S T A T E O F N E W Y O R K

6922

I N S E N A T E

February 25, 2010

Introduced by Sen. DUANE -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting certain restaurants and food establishments from serving foods containing artificial trans fat; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. The public health law is amended by adding a new section 1352-d to read as follows:

S 1352-D. ARTIFICIAL TRANS FAT; PROHIBITION. 1. NO FOOD CONTAINING ARTIFICIAL TRANS FAT, AS DEFINED IN THIS SECTION, SHALL BE STORED, DISTRIBUTED, HELD FOR SERVICE, USED IN PREPARATION OF ANY MENU ITEM, SERVED OR SOLD IN ANY RESTAURANTS, FOOD SERVICE ESTABLISHMENTS, MOBILE FOOD SERVICE ESTABLISHMENTS, MOBILE FOOD SERVICE ESTABLISHMENT COMMISSARIES, RETAIL FOOD STORES AS DEFINED IN SECTION FIVE HUNDRED OF THE AGRICULTURE AND MARKETS LAW, AND OTHER FOOD ESTABLISHMENTS, SUBJECT TO THE PROVISIONS OF SECTION THIRTEEN HUNDRED FIFTY-ONE OF THIS TITLE, EXCEPT FOOD THAT IS SERVED OR SOLD DIRECTLY TO PATRONS IN A MANUFACTURER'S ORIGINAL SEALED PACKAGE THAT BEARS A NUTRITION FACTS LABEL CONSISTENT WITH FEDERAL LAW AND REGULATION.

2. FOR THE PURPOSES OF THIS SECTION, A FOOD SHALL BE DEEMED TO CONTAIN ARTIFICIAL TRANS FAT IF THE FOOD IS LABELED AS, LISTS AS AN INGREDIENT, OR CONTAINS VEGETABLE SHORTENING, MARGARINE OR ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL. HOWEVER, A FOOD WHOSE NUTRITION FACTS LABEL OR OTHER DOCUMENTATION FROM THE MANUFACTURER LISTS THE TRANS FAT CONTENT OF THE FOOD AS LESS THAN 0.5 GRAMS PER SERVING SHALL NOT BE DEEMED TO CONTAIN ARTIFICIAL TRANS FAT. THIS SECTION SHALL NOT APPLY TO FOODS CONTAINING ONLY NATURALLY OCCURRING TRANS FAT.

3. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGULATIONS FOR RECORDKEEPING AND DOCUMENTATION BY RESTAURANTS AND FOOD ESTABLISHMENTS SUBJECT TO THIS SECTION NECESSARY FOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. THE COMMISSIONER SHALL CONSULT WITH

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

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REPRESENTATIVES OF RESTAURANTS AND FOOD ESTABLISHMENTS, ANY COUNTY OR MUNICIPAL HEALTH DEPARTMENTS THAT HAVE SIMILAR LAWS OR REGULATIONS AND THE COMMISSIONER OF AGRICULTURE AND MARKETS, PRIOR TO PROMULGATING ANY SUCH RULES OR REGULATIONS AND, TO THE MAXIMUM EXTENT PRACTICABLE, INCORPORATE SIMILAR RULES AND REGULATIONS ALREADY ADOPTED BY SUCH LOCAL GOVERNMENTS. THE COMMISSIONER SHALL DEVELOP GUIDELINES, INCLUDING RECOMMENDATIONS FOR HEALTHIER ALTERNATIVES TO ARTIFICIAL TRANS FAT, TO ASSIST RESTAURANTS AND FOOD ESTABLISHMENTS IN COMPLYING WITH THE PROVISIONS OF THIS SECTION. SUCH GUIDELINES SHALL BE MADE AVAILABLE TO RESTAURANTS AND FOOD ESTABLISHMENTS UPON REQUEST AND SHALL BE PROVIDED ON THE DEPARTMENT'S INTERNET WEBSITE.

4. NOTWITHSTANDING THE PROVISIONS OF SECTION THIRTEEN HUNDRED FIFTY-THREE OF THIS TITLE, THE PENALTY FOR A VIOLATION OF THIS SECTION SHALL BE LIMITED TO THE PENALTY SET FORTH IN SECTION TWELVE OF THIS CHAPTER.

5. THE PROVISIONS OF THIS SECTION SHALL RESTRICT THE POWER OF ANY COUNTY, CITY, TOWN OR VILLAGE TO ADOPT AND ENFORCE ADDITIONAL LOCAL LAWS, ORDINANCES OR REGULATIONS THAT ARE MORE STRINGENT THAN THE STANDARDS SET FORTH IN THIS SECTION AND THE RULES AND REGULATIONS PROMULGATED PURSUANT THERETO, EXCEPT THAT ANY LOCAL LAW, ORDINANCE OR REGULATION RESTRICTING ARTIFICIAL TRANS FAT ADOPTED BY ANY COUNTY OR CITY, OR DEPARTMENT OR AGENCY THEREOF, OR TOWN OR VILLAGE PRIOR TO THE DATE THIS SECTION SHALL HAVE BECOME A LAW SHALL NOT BE PREEMPTED BY THIS SECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law with respect to oils, shortenings and margarines containing artificial trans fat that are used for frying or in spreads, and shall take effect December 31, 2011 with respect to oils or shortenings used for deep frying of yeast dough or cake batter and all other foods containing artificial trans fat, provided, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made and completed on or before such date; and provided, further, that subdivision 5 of section 1352-d of the public health law, as added by section one of this act, shall expire and be deemed repealed December 31, 2022.