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

2824

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 Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting restaurants from selling foods containing trans fats and requiring the posting of calorie, fat and sodium content in food items sold

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

Section 1. The general business law is amended by adding two new sections 396-ii and 396-jj to read as follows:

S 396-II. RESTAURANTS; NOTIFICATION OF CALORIES, FAT AND SODIUM CONTENT IN FOODS. 1. ANY CHAIN RESTAURANT OR FRANCHISE, OR CHAIN FOOD SERVICE ESTABLISHMENT WHERE FOOD IS PREPARED OR COOKED AND OFFERED FOR SALE TO THE PUBLIC FOR CONSUMPTION ON PREMISES, INCLUDING ANY RESTAURANT WHICH DOES NOT SUPPLY TABLE SERVICE BUT COUNTER SERVICE ONLY, SHALL LIST ADJACENT TO EACH FOOD ITEM ON THE STANDARD PRINTED MENU, THE TOTAL NUMBER OF CALORIES, GRAMS OF SATURATED AND TRANS FAT, AND MILLIGRAMS OF SODIUM PER SERVING, AS USUALLY PREPARED AND OFFERED FOR SALE, IN A CLEAR AND CONSPICUOUS MANNER. FOR FOOD OFFERED FOR SALE IN A CHAIN RESTAURANT OR CHAIN FOOD SERVICE ESTABLISHMENT THAT USES ONLY MENU BOARDS OR SIMILAR SIGNS, SUCH INFORMATION SHALL BE LISTED ADJACENT TO EACH FOOD ITEM LISTED ON THE STANDARD MENU BOARD OR SIGN, AND SUCH MENU BOARD OR SIGN SHALL BE CLEAR AND CONSPICUOUS TO THE PUBLIC AND WITHIN REASONABLE DISTANCE FROM THE MAIN ENTRANCE OF THE RESTAURANT OR OTHER ESTABLISHMENT.

2. A VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL FINE NOT EXCEEDING FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOUSAND DOLLARS FOR EVERY SUBSEQUENT VIOLATION.

3. ANY RESTAURANT OR FOOD SERVICE ESTABLISHMENT PRIVATELY OWNED SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION.

S 396-JJ. RESTAURANTS; TRANS FATS PROHIBITED. 1. ANY RESTAURANT OR OTHER FOOD SERVICE ESTABLISHMENT WHERE FOOD IS PREPARED OR COOKED AND

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

LBD03394-02-9

OFFERED FOR SALE TO THE PUBLIC FOR CONSUMPTION ON PREMISES SHALL NOT UTILIZE ANY TRANS FATS IN THE PREPARATION OR COOKING OF ANY FOOD ITEM OFFERED FOR SALE IN SUCH ESTABLISHMENT AND SHALL NOT OFFER FOR SALE OR SERVE ANY FOOD CONTAINING ANY TRANS FATS.

2. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE RESPONDENT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE RESPONDENT HAS, IN FACT, VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF FIFTY DOLLARS FOR EACH DAY THAT SUCH VIOLATION OCCURS, BUT IN NO EVENT SHALL THE TOTAL PENALTY THEREFORE EXCEED FIVE HUNDRED DOLLARS. IN CONNECTION WITH ANY SUCH APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES. FOOD ITEMS SHALL BE ANALYZED FOR CALORIE, SATURATED AND TRANS FAT, CARBOHYDRATE AND SODIUM CONTENT USING METHODS APPROVED BY THE COMMISSIONER OF PUBLIC HEALTH.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.