

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. ORTIZ -- 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.

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

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

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

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

28 S 2. This act shall take effect on the one hundred eightieth day after
29 it shall have become a law with respect to oils, shortenings and margar-
30 ines containing artificial trans fat that are used for frying or in
31 spreads, and shall take effect December 31, 2012 with respect to oils or
32 shortenings used for deep frying of yeast dough or cake batter and all
33 other foods containing artificial trans fat, provided, that effective
34 immediately, the addition, amendment and/or repeal of any rule or regu-
35 lation necessary for the implementation of this act on its effective
36 date is authorized to be made and completed on or before such date; and
37 provided, further, that subdivision 5 of section 1352-d of the public
38 health law, as added by section one of this act, shall expire and be
39 deemed repealed December 31, 2023.