

9026

2009-2010 Regular Sessions

I N   A S S E M B L Y

June 19, 2009

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Introduced by M. of A. ORTIZ, GOTTFRIED -- read once and referred to the  
Committee on Health

AN ACT to amend the public health law and a chapter of the laws of 2009,  
amending the public health law relating to prohibiting certain restau-  
rants and food establishments from serving foods containing artificial  
trans fat, as proposed in legislative bills numbers S.5937 and A.6359,  
in relation to prohibiting certain restaurants and food establishments  
from serving foods containing artificial trans fat

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 1352-d of the public health law, as amended by a  
2 chapter of the laws of 2009, amending the public health law relating to  
3 prohibiting certain restaurants and food establishments from serving  
4 foods containing artificial trans fat, as proposed in legislative bills  
5 numbers S.5937 and A.6359, is amended to read as follows:  
6     S 1352-d. Artificial trans fat; prohibition.     1. No food containing  
7 artificial trans fat, as defined in this section, shall be stored,  
8 distributed, held for service, used in preparation of any menu item,  
9 served or sold in any restaurants, food service establishments, MOBILE  
10 FOOD SERVICE ESTABLISHMENTS, mobile food service establishment commis-  
11 saries, retail food stores as defined in section five hundred of the  
12 agriculture and markets law, and other food establishments, subject to  
13 the provisions of section thirteen hundred fifty-one of this title,  
14 except food that is served or sold directly to patrons in a manufactur-  
15 er's original sealed package THAT BEARS A NUTRITION FACTS LABEL CONSIST-  
16 ENT WITH FEDERAL LAW AND REGULATION.  
17     2. For the purposes of this section, a food shall be deemed to contain  
18 artificial trans fat if the food is labeled as, lists as an ingredient,  
19 or contains vegetable shortening, margarine or any kind of partially  
20 hydrogenated vegetable oil. However, a food whose nutrition facts label  
21 or other documentation from the manufacturer lists the trans fat content  
22 of the food as less than 0.5 grams per serving[, ] shall not be deemed  
23 to contain artificial trans fat. This section shall not apply to foods  
24 containing only naturally occurring trans fat.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 3. The commissioner is authorized and directed to promulgate rules  
2 and regulations for recordkeeping and documentation by restaurants and  
3 food establishments subject to this section necessary for compliance  
4 with the provisions of this section. The commissioner shall consult with  
5 representatives of restaurants and food establishments, any county or  
6 municipal health departments that have similar laws or regulations and  
7 the commissioner of agriculture and markets, prior to promulgating any  
8 such rules or regulations and, to the maximum extent practicable, incor-  
9 porate similar rules and regulations already adopted by [other] SUCH  
10 LOCAL governments. The commissioner shall develop guidelines, including  
11 recommendations for healthier alternatives to artificial trans fat [and  
12 identification of products and suppliers of such alternatives], to  
13 assist restaurants and food establishments in complying with the  
14 provisions of this section. Such guidelines shall be made [readily]  
15 available to restaurants and food establishments UPON REQUEST and shall  
16 be provided on the department's internet website.

17 4. Notwithstanding the provisions of section thirteen hundred fifty-  
18 three of this title, the penalty for a violation of this section shall  
19 be limited to the penalty set forth in section twelve of this chapter.

20 5. The provisions of this section shall restrict the power of any  
21 county, city, town or village to adopt and enforce additional local  
22 laws, ordinances or regulations that are more stringent than the stand-  
23 ards set forth in this section and the rules and regulations promulgated  
24 pursuant thereto, except that any local law, ordinance or regulation  
25 restricting artificial trans fat adopted by any county or city, or  
26 department or agency thereof, or town or village prior to the date this  
27 section shall have become a law shall not be preempted by this section.

28 [6. This section shall take effect December thirty-first, two thousand  
29 ten with respect to oils, shortenings and margarines containing artifi-  
30 cial trans fat, and shall take effect June first, two thousand eleven  
31 with respect to all other foods containing artificial trans fat.]

32 S 2. Section 2 of a chapter of the laws of 2009, amending the public  
33 health law relating to prohibiting certain restaurants and food estab-  
34 lishments from serving foods containing artificial trans fat, as  
35 proposed in legislative bills numbers S.5937 and A.6359, is amended to  
36 read as follows:

37 S 2. This act shall take effect ON THE ONE HUNDRED EIGHTIETH DAY AFTER  
38 IT SHALL HAVE BECOME A LAW WITH RESPECT TO OILS, SHORTENINGS AND MARGA-  
39 RINES CONTAINING ARTIFICIAL TRANS FAT THAT ARE USED FOR FRYING OR IN  
40 SPREADS, AND SHALL TAKE EFFECT December 31, 2010 WITH RESPECT TO OILS OR  
41 SHORTENINGS USED FOR DEEP FRYING OF YEAST DOUGH OR CAKE BATTER AND ALL  
42 OTHER FOODS CONTAINING ARTIFICIAL TRANS FAT, provided, that effective  
43 immediately, the addition, amendment and/or repeal of any rule or regu-  
44 lation necessary for the implementation of this act on its effective  
45 date is authorized to be made and completed on or before such date; and  
46 provided, further, that subdivision 5 of section 1352-d of the public  
47 health law, as added by section one of this act, shall expire and be  
48 deemed repealed December 31, 2021.

49 S 3. This act shall take effect immediately; provided that section one  
50 of this act shall take effect on the same date and in the same manner as  
51 a chapter of the laws of 2009, amending the public health law relating  
52 to prohibiting certain restaurants and food establishments from serving  
53 foods containing artificial trans fat, as proposed in legislative bills  
54 numbers S.5937 and A.6359, takes effect.