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

2822

2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sen. HANNON -- 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

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. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGULATIONS PROHIBITING RESTAURANTS AND FOOD ESTABLISHMENTS SUBJECT TO THE PROVISIONS OF SECTION THIRTEEN HUNDRED FIFTY-ONE OF THIS TITLE FROM OFFERING, SERVING, DISTRIBUTING, STORING, HOLDING OR USING IN THE PREPARATION OF ANY MENU ITEM, FOODS CONTAINING ARTIFICIAL TRANS FAT. SUCH REGULATIONS SHALL NOT APPLY TO FOOD:

A. SOLD OR SERVED DIRECTLY TO CONSUMERS IN THE ORIGINAL SEALED PACKAGE PROVIDED SUCH FOOD WAS PURCHASED OR OBTAINED BY THE FOOD ESTABLISHMENT OR RESTAURANT IN THE ORIGINAL SEALED PACKAGE AND IS LABELED WITH FEDERAL NUTRIENT FACTS; OR

B. CONTAINING LESS THAN 0.5 GRAMS OF ARTIFICIAL TRANS FAT PER SERVING; OR

C. CONTAINING ONLY NATURAL TRANS FAT.

2. FOR THE PURPOSES OF THIS SECTION, "TRANS FAT" SHALL HAVE THE SAME MEANING AS USED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION; ARTIFICIAL TRANS FAT SHALL NOT INCLUDE NATURALLY OCCURRING TRANS FAT AND FOOD SHALL BE DEEMED TO CONTAIN ARTIFICIAL TRANS FAT IF THE FOOD IS LABELED AS, LISTS AS AN INGREDIENT, OR CONTAINS ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL INCLUDING, BUT NOT LIMITED TO, VEGETABLE SHORTENING OR MARGARINE.

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

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3. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGULATIONS FOR RECORDKEEPING AND DOCUMENTATION BY RESTAURANTS AND FOOD ESTABLISHMENTS NECESSARY FOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. THE COMMISSIONER SHALL CONSULT WITH REPRESENTATIVES OF RESTAURANTS AND FOOD ESTABLISHMENTS, AND ANY COUNTY OR MUNICIPAL HEALTH DEPARTMENTS THAT HAVE SIMILAR LAWS OR REGULATIONS, PRIOR TO PROMULGATING ANY SUCH RULES OR REGULATIONS AND, TO THE MAXIMUM EXTENT PRACTICABLE, INCORPORATE SIMILAR RULES AND REGULATIONS ALREADY ADOPTED BY OTHER GOVERNMENTS. THE COMMISSIONER SHALL DEVELOP GUIDELINES, INCLUDING RECOMMENDATIONS FOR HEALTHIER ALTERNATIVES TO ARTIFICIAL TRANS FAT AND IDENTIFICATION OF PRODUCTS AND SUPPLIERS OF SUCH ALTERNATIVES, TO ASSIST RESTAURANTS AND FOOD ESTABLISHMENTS IN COMPLYING WITH THE PROVISIONS OF THIS SECTION. SUCH GUIDELINES SHALL BE MADE READILY AVAILABLE TO RESTAURANTS AND FOOD ESTABLISHMENTS 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 NOT RESTRICT THE POWER OF ANY COUNTY, CITY, TOWN OR VILLAGE TO ADOPT AND ENFORCE ADDITIONAL LOCAL LAWS, ORDINANCES OR REGULATIONS WHICH COMPLY WITH AT LEAST THE MINIMUM APPLICABLE STANDARDS SET FORTH IN THIS SECTION AND THE RULES AND REGULATIONS PROMULGATED PURSUANT THERETO.

S 2. This act shall take effect December 31, 2010, provided, however, 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.