



CHAPTER 39
ADDED SUGAR WARNING

§ 39-01. Added Sugar Warning.

- (a) Definitions. When used in this section the following words and terms have the following meanings:
- (1) *Added sugars* has the meaning set forth in title 21, section 101.9 (c)(6)(iii) of the code of federal regulations, or any successor regulations.
 - (2) *Combination meal* has the meaning set forth in section 81.49 of the Health Code.
 - (3) *Covered establishment* means any food service establishment inspected pursuant to the restaurant grading program established pursuant to subdivision a of section 81.51 of the Health Code that is part of a chain with 15 or more locations doing business under the same name and offering for sale substantially the same food items.
 - (4) *Covered food item with a high added sugars content* means any prepackaged food item or food item identical to a prepackaged food item for which a serving size contains added sugars in an amount that is equal to or more than the Daily Value for added sugars, or any combination meal for which any combination of food items available to the consumer contains added sugars in an amount that is equal to or more than the Daily Value for added sugars.
 - (5) *Daily Value for added sugars* means the daily reference value established in title 21, section 101.9(c)(9) of the code of federal regulations, or any successor regulation, for adults and children aged 4 years and older.
 - (6) *Food* has the meaning set forth in article 71 of the Health Code.
 - (7) *Food item on display* means any food item that is visible to the customer before the customer makes a selection.
 - (8) *Identical to prepackaged food item* means a food item offered by a food service establishment that is not prepackaged but has the same product name and is promoted, advertised, or presented as substantially the same as a prepackaged food item offered under the same brand name, whether in the covered establishment or in a retail location, as determined by the Department. Such items include, for example, fountain sodas, coffee beverages, salad dressings and dessert products.
 - (9) *Menu or menu board* has the meaning set forth in section 81.49 of the Health Code.
 - (10) *Menu item* means any individual food item or combination of food items listed on a menu or menu board, as well as any temporary menu item or variable menu item. Temporary menu item and variable menu item have the meanings set forth in section 81.49 of the Health Code.
 - (11) *Point of purchase* has the meaning set forth in section 81.49 of the Health Code.
 - (12) *Prepackaged food item* means any food item that is packaged by the manufacturer and required to have a Nutrition Facts label pursuant to title 21, part 101 of the code of federal regulations, or any successor regulations.
 - (13) *Self-Service food* has the meaning set forth in section 81.50 of the Health Code.
- (b) *Required warning icon.* A covered establishment that offers for sale any covered food item with a high added sugars content must display an added sugar warning icon as follows:
- (1) The added sugar warning icon must appear on any menu or menu board next to the name of any covered food item with a high added sugars content, and on a tag next to any food item on display that is a covered food item with a high added sugars content: 
 - (2) The added sugar warning icon must be a black and white triangle with an image of a spoon bearing a heap of sugar and must be the same size and font and be equal in height to the largest

letter in the name of the covered food item with a high added sugars content, as displayed on the menu, menu board, or tag next to any food item on display that is a covered food item with a high added sugars content; and

- (c) *Required warning statement.* The following statement must be posted prominently and conspicuously at the point of purchase, on the menu or menu board, and at any location where a food item requiring

an icon pursuant to this subdivision is sold as a self-service food: “Warning:  indicates that the added sugars content of this item is equal to or higher than the total daily recommended limit of added sugars for a 2,000 calorie diet (50g). Eating or drinking high amounts of added sugars over time can increase risk of type 2 diabetes, weight gain, and tooth decay.”

- (d) *Sugar density of identical to prepackaged food items.* For the purposes of this chapter, a food item that is identical to a prepackaged food item will be presumed to have the same density of added sugars as is displayed on the Nutrition Facts label of the corresponding prepackaged food item, unless the food service establishment demonstrates otherwise to the satisfaction of the Department.
- (e) *Severability.* If any provision of this section, or its application to any person or circumstance, is held invalid by any court of competent jurisdiction, the remaining provisions or application of the section to other persons or circumstances shall not be affected.