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I N   S E N A T E

February 25, 2010

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The public health law is amended by adding a new section  
2     1352-d to read as follows:  
3     S 1352-D. ARTIFICIAL TRANS FAT; PROHIBITION. 1. NO FOOD CONTAINING  
4     ARTIFICIAL TRANS FAT, AS DEFINED IN THIS SECTION, SHALL BE STORED,  
5     DISTRIBUTED, HELD FOR SERVICE, USED IN PREPARATION OF ANY MENU ITEM,  
6     SERVED OR SOLD IN ANY RESTAURANTS, FOOD SERVICE ESTABLISHMENTS, MOBILE  
7     FOOD SERVICE ESTABLISHMENTS, MOBILE FOOD SERVICE ESTABLISHMENT COMMIS-  
8     SARIES, RETAIL FOOD STORES AS DEFINED IN SECTION FIVE HUNDRED OF THE  
9     AGRICULTURE AND MARKETS LAW, AND OTHER FOOD ESTABLISHMENTS, SUBJECT TO  
10    THE PROVISIONS OF SECTION THIRTEEN HUNDRED FIFTY-ONE OF THIS TITLE,  
11    EXCEPT FOOD THAT IS SERVED OR SOLD DIRECTLY TO PATRONS IN A MANUFACTUR-  
12    ER'S ORIGINAL SEALED PACKAGE THAT BEARS A NUTRITION FACTS LABEL CONSIST-  
13    ENT WITH FEDERAL LAW AND REGULATION.  
14    2. FOR THE PURPOSES OF THIS SECTION, A FOOD SHALL BE DEEMED TO CONTAIN  
15    ARTIFICIAL TRANS FAT IF THE FOOD IS LABELED AS, LISTS AS AN INGREDIENT,  
16    OR CONTAINS VEGETABLE SHORTENING, MARGARINE OR ANY KIND OF PARTIALLY  
17    HYDROGENATED VEGETABLE OIL. HOWEVER, A FOOD WHOSE NUTRITION FACTS LABEL  
18    OR OTHER DOCUMENTATION FROM THE MANUFACTURER LISTS THE TRANS FAT CONTENT  
19    OF THE FOOD AS LESS THAN 0.5 GRAMS PER SERVING SHALL NOT BE DEEMED TO  
20    CONTAIN ARTIFICIAL TRANS FAT. THIS SECTION SHALL NOT APPLY TO FOODS  
21    CONTAINING ONLY NATURALLY OCCURRING TRANS FAT.  
22    3. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE RULES  
23    AND REGULATIONS FOR RECORDKEEPING AND DOCUMENTATION BY RESTAURANTS AND  
24    FOOD ESTABLISHMENTS SUBJECT TO THIS SECTION NECESSARY FOR COMPLIANCE  
25    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.

LBD12178-02-0

1 REPRESENTATIVES OF RESTAURANTS AND FOOD ESTABLISHMENTS, ANY COUNTY OR  
2 MUNICIPAL HEALTH DEPARTMENTS THAT HAVE SIMILAR LAWS OR REGULATIONS AND  
3 THE COMMISSIONER OF AGRICULTURE AND MARKETS, PRIOR TO PROMULGATING ANY  
4 SUCH RULES OR REGULATIONS AND, TO THE MAXIMUM EXTENT PRACTICABLE, INCOR-  
5 PORATE SIMILAR RULES AND REGULATIONS ALREADY ADOPTED BY SUCH LOCAL  
6 GOVERNMENTS. THE COMMISSIONER SHALL DEVELOP GUIDELINES, INCLUDING RECOM-  
7 MENDATIONS FOR HEALTHIER ALTERNATIVES TO ARTIFICIAL TRANS FAT, TO ASSIST  
8 RESTAURANTS AND FOOD ESTABLISHMENTS IN COMPLYING WITH THE PROVISIONS OF  
9 THIS SECTION. SUCH GUIDELINES SHALL BE MADE AVAILABLE TO RESTAURANTS AND  
10 FOOD ESTABLISHMENTS UPON REQUEST AND SHALL BE PROVIDED ON THE DEPART-  
11 MENT'S INTERNET WEBSITE.

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

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

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