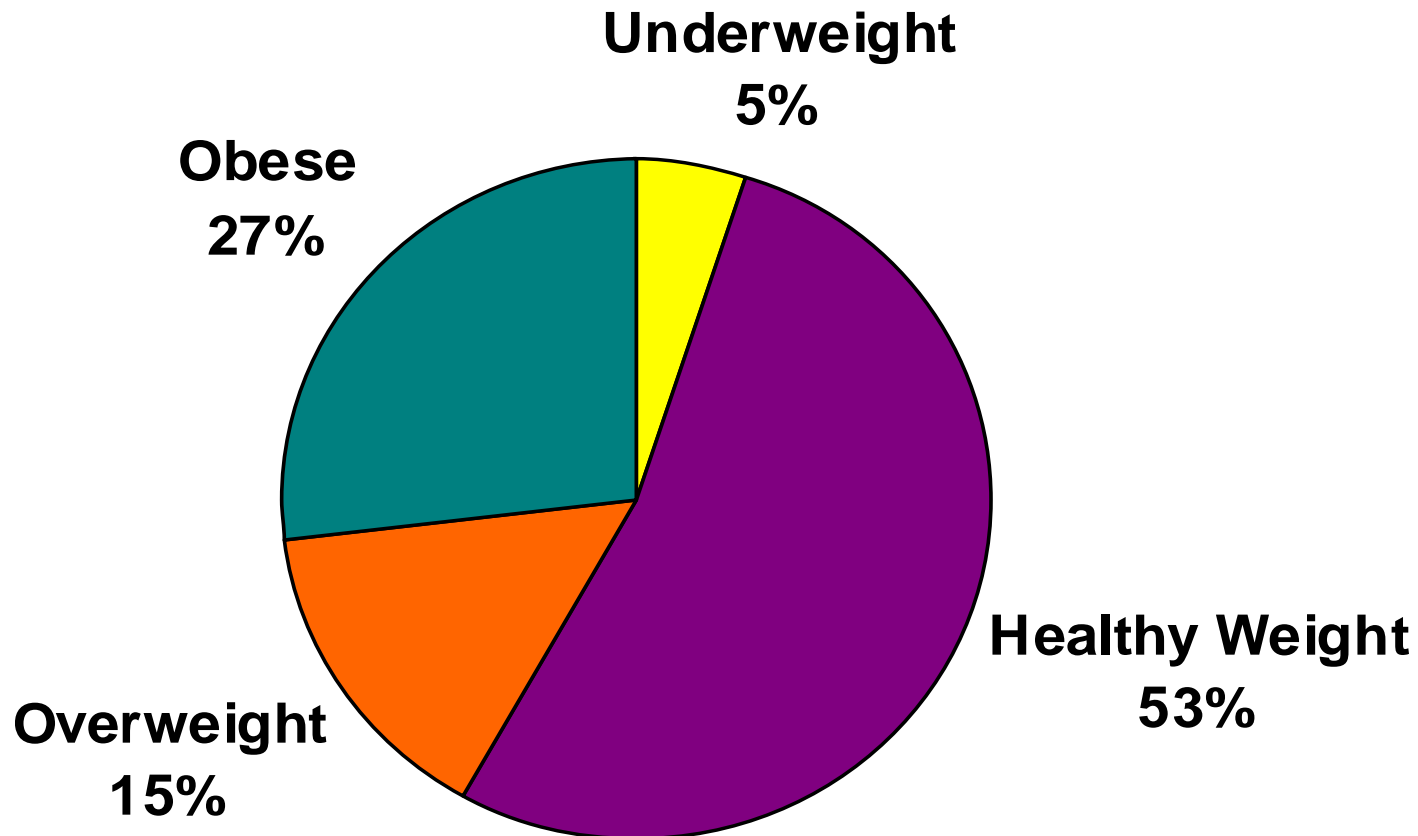
- 56% of NYC adults (3.2 million people) are overweight or obese
- In some NYC neighborhoods
 - 2/3 of adults are overweight or obese
 - 1 in 3 obese



Sources: Behavioral Risk Factor Surveillance System, Centers for Disease Control and Prevention, 1994-2001; NYC Community Health Survey, New York City Department of Health and Mental Hygiene, 2002-2004; NYC Health and Nutrition Examination Survey, New York City Department of Health and Mental Hygiene, 2004

Source: NYC DOHMH Community Health Survey, 2004

Among NYC Children in Head Start, 42% are Overweight or Obese



SOURCE: DOHMH Vital Signs 2006; 5(2):1-2.

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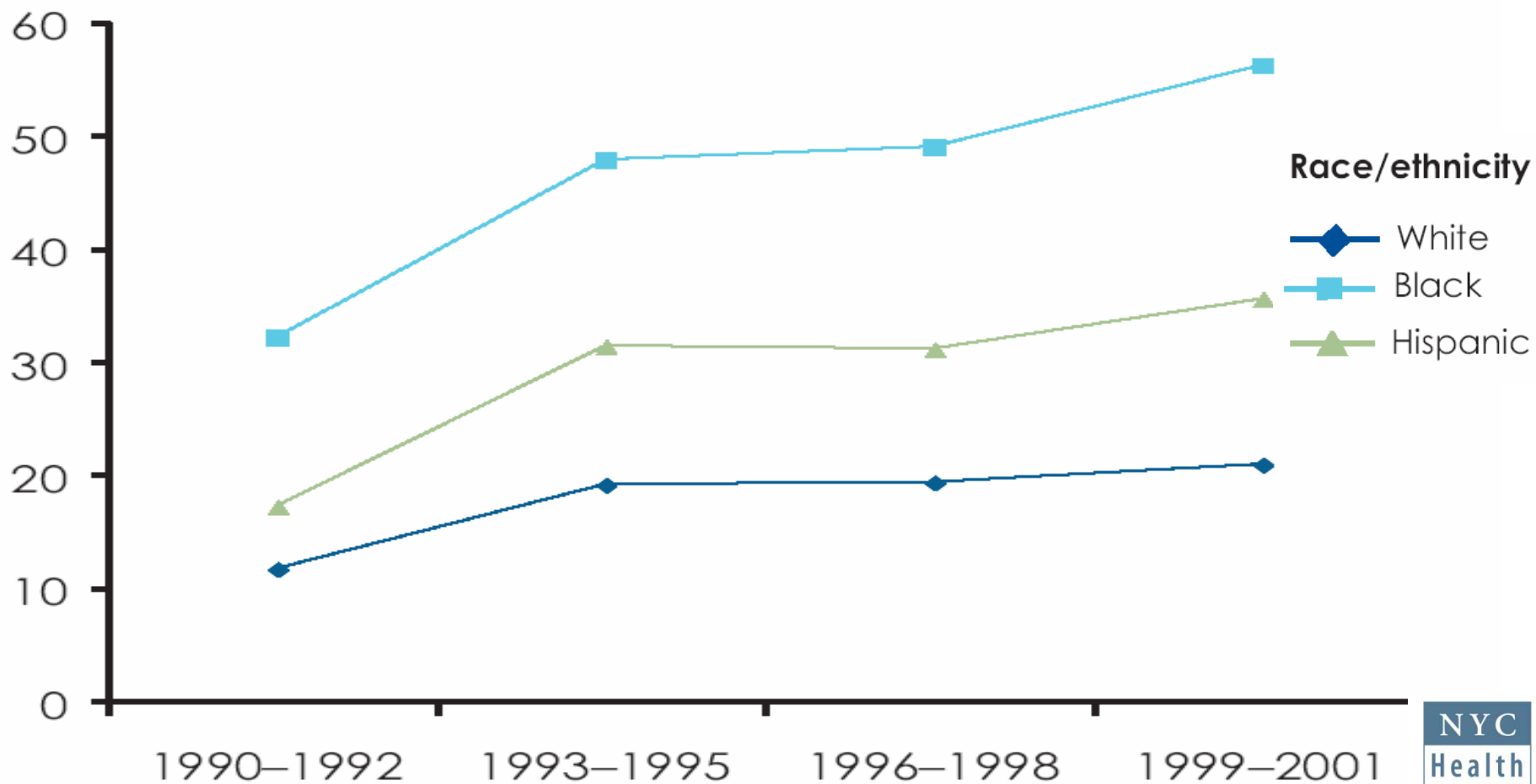
Obesity Increases Disease Burden

- Risk factor for heart disease, stroke, cancer, diabetes and asthma
 - 4 of the 5 leading causes of death in NYC in 2005, with 40,771 deaths (>70% of all deaths)
- Diabetes more than doubled in 10 years
 - 2004: ~5,000 people on dialysis or with ESRD due to diabetes
 - 2005: >3,000 lower-extremity amputations
 - >9,000 New Yorkers blinded by diabetes
 - >100,000 have eye damage

Death Rates Due to Diabetes

by Race/Ethnicity, NYC, 1990-2001

Death rate per 100,000 population



Background

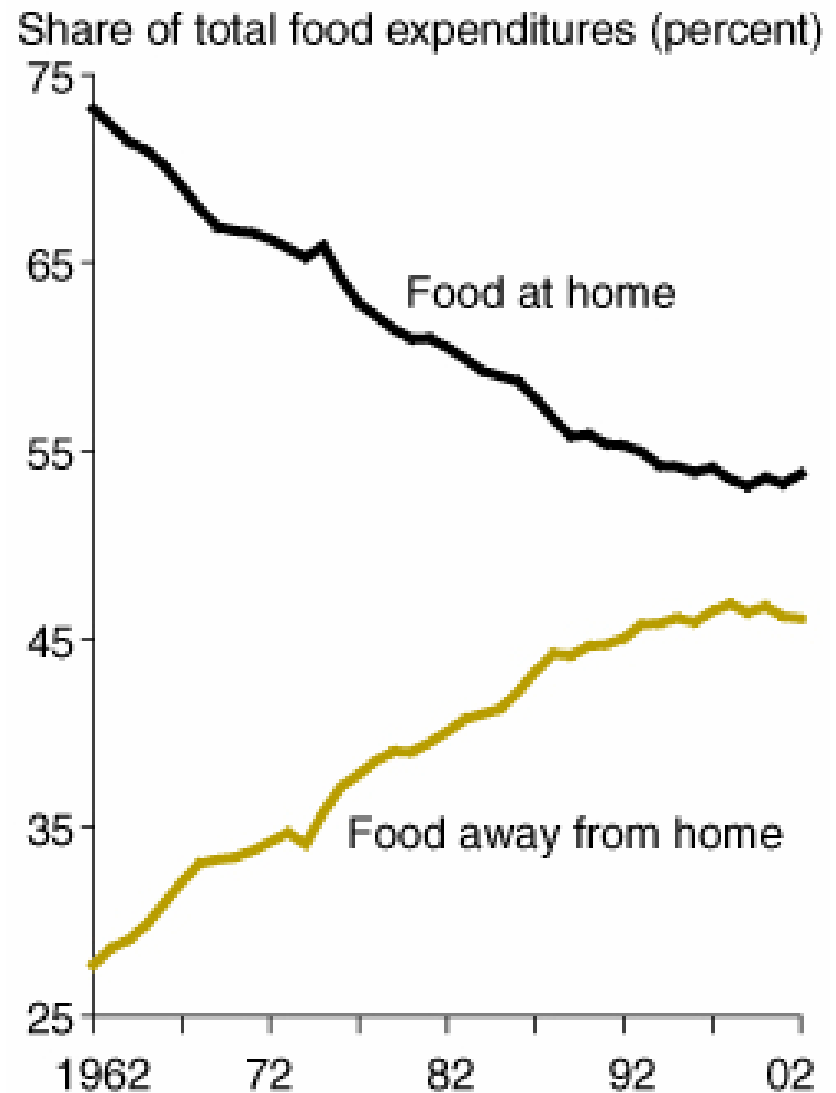


Policy Approaches to Address Obesity

- Obesity is not just a problem of the individual, but also a problem rooted in **environmental** and **community** factors
- 2001 Surgeon General's "*Call to Action to Prevent and Decrease Overweight and Obesity*" declared obesity a national priority

SOURCES: U.S. DHHS, 2001; Galvez, Frieden & Landrigan, 2003

People Are Eating Out More



Source: Food Consumption (Per Capita) Data System, USDA, Economic Research Service.

Eating Out Is Associated with Obesity

- ~1/3 of our calorie intake comes from food prepared outside the home
- Eating out is associated with higher calorie intake and obesity
 - Children eat almost twice as many calories in restaurant meals compared to meals at home (770 vs. 420 calories)

Increasing Calories in Fast Food

1977-1978

1994-1996



Increase of 251 calories (35%)

“Supersized” Meals Lead to “Supersized” Waistlines

Increasing portion sizes increase caloric intake

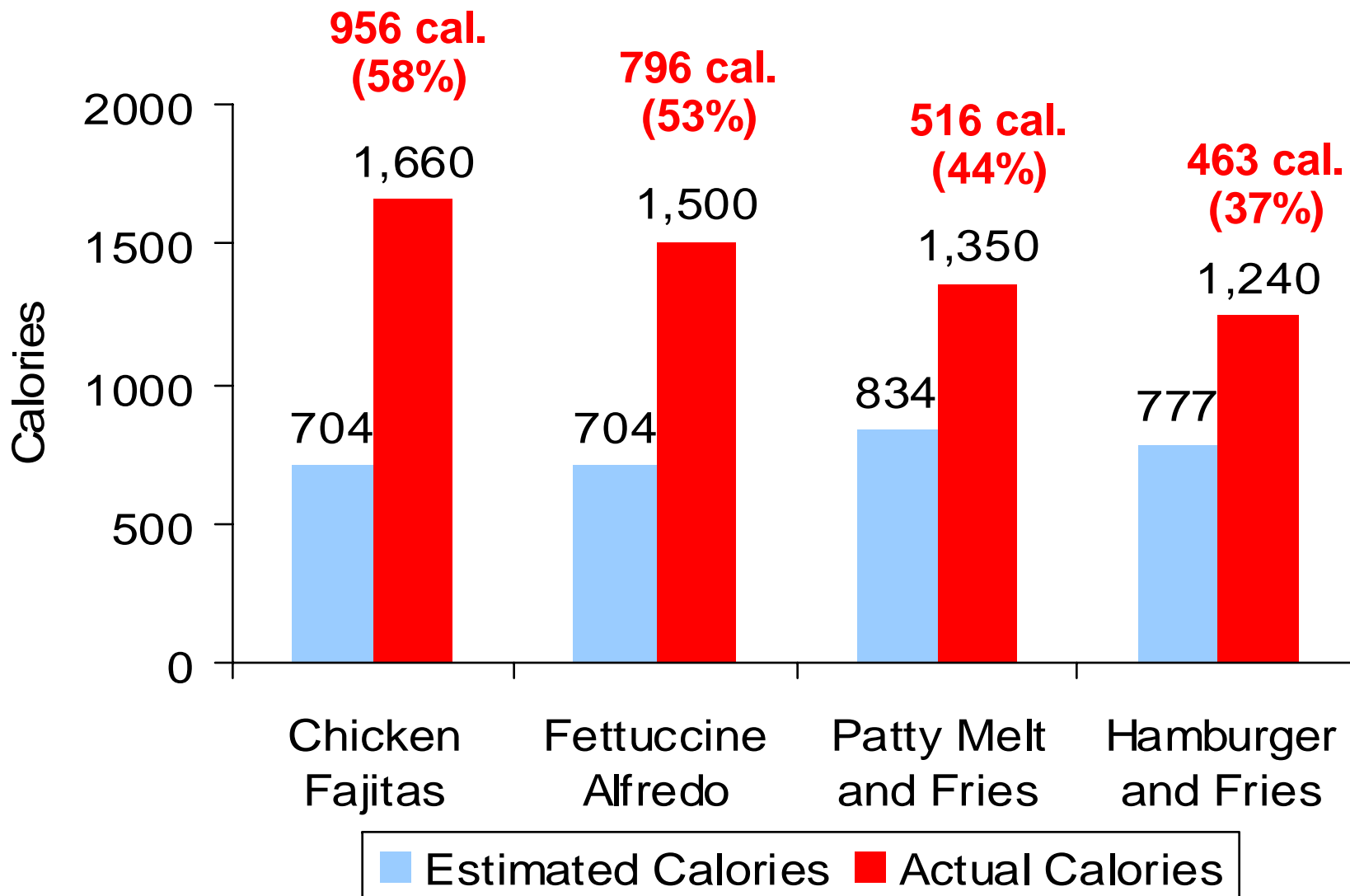
Regular food item	Calories and % recommended daily intake*	Larger food item	Calories and % recommended daily intake*	Calorie difference	Item larger by
Regular cheese-burger	360 18%	Triple Whopper w/cheese	1,230 61.5%	870	242%
Chocolate shake (12 oz.)	440 22%	Chocolate shake (32 oz.)	1,160 58%	720	164%
Big Breakfast	720 36%	Deluxe Breakfast	1,400 70%	680	94%

* Based on recommended 2,000 daily calorie intake

Fast Food Associated with Higher Caloric Intake & Obesity

- **Fast food → higher calorie intake**
 - Adults: 205 more calories/day
 - Children: 155 more calories/day
 - At once/week, would lead to 3 pound weight gain/year
- **More fast food → more obesity**
 - Adults: 27-31% increase in overweight
 - Young children: twice as likely to be obese
 - Among adolescents, more days of fast food predicts increases in BMI

Most Consumers Underestimate Calorie Content



Burton S, Creyer EH, Kees J, Huggins K. 2006 & Backstrand J. Wootan MG. Young LR. Hurley J. , 1997

Nutrition Labeling Works

- 3/4 of U.S. adults report using nutrition labels on packaged foods
- 1/2 of U.S. adults say nutrition information influences their purchasing
- When nutrition information for menu items is readily available, consumers choose high-calorie items about 1/3 less often

Nutrition Facts		
Serving Size 1 cup (228g)		
Servings Per Container 2		
Amount Per Serving		
Calories 260	Calories from Fat 120	
% Daily Value*		
Total Fat 13g		20%
Saturated Fat 5g		25%
Trans Fat 2g		
Cholesterol 30mg		10%
Sodium 660mg		28%
Total Carbohydrate 31g		10%
Dietary Fiber 0g		0%
Sugars 5g		
Protein 5g		
Vitamin A 4%	•	Vitamin C 2%
Calcium 15%	•	Iron 4%
* Percent Daily Values are based on a 2,000 calorie diet. Your Daily Values may be higher or lower depending on your calorie needs:		
	Calories:	2,000 2,500
Total Fat	Less than	65g 80g
Sat Fat	Less than	20g 25g
Cholesterol	Less than	300mg 300mg
Sodium	Less than	2,400mg 2,400mg
Total Carbohydrate		300g 375g
Dietary Fiber		25g 30g
Calories per gram:		
Fat 9	•	Carbohydrate 4 • Protein 4

DOHMH Survey Conducted at 275 Restaurants, Representing 13 Restaurant Chains

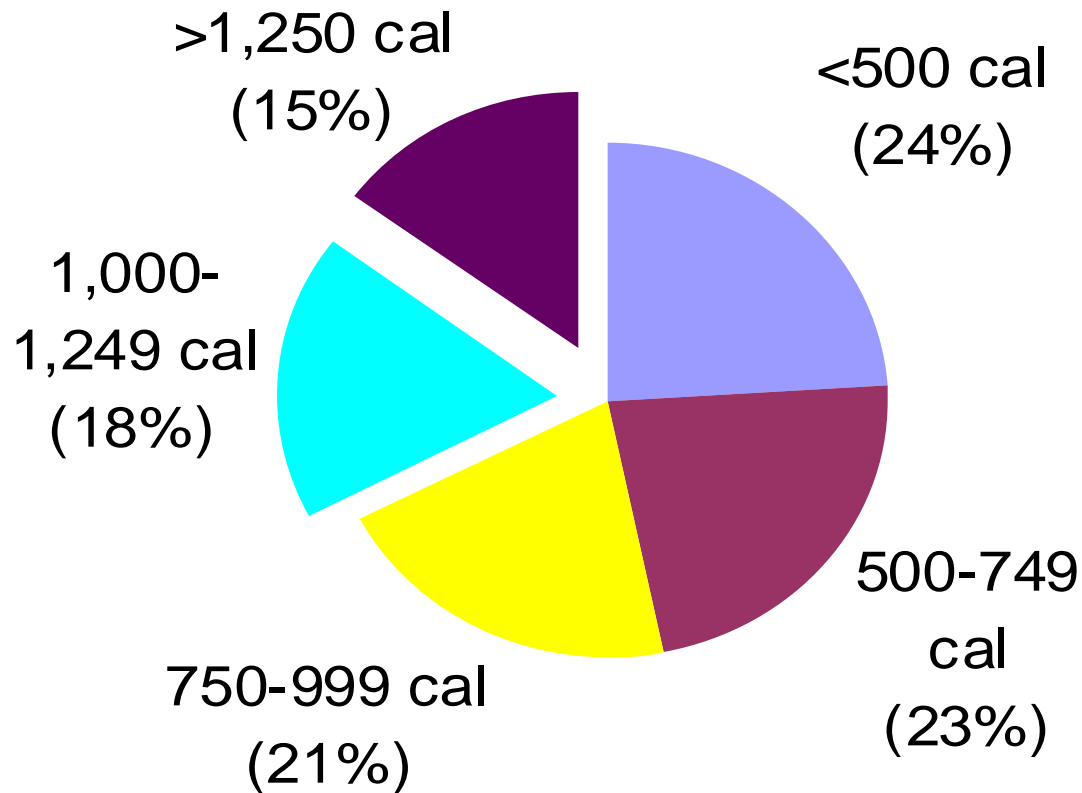
- Conducted March-June 2007 as baseline prior to implementation of §81.50
- Brief exit questionnaire:
 - Purchase for you only?
 - Did you see calorie information?
 - Did you use it?
- Asked to provide receipt

Information Available Today Is Woefully Inadequate

Brand	# of Sites*	# of Customers Interviewed*	% of Customers who Reported Seeing Calorie Information in the Restaurant
Domino's	10	57	0.0%
Papa John's	5	222	0.0%
Popeyes	7	512	0.6%
Dunkin Donuts	70	2,756	1.3%
Starbucks	37	1,285	2.7%
Au Bon Pain	2	166	3.7%
Burger King	20	1,033	3.8%
Yum Brands (<i>Taco Bell, KFC, Pizza Hut</i>)	21	861	4.6%
McDonald's	45	2,593	4.7%
Wendy's	11	474	6.9%
Subway	48	1,906	31.3%
TOTAL	276	11,865	<8% (3.1% w/o Subway)

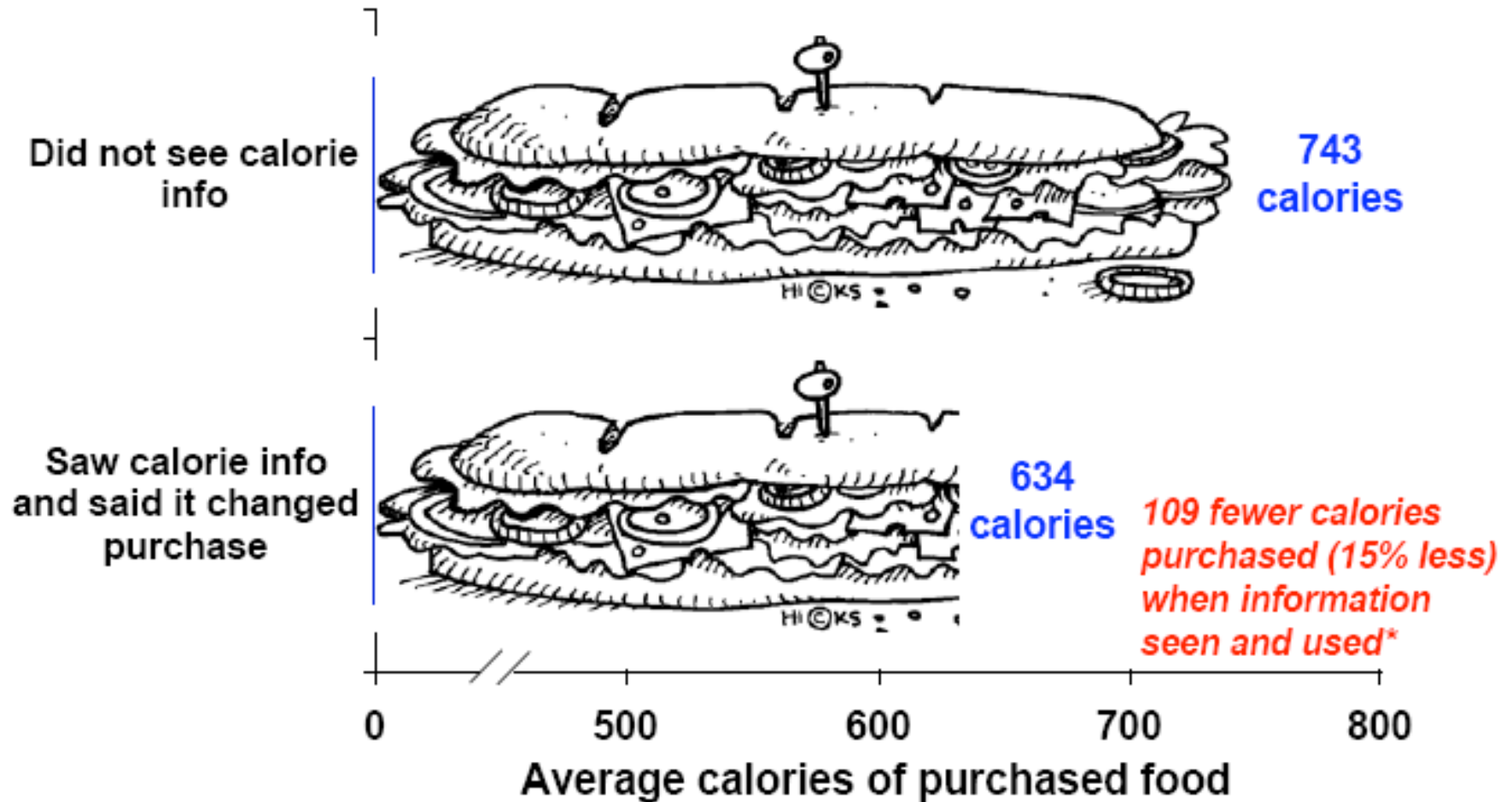
* Survey customer and site totals vary slightly due to exclusion of customers with missing data for calorie analyses

1 out of 3 Meals Purchased at NYC Chains Had More Than 1,000 Calories



Preliminary data from 7,308 customers purchasing for themselves only at 11 chains serving lunch

Calorie Information Makes a Difference in Amount People Eat



* 92 fewer calories compared to those who saw information but said it did not influence purchase. Preliminary data from DOHMH survey of 1,816 Subway patrons, 2007.



Why the NYC DOHMH?



Why should a local health department address this?

As overseer of NYC's Health Code, the Board of Health has enacted countless measures to improve the well-being of New Yorkers over the years – including the nation's first ban on interior lead paint, modern tuberculosis control provisions and, more recently, a plan for eliminating trans fat from restaurants.

Board of Health: A History of Regulating the Food Environment

18708

Commissioner Chandler
appoints first milk inspector,
opens laboratory

1884

Department creates
Division of Food Inspection
and Offensive Trades

1907

“Typhoid Mary” is traced,
confined at North Brother
Island

1850

Annual Mortality Rates:

Lowell, Mass. 1 in 65

Providence, Rhode Island,

1 in 47

New York City: 1 in 38

*Average Age of death
in New York 20 years
and 8 months*

Leading Causes of Death:

*Consumption (tuberculosis);
convulsions; stillborn
infants; inflammation of the
lungs; dysentery; marasmus
(malnutrition); typhus;
cholera; diarrhea.*

1851 City Inspector's Report

Mortality Then

OUR CHANGING HEALTH PROBLEMS
Deaths, New York City, Then and Now

	DEATHS		1880	1940
DEATHS, MOSTLY CHILDREN & YOUNG ADULTS				
Contagion			12.5 %	0.2 %
Diarrhea			8.4	0.5
Tuberculosis (lungs)			28.8	5.0
Pneumonia			13.2	5.8
Typhoid			1.0	0.003
			<hr/>	<hr/>
DEATHS, MOSTLY ELDER ADULTS				
Heart			18.4	44.7
Cancer			2.0	15.0
Diabetes			0.2	4.0
			<hr/>	<hr/>
			12.8 %	63.7 %
All Other Deaths			38.3	25.0
			<hr/>	<hr/>
			TOTAL	TOTAL
			100.0 %	100.0 %

§81.50 Calorie Posting

12.5.2006	§81.50 Approved – First regulation of calorie posting on menus in US to be approved
6.2007	Lawsuit Filed NYRSA vs. NYCDOHMH
7.1.2007	§81.50 Effective
9.11.2007	Judicial Decision
10.24.2007	Existing §81.50 Repealed Modified §81.50 Approved for Public Comment
11.27.2007	<i>Public Hearing on §81.50</i>
1.2008	<i>Board of Health Vote on §81.50</i>
3.31.2008	<i>§81.50 Proposed Effective Date</i>



Comments and Testimony on 12.2006 Measure

- Written comments received: 2,222
- Public hearing participants: 45
- Total support: 2,245
- Total opposition: 22
- **Ratio PRO to CON: 100:1**

Enforcement

- Was to be done by food safety inspectors as a part of routine food inspections
- 3 month grace period – no fines (July 1, 2007 – Oct. 1, 2007)
- Violations, although they will be posted on website, and may result in fines after grace period, will not count toward pass/fail of routine sanitary inspection



Some Restaurants Posted Calorie Information

HOT & *freshly* TOASTED
Subs From The Oven!

Cal		6" Sub or Wrap
560	Meatball Marinara	3.99
450	Italian B.M.T. [®]	4.49
480	Spicy Italian	3.99
400	Steak & Cheese	4.99
380	Subway Melt [®]	4.99
580	Chicken & Bacon Ranch	5.49

Hungrier? Make it a FOOTLONG! Only 1.75 More



Subway Menu Board

July 2007

Auntie Anne's Menu Board

July 2007

Pretzels	2.49
Original 370 cals	Cinnamon Sugar 450 cals
Almond 400 cals	Glazin' Raisin [®] 510 cals
Garlic 350 cals	Sour Cream & Onion 340 cals
Jalapeño 310 cals	Whole Wheat 370 cals
Sesame 410 cals	
Pretzel Stix 370 cals	2.99

NY1218RU

June 2007: NYSRA vs. NYC DOHMH

- **June 2007** – New York State Restaurant Association (NYSRA) filed suit
- **NYSRA's Basis for Suit:**
 - Federal Preemption under NLEA
 - Compelled Speech, 1st Amendment
- **July 25, 2007** – Oral Arguments Heard



June 2007: NYSRA vs. NYC DOHMH

Extraordinary Amicus Curiae Support for NYC

- Public Citizen Brief
 - U.S. Representative Henry Waxman
 - David Kessler, M.D. – Former FDA Commissioner
 - American Medical Association
 - American Diabetes Association
 - American Public Health Association
 - American College of Preventive Medicine
 - Center for Science in the Public Interest
 - California Center for Public Health Advocacy
 - The Medical Society of the State of New York
 - Trust for American's Health
 - Professors of Medicine, Nutrition, & Public Health
- City and County of San Francisco Brief
 - National League of Cities
 - National Association of County and City Health Officials
 - International Municipal Lawyers Association
 - League of California Cities
- Rudd Center for Food Policy and Obesity at Yale University
 - Professor Robert Post, Yale Law School



Upheld NYC Authority to Mandate; Preempted on a Technicality

“The majority of state or local regulations – those that simply require restaurants to provide nutrition information – therefore are not preempted. Such regulations impose a blanket mandatory duty on all restaurants meeting a standard definition such as operating ten or more restaurants under the same name.”

– Judge Holwell, September 11, 2007

§ 81.50 As Previously Approved	Current Proposal
<p>Scope: Applied to FSEs and menu items for which calorie information publicly available on or after March 1, 2007.</p>	<p>Scope: All menu items at FSEs in NYC that are one of a group of ≥ 15 nationally, offering substantially same menu items, in portions standardized for size and content, that operate under common ownership or control, or as franchised outlets of a parent business, or do business under the same name.</p>
<p>How posted: Calorie information posted next to listing of each menu item. Calorie content in size and typeface at least as large as name of menu item or price, <u>whichever is larger.</u></p>	<p>How posted: More flexible. Clearly and conspicuously adjacent or in close proximity clearly associated with menu item. Font and format at least as prominent as <u>either name or price</u> of menu item.</p>
<p>Range, item tags: Menu items that come in different flavors & varieties but listed as single food item, list minimum to maximum. Item tags not addressed</p>	<p>Range, item tags: Same range requirement, but can omit on menu board when food item tags are available. Item tags to include calorie information</p>
<p>Alternative Design: FSEs could propose alternatives within clearly defined parameters</p>	<p>Alternative Design: All approvable design elements incorporated – more flexibility on size, placement, drive-thru window stanchions</p>
<p>Temporary menu items: Calorie information must be posted if calorie information publicly available</p>	<p>Temporary menu items: Does not apply to menu items listed on menu/menu board for less than 30 days</p>



Why Restaurant Chains?

- Serve food clearly associated with high calorie intake and obesity
- Standardized preparation and portion size make accurate calorie information feasible to provide
- Disproportionate share of customer traffic assures substantial public health impact
 - 10% of restaurants serve 35% of NYC meals

Estimated Impact of Calorie Posting Regulation in NYC

- If calorie reduction in covered FSEs is similar to Subway's reduction, over the next 5 years:
 - **at least 150,000** fewer New Yorkers would be obese, leading to
 - **at least 30,000** fewer cases of diabetes,
 - and many other health benefits



NYCDOHMH Calorie Labeling Evaluation Plans



Evaluation

Two possible mechanisms of effect:

- **Consumer choice will change**
- **Menu offerings calorie content will change**

Example 1. Menu Board

	Price	Calories
Grilled Chicken	\$3.99	390
Crunchy Chicken	\$3.89	490
Fish Filet	\$3.29	450
Hamburger	\$0.99	280
Cheeseburger	\$1.39	300
Extra Big Hamburger	\$4.29	540
Fries – Small	\$1.00	300
Fries – Large	\$1.79	600

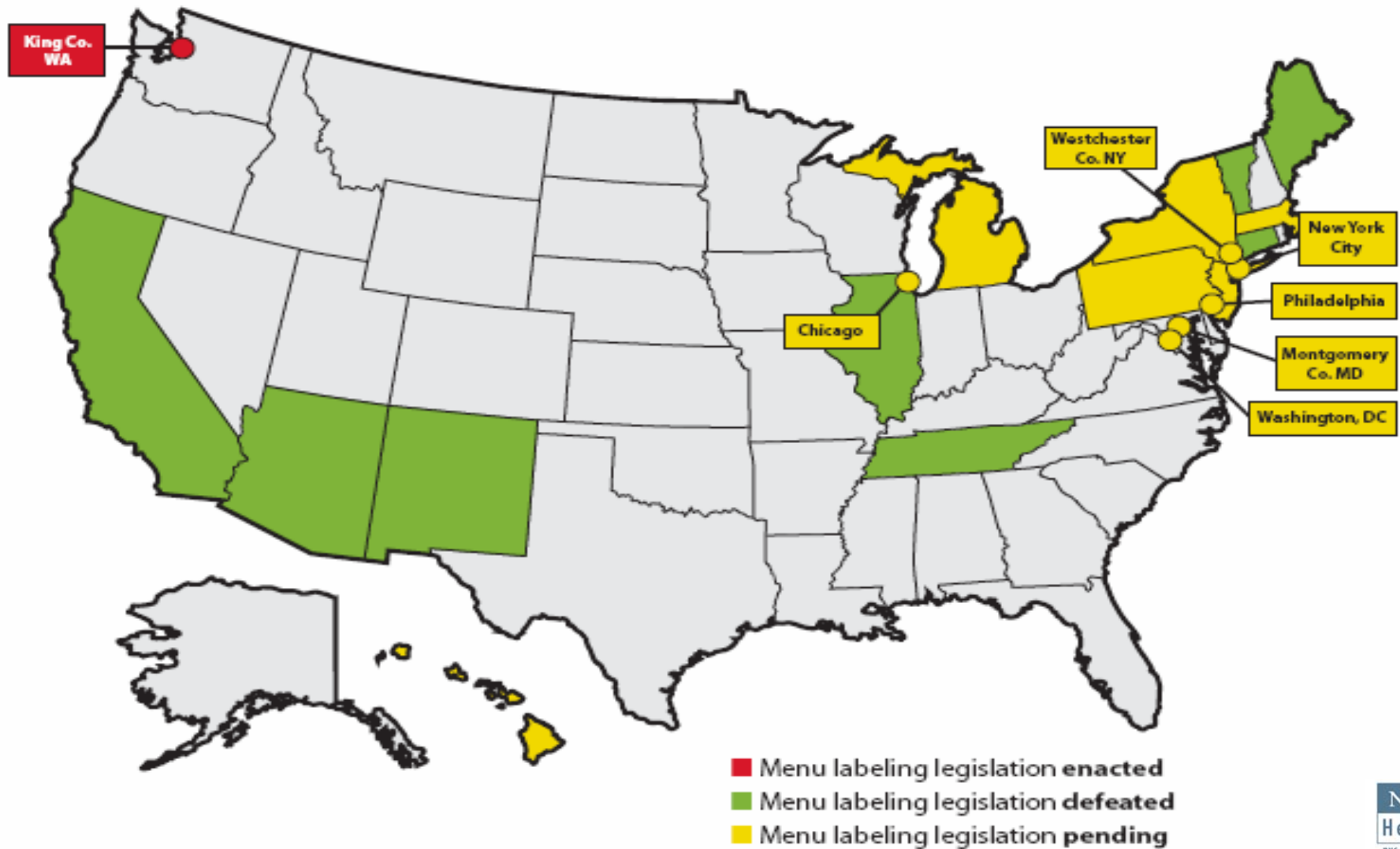
Evaluating the Calorie Labeling Regulation

- Evaluation will assess menu offerings and consumer purchasing using receipts and brief interviews
- Random sample of 200 sites and 10,000 customers
- Pre/post design starting prior to effective date of regulation (7/1/07) and 1 year later
- Begun March 2007, f/u to be determined

Calorie Labeling from Coast to Coast

STATE & LOCAL MENU LABELING LEGISLATION

As of 10/24/07



Calorie Labeling is only one of NYC's Steps to Address Obesity...

- Physical Activity Program for Children (SPARK)
- Daycare Standards
- BUILT Environment
- Public Procurement
- CEO Healthy Bodega Initiative
- Etc...



Other NYC Board of Health Recent Initiatives

- Mandatory reporting of Hemoglobin A1C
- Daycare regulations on nutrition & physical activity
- Trans-fat restrictions

**Helping Children
Reach a Healthy Weight**
Proven Tips for Parents



Summary

- Need to increase our knowledge of what environmental interventions are effective
- Can't wait for gold standard scientific evidence
- Adoption of Calorie Labeling is happening in NYC because of the existence of technical expertise, political will, and a respected independent Board of Health
- Evaluation will be critical
- Like smoke free air, others will follow