

SENATE BILL 504

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71r0522

By: **Senators Forehand, Pugh, and Raskin**

Introduced and read first time: February 2, 2007

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Food Service Facilities – Use of 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 in 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 provide certain documentation under certain circumstances; requiring the
11 Secretary of Health and Mental Hygiene to adopt certain regulations; requiring
12 the Department of Health of Mental Hygiene to maintain on the Department's
13 website a list of certain food service facilities under certain circumstances;
14 requiring the Department to consult with local health departments to provide
15 an Internet link on the local health departments' websites to certain
16 information; requiring the Department to coordinate with local health
17 departments to provide education and outreach on trans fat for consumers;
18 providing for the applicability of this Act to certain penalties; defining a certain
19 term; providing for a delayed effective date; and generally relating to the
20 prohibition of the use of artificial trans fat in a food service facility.

21 BY repealing and reenacting, without amendments,
22 Article – Health – General
23 Section 21–301(e), (f), and (h) and 21–304(a)(1)
24 Annotated Code of Maryland
25 (2005 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

7 BY repealing and reenacting, with amendments,
8 Article – Health – General
9 Section 21–1214
10 Annotated Code of Maryland
11 (2005 Replacement Volume and 2006 Supplement)

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

14 **Article – Health – General**

15 21–301.

16 (e) “Excluded organization” means:

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

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

24 (f) “Food establishment” means:

25 (1) A food service facility; or

26 (2) A food processing plant.

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

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

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

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

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

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

21-304.

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

21-351. RESERVED.

21-352. RESERVED.

PART VIII. ARTIFICIAL TRANS FAT.

21-353.

(A) IN THIS PART, "ARTIFICIAL TRANS FAT" MEANS VEGETABLE SHORTENING, MARGARINE, OR ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL.

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

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

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

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

1 (C) A FOOD FOR WHICH THE NUTRITION FACTS LABEL OR OTHER
2 DOCUMENTATION FROM THE MANUFACTURER LISTS THE TRANS FAT CONTENT
3 OF THE FOOD AS LESS THAN 0.5 GRAMS PER SERVING MAY NOT BE CONSIDERED
4 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 SERVICES, 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 BEING SERVED
11 DIRECTLY TO PATRONS IN A MANUFACTURER'S ORIGINAL SEALED PACKAGE.

12 **21-355.**

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

15 (1) THAT CONTAINS FATS, OILS, OR SHORTENINGS;

16 (2) THAT IS, WHEN PURCHASED BY A FOOD SERVICE FACILITY,
17 REQUIRED BY APPLICABLE FEDERAL AND STATE LAW TO HAVE A LABEL; AND

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

21 (B) INSTEAD OF PROVIDING THE ORIGINAL LABEL, A FOOD SERVICE
22 FACILITY MAY PROVIDE DOCUMENTATION FROM THE MANUFACTURER OF A
23 FOOD, INDICATING WHETHER THE FOOD CONTAINS VEGETABLE SHORTENING,
24 MARGARINE, ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL, OR
25 INDICATING TRANS FAT CONTENT.

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

1 MAINTAIN DOCUMENTATION FROM THE MANUFACTURER OF A 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 (D) THE SECRETARY SHALL ADOPT REGULATIONS THAT PROVIDE FOR
6 THE DOCUMENTATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF THIS
7 SECTION.

8 **21-356.**

9 (A) (1) THE DEPARTMENT SHALL MAINTAIN ON THE DEPARTMENT'S
10 WEBSITE A LIST OF FOOD SERVICE FACILITIES FOR EACH COUNTY THAT ARE IN
11 VIOLATION OF THIS PART.

12 (2) THE DEPARTMENT SHALL CONSULT WITH THE LOCAL
13 HEALTH DEPARTMENTS TO PROVIDE AN INTERNET LINK ON EACH OF THE
14 LOCAL HEALTH DEPARTMENTS' WEBSITES TO THE INFORMATION IN
15 PARAGRAPH (1) OF THIS SUBSECTION.

16 (B) THE DEPARTMENT SHALL COORDINATE WITH THE LOCAL HEALTH
17 DEPARTMENTS TO PROVIDE EDUCATION AND OUTREACH ON TRANS FAT FOR
18 CONSUMERS.

19 21-1214.

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

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

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

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

1 **[(b)] (C)** In addition to any criminal penalties imposed under this section, a
2 person who violates any provision of Subtitle 3 of this title or any rule or regulation
3 adopted under Subtitle 3 of this title or any term, condition or limitation of any license
4 or registration issued under Subtitle 3 of this title:

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

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

8 **[(c)] (D)** Each day on which a violation occurs is a separate violation under
9 this section.

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