

2011-2012 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 5, 2011

---

Introduced by M. of A. ORTIZ, GOTTFRIED -- 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 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 ESTABLISHMENT COMMISSARIES, RETAIL FOOD STORES AS DEFINED  
8     IN SECTION FIVE HUNDRED OF THE AGRICULTURE AND MARKETS LAW, AND OTHER  
9     FOOD ESTABLISHMENTS, SUBJECT TO THE PROVISIONS OF SECTION THIRTEEN  
10    HUNDRED FIFTY-ONE OF THIS TITLE, EXCEPT FOOD THAT IS SERVED OR SOLD  
11    DIRECTLY TO PATRONS IN A MANUFACTURER'S ORIGINAL SEALED PACKAGE.  
12    2. FOR THE PURPOSES OF THIS SECTION, A FOOD SHALL BE DEEMED TO CONTAIN  
13    ARTIFICIAL TRANS FAT IF THE FOOD IS LABELED AS, LISTS AS AN INGREDIENT,  
14    OR CONTAINS VEGETABLE SHORTENING, MARGARINE OR ANY KIND OF PARTIALLY  
15    HYDROGENATED VEGETABLE OIL. HOWEVER, A FOOD WHOSE NUTRITION FACTS LABEL  
16    OR OTHER DOCUMENTATION FROM THE MANUFACTURER LISTS THE TRANS FAT CONTENT  
17    OF THE FOOD AS LESS THAN 0.5 GRAMS PER SERVING, SHALL NOT BE DEEMED TO  
18    CONTAIN ARTIFICIAL TRANS FAT. THIS SECTION SHALL NOT APPLY TO FOODS  
19    CONTAINING ONLY NATURALLY OCCURRING TRANS FAT.  
20    3. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE RULES  
21    AND REGULATIONS FOR RECORDKEEPING AND DOCUMENTATION BY RESTAURANTS AND  
22    FOOD ESTABLISHMENTS SUBJECT TO THIS SECTION NECESSARY FOR COMPLIANCE

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

LBD03629-01-1

1 WITH THE PROVISIONS OF THIS SECTION. THE COMMISSIONER SHALL CONSULT WITH  
2 REPRESENTATIVES OF RESTAURANTS AND FOOD ESTABLISHMENTS, ANY COUNTY OR  
3 MUNICIPAL HEALTH DEPARTMENTS THAT HAVE SIMILAR LAWS OR REGULATIONS AND  
4 THE COMMISSIONER OF AGRICULTURE AND MARKETS, PRIOR TO PROMULGATING ANY  
5 SUCH RULES OR REGULATIONS AND, TO THE MAXIMUM EXTENT PRACTICABLE, INCOR-  
6 PORATE SIMILAR RULES AND REGULATIONS ALREADY ADOPTED BY OTHER GOVERN-  
7 MENTS. THE COMMISSIONER SHALL DEVELOP GUIDELINES, INCLUDING RECOMMENDA-  
8 TIONS FOR HEALTHIER ALTERNATIVES TO ARTIFICIAL TRANS FAT AND  
9 IDENTIFICATION OF PRODUCTS AND SUPPLIERS OF SUCH ALTERNATIVES, TO ASSIST  
10 RESTAURANTS AND FOOD ESTABLISHMENTS IN COMPLYING WITH THE PROVISIONS OF  
11 THIS SECTION. SUCH GUIDELINES SHALL BE MADE READILY AVAILABLE TO RESTAU-  
12 RANTS AND FOOD ESTABLISHMENTS AND SHALL BE PROVIDED ON THE DEPARTMENT'S  
13 INTERNET WEBSITE.

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

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

26 6. THIS SECTION SHALL TAKE EFFECT DECEMBER THIRTY-FIRST, TWO THOUSAND  
27 TWELVE WITH RESPECT TO OILS, SHORTENINGS AND MARGARINES CONTAINING ARTI-  
28 FICIAL TRANS FAT, AND SHALL TAKE EFFECT JUNE FIRST, TWO THOUSAND THIR-  
29 TEEN WITH RESPECT TO ALL OTHER FOODS CONTAINING ARTIFICIAL TRANS FAT.

30 S 2. This act shall take effect December 31, 2012, provided, that  
31 effective immediately, the addition, amendment and/or repeal of any rule  
32 or regulation necessary for the implementation of this act on its effec-  
33 tive date is authorized to be made and completed on or before such date;  
34 and provided, further, that subdivision 5 of section 1352-d of the  
35 public health law, as added by section one of this act, shall expire and  
36 be deemed repealed December 31, 2023.