

HOUSE BILL 91

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By: **Delegate Hubbard**

Introduced and read first time: January 23, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Food Service Facilities – Artificial Trans Fat – Prohibition**

3 FOR the purpose of providing for the types of foods that contain artificial trans fat;
4 prohibiting a food service facility from using food containing artificial trans fat
5 for certain purposes; providing for a certain exception to the use of trans fat by a
6 food service facility; requiring a food service facility to maintain on-site the
7 original label for certain food under certain circumstances; authorizing a food
8 service facility to provide certain documentation indicating the contents of a
9 food instead of providing the original label; requiring a food service facility to
10 obtain certain documentation under certain circumstances; requiring the
11 Secretary of Health and Mental Hygiene to adopt certain regulations; requiring
12 the Department of Health and Mental Hygiene to list certain food service
13 facilities on the Department's website under certain circumstances; providing
14 that a violation of this Act shall have no affect on the issuance of a certain
15 license; providing for the applicability of this Act to certain penalties; providing
16 for a delayed effective date; and generally relating to the prohibition on the use
17 of artificial trans fat in a food service facility.

18 BY repealing and reenacting, without amendments,
19 Article – Health – General
20 Section 21-301(e), (f), and (h) and 21-304(a)(1)
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2006 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 21–314, 21–315, 21–318, and 21–1214
2 Annotated Code of Maryland
3 (2005 Replacement Volume and 2006 Supplement)

4 BY adding to
5 Article – Health – General
6 Section 21–353 through 21–356 to be under the new part “Part VIII. Artificial
7 Trans Fat”
8 Annotated Code of Maryland
9 (2005 Replacement Volume and 2006 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Health – General**

13 21–301.

14 (e) “Excluded organization” means:

15 (1) A bona fide nonprofit fraternal, civic, war veterans’, religious, or
16 charitable organization or corporation that does not serve food to the public more often
17 than 4 days per week except that once a year an organization may serve food to the
18 public for up to 14 consecutive days; and

19 (2) A volunteer fire company that does not serve food to the public
20 more often than 4 days per week except that once a year a volunteer fire company may
21 serve food to the public for up to 30 consecutive days.

22 (f) “Food establishment” means:

23 (1) A food service facility; or

24 (2) A food processing plant.

25 (h) (1) “Food service facility” means:

26 (i) A place where food or drink is prepared for sale or service on
27 the premises or elsewhere; or

28 (ii) Any operation where food is served to or provided for the
29 public, with or without charge.

1 (2) "Food service facility" does not include:

2 (i) A kitchen in a private home where food is prepared at no
3 charge for guests in the home, for guests at a social gathering, or for service to
4 unemployed, homeless or other disadvantaged populations; or

5 (ii) A food preparation or serving area where only
6 nonpotentially hazardous food, as defined by the United States Food and Drug
7 Administration, is prepared or served only by an excluded organization.

8 21-304.

9 (a) (1) The Department shall adopt rules and regulations necessary to
10 carry out the provisions of this subtitle.

11 21-314.

12 (A) **THIS SECTION DOES NOT APPLY TO PART VIII OF THIS SUBTITLE.**

13 (B) If the Department finds that a food establishment is in violation of this
14 subtitle or any rule or regulation adopted under this subtitle, is in an unsanitary
15 condition, or is not equipped properly, the Secretary shall notify the licensee:

16 (1) Of the specific findings;

17 (2) Of a specific, reasonable date by which the licensee shall correct
18 the violations or deficiencies specified in the notice; and

19 (3) That, if the licensee fails to correct the conditions by the date
20 specified, the Department may suspend or revoke the license issued under this
21 subtitle.

22 21-315.

23 (A) **THIS SECTION DOES NOT APPLY TO PART VIII OF THIS SUBTITLE.**

24 (B) The Department may suspend or revoke a license issued under this
25 subtitle if the licensee:

26 (1) Violates or fails to meet the requirements of this subtitle or any
27 regulation adopted under this subtitle; or

1 (2) Fraudulently or deceptively obtains a license.

2 21-318.

3 (A) **THIS SECTION DOES NOT APPLY TO PART VIII OF THIS SUBTITLE.**

4 [(a)] (B) If the Department believes that a person is violating any provision
5 of this subtitle or of any regulation adopted under this subtitle, the Department may
6 have the person served with a written order that directs the person served to abate the
7 violation within a time specified in the order.

8 [(b)] (C) Except as otherwise provided in Title 10, Subtitle 2 of the State
9 Government Article, the Department shall give any person served with an order under
10 this section an opportunity for a hearing before the Department.

11 [(c)] (D) After a hearing under this section, the Department may affirm,
12 modify, or withdraw the order.

13 [(d)] (E) A person who is served with an order under this section may not
14 violate that order.

15 **21-351. RESERVED.**

16 **21-352. RESERVED.**

17 **PART VIII. ARTIFICIAL TRANS FAT.**

18 **21-353.**

19 (A) **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A FOOD**
20 **CONTAINS ARTIFICIAL TRANS FAT IF THE FOOD:**

21 (1) **IS LABELED AS CONTAINING VEGETABLE SHORTENING,**
22 **MARGARINE, OR ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL;**

23 (2) **LISTS VEGETABLE SHORTENING, MARGARINE, OR ANY KIND**
24 **OF PARTIALLY HYDROGENATED VEGETABLE OIL AS AN INGREDIENT; OR**

25 (3) **CONTAINS VEGETABLE SHORTENING, MARGARINE, OR ANY**
26 **KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL.**

1 **(B) A FOOD WITH A NUTRITION FACTS LABEL OR OTHER**
2 **DOCUMENTATION FROM THE MANUFACTURER THAT LISTS THE TRANS FAT**
3 **CONTENT OF THE FOOD AS LESS THAN 0.5 GRAMS PER SERVING MAY NOT BE**
4 **CONSIDERED AS CONTAINING ARTIFICIAL TRANS FAT.**

5 **21-354.**

6 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FOOD**
7 **CONTAINING ARTIFICIAL TRANS FAT MAY NOT BE STORED, DISTRIBUTED, HELD**
8 **FOR SERVICE, USED IN PREPARATION OF ANY MENU ITEM, OR SERVED IN ANY**
9 **FOOD SERVICE FACILITY.**

10 **(B) THIS SECTION DOES NOT APPLY TO FOOD THAT IS SERVED**
11 **DIRECTLY TO PATRONS IN THE ORIGINAL SEALED PACKAGE OF THE**
12 **MANUFACTURER.**

13 **21-355.**

14 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A FOOD**
15 **SERVICE FACILITY SHALL MAINTAIN ON-SITE THE ORIGINAL LABEL FOR FOOD:**

16 **(1) THAT CONTAINS FATS, OILS, OR SHORTENINGS;**

17 **(2) THAT IS REQUIRED BY FEDERAL OR STATE LAW TO HAVE A**
18 **LABEL WHEN PURCHASED BY A FOOD SERVICE FACILITY; AND**

19 **(3) THAT IS STORED, DISTRIBUTED, HELD FOR SERVICE, USED IN**
20 **PREPARATION OF ANY MENU ITEMS, OR SERVED BY THE FOOD SERVICE**
21 **FACILITY.**

22 **(B) A FOOD SERVICE FACILITY MAY PROVIDE DOCUMENTATION**
23 **ACCEPTABLE TO THE DEPARTMENT FROM THE MANUFACTURER OF A FOOD,**
24 **INDICATING WHETHER THE FOOD CONTAINS VEGETABLE SHORTENING,**
25 **MARGARINE, ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL, OR**
26 **INDICATING TRANS FAT CONTENT.**

27 **(C) (1) IF A FOOD THAT IS RESTRICTED UNDER § 21-354 OF THIS**
28 **PART CONTAINS FATS, OILS, OR SHORTENINGS AND THE FOOD IS NOT REQUIRED**
29 **TO BE LABELED WHEN PURCHASED, A FOOD SERVICE FACILITY SHALL OBTAIN**

1 AND MAINTAIN DOCUMENTATION FROM THE MANUFACTURER OF THE FOOD
2 INDICATING WHETHER THE FOOD CONTAINS VEGETABLE SHORTENING,
3 MARGARINE, ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL, OR
4 INDICATING TRANS FAT CONTENT.

5 (2) THE SECRETARY SHALL ADOPT REGULATIONS THAT PROVIDE
6 FOR THE DOCUMENTATION TO BE OBTAINED BY A FOOD SERVICE FACILITY
7 FROM THE MANUFACTURER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

8 **21-356.**

9 (A) (1) THE DEPARTMENT SHALL LIST ON THE DEPARTMENT'S
10 WEBSITE A FOOD SERVICE FACILITY THAT IS IN VIOLATION OF THIS PART.

11 (2) A FOOD SERVICE FACILITY LISTED ON THE DEPARTMENT'S
12 WEBSITE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REMAIN LISTED
13 ON THE WEBSITE UNTIL THE DEPARTMENT FINDS THAT THE FOOD SERVICE
14 FACILITY IS IN COMPLIANCE WITH THIS PART.

15 (B) A VIOLATION OF THIS PART SHALL HAVE NO EFFECT ON THE
16 LICENSE ISSUED BY THE DEPARTMENT TO THE FOOD SERVICE FACILITY UNDER
17 § 21-305 OF THIS SUBTITLE.

18 21-1214.

19 (A) THIS SECTION DOES NOT APPLY TO A VIOLATION OF PART VIII OF
20 SUBTITLE 3 OF THIS TITLE.

21 [(a)](B) Any person who violates any provision of Subtitle 3 of this title or
22 any rule or regulation adopted under Subtitle 3 of this title is guilty of a misdemeanor
23 and on conviction is subject to:

24 (1) For a first offense, a fine not exceeding \$1,000 or imprisonment not
25 exceeding 90 days, or both; and

26 (2) For a second offense, a fine not exceeding \$2,500 or imprisonment
27 not exceeding 1 year, or both.

28 [(b)](C) In addition to any criminal penalties imposed under this section, a
29 person who violates any provision of Subtitle 3 of this title or any rule or regulation

1 adopted under Subtitle 3 of this title or any term, condition or limitation of any license
2 or registration issued under Subtitle 3 of this title:

3 (1) Is liable for a civil penalty not exceeding \$5,000, to be collected in a
4 civil action in the District Court for any county; and

5 (2) May be enjoined from continuing the violation.

6 [(c)](D) Each day on which a violation occurs is a separate violation under
7 this section.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2008.