

10665

I N   A S S E M B L Y

April 13, 2010

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Introduced by M. of A. ORTIZ, GOTTFRIED -- (at request of the Governor)  
-- read once and referred 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:

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  
26    REPRESENTATIVES OF RESTAURANTS AND FOOD ESTABLISHMENTS, ANY COUNTY OR

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

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

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

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

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