

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 251 (Senator Muse, *et al.*)
Education, Health, and Environmental Affairs

**Public Schools and Institutions of Higher Education - Artificial Trans Fat -
Prohibition**

This bill prohibits a public school or a public institution of higher education from storing, distributing, holding for service, using in the preparation of any menu item, or serving food containing artificial trans fat. “Artificial trans fat” is defined as the specific type of fat formed by adding hydrogen to liquid vegetable oil to make the oil more solid, and it includes partially hydrogenated vegetable shortening, margarine, and vegetable oil.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Any additional costs related to purchasing artificially produced trans fat-free food are not expected to materially affect the budgets of public four-year institutions of higher education and Baltimore City Community College. Revenues are not affected.

Local Effect: Federal regulations require foods served in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) to contain zero grams of trans fat per serving. It is assumed that the standard for prohibiting trans fat under this bill will be the same. Thus, local school system budgets are not affected. Any additional costs related to purchasing artificially produced trans fat-free food are not expected to materially affect the budgets of local community colleges. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: Federal regulations issued under the federal Healthy, Hunger-Free Kids Act of 2010 have essentially banned trans fat from foods offered by all schools participating in the NSLP and SBP. As of July 1, 2012, labels or manufacturer specifications must indicate zero grams of trans fats per serving (*i.e.*, not more than 0.5 grams) for all foods offered by the NSLP, and as July 1, 2013, all foods offered by the SBP must meet the same standards.

Additionally, the federal Healthy, Hunger-Free Kids Act of 2010 required the creation of nutrition standards for all foods sold in schools. The Interim Final Rule for these standards was published in the *Federal Register* on June 28, 2013, and will be implemented on July 1, 2014. This rule covers all foods sold on the school campus from 12:01 a.m. through 30 minutes past the instructional day. The standard outline nutrient guidelines for a la carte items through the School Meals program as well as foods offered in vending machines, school stores, and fundraisers. The rule specifies that all foods must have zero grams of trans fats per serving as packaged or served (*i.e.*, not more than 0.5 grams per portion).

Background: Trans fat increases a person's low-density lipoprotein – also known as “bad cholesterol” – levels, which increases a person's risk of coronary heart disease.

Trans fat is made when hydrogen is added to vegetable oil. Food manufacturers use trans fat because it increases a food's shelf life and stabilizes its flavors, according to the U.S. Food and Drug Administration (FDA). Trans fat can be found in vegetable shortenings, some margarines, crackers, cookies, snack foods, and other foods that are made with or fried in partially hydrogenated oils. In 1999, FDA first proposed that manufacturers be required to declare the amount of trans fat on Nutrition Fact labels because of public health concerns. FDA has required food manufacturers to list trans fat on all their products on the Nutrition Facts panel directly under the line for saturated fat since 2006.

During the 2009 legislative interim, the Department of Health and Mental Hygiene (DHMH) convened a workgroup to study issues related to trans fat prohibition and menu labeling requirements in restaurants. In January 2010, DHMH reported that the department does not support such a trans fat prohibition due to the failure of such a prohibition to prevent obesity, limited evidence that such a prohibition prevents cardiovascular events, and the complexity of implementation.

In 2006, the New York City Board of Health voted to require all restaurants in the city to remove artificial trans fat over an 18-month period. In July 2008, California became the first state to ban the use of trans fats by restaurants. California's law requires restaurants

to use oils, margarines, and shortenings with less than one-half a gram of trans fat per serving. At least 30 other states (including Maryland) have considered banning or restricting trans fat in food.

The Montgomery County Council approved a trans fat ban for restaurants and grocery store bakeries in May 2007. DHMH is required to investigate possible violations and take appropriate action, including civil citations or license suspensions. Baltimore City passed a ban on trans fats on March 17, 2008. In addition, Howard County recognizes restaurants that remove trans fats from their menus.

On November 7, 2013, FDA issued a preliminary determination that trans fats are not “generally recognized as safe,” which was widely seen as a precursor to a reclassification of trans fats as a “food additive,” meaning they could not be used in foods without specific regulatory authorization. This would have the effect of virtually eliminating trans fats from the U.S. food supply.

State and Local Fiscal Effect: The Department of Legislative Services (DLS) assumes that, given the increased public attention of limiting artificially produced trans fats and an increasing number of products that are available without artificially produced trans fat, food service establishments are already beginning to stock food items that comply with the artificially produced trans fat ban under the bill. This trend is expected to continue. It is assumed that a product labeled zero grams trans fat under federal regulations will meet the standards of the ban, due to fact that any other method of detecting trans fats would be prohibitively expensive and complex.

DLS advises that, given the increasing availability of trans fat-free foods, any increase in food expenditures for public institutions of higher education, including community colleges, is likely to be minimal and would likely occur regardless of whether this bill is enacted, due to increasing public concern about this food additive.

Since, federal regulations require foods served in NSLP and SBP to contain zero grams of trans fat per serving, and beginning July 1, 2014, all foods sold on the school campus from 12:01 a.m. through 30 minutes past the instructional day must have zero grams of trans fats per serving as packaged or served, local school system budgets are not affected.

Additional Information

Prior Introductions: None.

Cross File: HB 736 (Delegate Carter) – Health and Government Operations.

Information Source(s): National Conference of State Legislatures, U.S. Department of Agriculture, U.S. Food and Drug Administration, Maryland State Department of Education, Department of Health and Mental Hygiene, University System of Maryland, *New York Times*, Department of Legislative Services

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