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H.B. 364
(1_136_0539-2)
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 364's Bill Analysis](#)

Version: In House Agriculture

Primary Sponsors: Reps. Abdullahi and Young

Local Impact Statement Procedure Required: No

Jake Graffius, Budget Analyst

Highlights

- The Ohio Department of Health (ODH) will realize administrative costs to: promulgate rules, develop and establish the high sodium content warning icon, publish required guidance, and a process for the public to submit complaints, and to develop a report on the effect of the bill's provisions.
- Local boards of health will realize costs to update policies and materials, and to respond to any complaints related to the bill's requirements. They may also experience costs to provide staff training if necessary. However, local boards may realize revenue from any fines collected for violating provisions of the bill.

Detailed Analysis

The bill requires a food service operation to denote on its menu or menu board the food items that contain common food allergens. In particular, the bill requires food service operations to denote food items containing milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, or soybeans. Current law defines a "food service operation" as a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation (e.g., restaurant, catering food service operation, food delivery sales operation, food trucks, etc.). With respect to a catering food service operation, the operation must inform its patrons, in a reasonable manner, of the food items that include those allergens.

The bill also requires the Ohio Department of Health (ODH) to adopt rules establishing a high sodium warning icon to be displayed next to the name of any standard menu item with high sodium content no less than one year after the effective date. No less than two years after the effective date of the bill, the bill requires the owner or operator of a chain food service operation to display prominently, clearly, and conspicuously on the operation's menu or menu board (1) the

high sodium warning icon established in rules by ODH immediately adjacent to each standard menu item with high sodium content and (2) a minimum of one factual warning statement to explain the high sodium warning icon. Additionally, any individuals serving a standard chain service operation must (1) ask a customer at the time of order whether that customer has a food allergy and (2) communicate the sodium content of any standard menu item to a customer on request. No later than one year after the effective date, ODH must publish on its website guidance explaining these requirements and rules and the manner in which chain food services must comply with the requirements.

The bill requires licensors (typically local boards of health) to confirm that an operation is in compliance with these requirements over the course of inspections. Local boards of health must assess a civil penalty of not more than \$500 for a violation of these requirements. Additionally, ODH must establish a process for members of the public to submit a complaint regarding noncompliance. Finally, not less than six years after the effective date of the bill, the bill requires ODH to review evidence of the impact of this section on standard menu item reformulation and consumer behavior and issue a report that shall be published on their website. The report must also include recommendations of additional nutrients that should be considered for menu warning icons.

Fiscal impact

ODH provides technical assistance regarding food safety operations to local boards of health. Local boards, in turn, are responsible for licensing and inspecting food service operations in their jurisdiction. As a result of the bill, ODH will realize rule promulgation costs to establish the rules required by the bill. ODH will also realize administrative costs to develop and establish the high sodium content warning icon and guidance regarding requirements, and a process for the public to submit complaints. There will also be administrative costs for ODH to study the impact this bill has on standard menu item reformulation and consumer behavior and developing a report based on this evidence.

Local boards may realize costs to update materials, such as updating licensing and inspection forms. Local boards may also realize costs to train staff and to investigate any complaints regarding the bill's provisions. The total costs will depend on a number of factors, including the changes to the inspection process due to the bill's requirements and the number of complaints received. While the number of possible complaints is unknown, there are a significant number of chain restaurants in Ohio. Local boards charge fees for licensing food service operations that help cover administrative and regulatory costs. Additionally, boards of health may receive civil fines for any violations of the bill's requirements.¹

Synopsis of Fiscal Effect Changes

The As Introduced version of bill requires a food service operation to denote on its menu or menu board the food items that contain common food allergens.

¹ According to R.C. 3717.50(D), of the fines collected, 50% will be deposited in an appropriate fund created for the board's use in administering the provisions and rules applicable to food service operations. The other 50% of fines will be deposited in the general fund of the political subdivision in which the case is prosecuted.

The substitute bill (I_136_0539-2) makes several additions. It requires the Ohio Department of Health (ODH) to adopt rules establishing a high sodium warning icon and accompanying text to be displayed next to the name of any standard menu item with high sodium content at a chain food service operation. The substitute bill requires the owner or operator of a chain food service operation to display on the operation's menus certain information regarding high sodium content food, including the high sodium warning icon. The substitute bill requires a local board of health or the ODH Director to inspect for compliance with the above requirements and to assess a civil penalty of up to \$500 for a violation. Finally, the substitute bill requires ODH to review evidence of the impact of the amendment's provisions on standard menu item reformulation and consumer behavior and issue a report. ODH will realize additional administrative and rule promulgation costs under the substitute bill. Local boards of health may also realize additional costs to update materials, train staff, and investigate any complaints. However, local boards may receive revenue from fines.

The substitute bill also requires any individuals serving a standard chain service operation to (1) ask a customer at the time of order whether that customer has a food allergy and (2) communicate the sodium content of any standard menu item to a customer on request. There would be additional fiscal costs resulting from these provisions. The total costs will depend on a number of factors, including the changes to the inspection process due to the bill's requirements and the number of complaints received. While the number of possible complaints is not known, there are a significant number of chain restaurants in Ohio.