

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 633

(Senator Raskin, *et al.*)

Finance and Education, Health, and Environmental Affairs

Food Containing Artificial Trans Fat - Prohibition

This bill prohibits food containing artificial trans fat from being stored, distributed, held for service, used in preparation of any menu item, or served in a public school, a public institution of higher education, or a State-owned or operated food establishment. A violator is *not* subject to a fine or imprisonment. A food contains artificial trans fat if the food is either labeled as containing, lists as an ingredient, or contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil. Any food with a nutrition facts label or other manufacturer documentation that lists less than 0.5 grams of trans fat per serving is *not* considered to contain artificial trans fat under the bill.

Fiscal Summary

State Effect: Expenditures at State facilities serving food are not expected to increase as a result of this bill because of an assumed increase in availability of food products that do not contain artificial trans fat. Potential minimal loss of revenues if patrons choose to go to other nearby restaurants as a result of the bill, which is expected to be infrequent. Potential decrease in higher education revenues to the extent that the bill affects contracts with national restaurants chains leasing space on college campuses.

Local Effect: Food expenditures at local public schools and community colleges are not expected to increase as a result of the bill because of an assumed increase in the availability of food products that do not contain artificial trans fat. Any expenditure increase that is incurred would be passed on to students in the form of higher meal prices. Potential minimal loss of revenues at schools and colleges to the extent that individuals choose to go to nearby restaurants instead of eating at schools or colleges as a result of the bill. This is not expected to frequently occur. Existing local health department staff could monitor compliance within existing resources.

Small Business Effect: Potential minimal increase in revenues for small business food service facilities if individuals choose not to eat at food service facilities subject to the trans fat ban and instead choose to go to nearby facilities. Any increase as a result of the bill is assumed to be minimal.

Analysis

Current Law: A food establishment must be licensed by the Department of Health and Mental Hygiene (DHMH) and is subject to inspections. A food establishment is a food service facility or a food processing plant. If DHMH finds that a food establishment has violated the Maryland Food, Drug, and Cosmetic Act, or any regulation adopted under the Act, the licensee must be notified of the specific findings and the specific, reasonable date by which the licensee must correct the violations or deficiencies. If corrections are not made by the specified date, DHMH may suspend or revoke the food establishment's license.

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. The FDA requires food manufacturers to list trans fat on all their products on the Nutrition Facts panel directly under the line for saturated fat.

The New York City Board of Health voted December 5, 2006 to require all restaurants in the city to remove artificial trans fat over an 18-month period. Effective July 1, 2007, with some exceptions, no foods containing artificial trans fat that are used for frying or in spreads may be stored, distributed, held for service, used in preparation of any menu item, or served in any food service establishment or by any mobile food unit commissary. This restriction applies to oils or shortenings used for deep frying of yeast dough or cake batter and all other foods containing artificial trans fat beginning July 1, 2008. A food with less than 0.5 grams per serving of trans fat is not considered to contain artificial trans fat. Establishments and commissaries must maintain food product labels or approved documentation for specified food products.

Any violation of the New York City health code carries a potential penalty of \$200 to \$2,000 depending on the egregiousness of the violation. A violation of the artificial trans fat ban would not count against a restaurant or bakery during the inspection process. The city's Department of Health and Mental Hygiene is providing restaurants and bakeries with technical assistance to help them comply with the ban's requirements.

State Expenditures: The Department of Legislative Services (DLS) assumes that given the increased public attention on limiting artificial trans fat and an increasing number of products that are available without artificial trans fat, food service establishments in public institutions of higher education and State-owned and -operated food establishments are already beginning to stock food items that comply with the artificial trans fat ban.

However, because private food service establishments would not be required to ban artificial trans fat, there may be individuals who decide to no longer purchase food at the specified establishments with the trans fat ban and instead go to a nearby food service establishment that does. The frequency with which that would occur and the resulting fiscal impact cannot be reliably estimated at this time but is expected to be minimal.

General fund expenditures for DHMH would not be affected by the ban because existing local health department sanitarians could incorporate the artificial trans fat ban into their existing inspections of food service facilities in these affected establishments. Additionally, DLS assumes an increase in food expenditures for the State, such as State residential facilities, prisons, and schools, would be minimal and would likely occur regardless of this bill as more food items are made without artificial trans fat due to increasing public concern about this food additive.

The Maryland School for the Deaf advises that it stopped offering students foods that contain trans fat several years ago. St. Mary's College of Maryland's food service operation also does not use foods containing trans fats, although the college's bookstore/convenience store and vending machines do contain products with trans fats. Morgan State University advises that the bill would not have a fiscal impact on the university.

Although most University System of Maryland (USM) institutions do not expect the bill to have a significant impact on finances, the University of Maryland, College Park (UMCP) advises that the bill would impact revenues derived from national chain restaurants that lease space on campus. USM advises that the restaurants could be forced to eliminate products from their menus, decreasing student purchases at the restaurants and the revenue that UMCP derives from the purchases. If sales drop significantly, existing lease contracts could be restructured or withdrawn resulting in lost revenues for

USM. DLS assumes that any loss of patrons at UMCP facilities that results from the bill would be minimal because of increased attention among businesses to limit artificial trans fats. For example, Papa John's does not include trans fats in its pizzas or other menu items, according to the company's web site.

Local Expenditures: DLS assumes that given the increased public attention on limiting artificial trans fat and an increasing number of products that are available without artificial trans fat, food service establishments in public schools and community colleges are already beginning to stock food items that comply with the artificial trans fat ban. Therefore, any increases in expenditures that results from the bill is expected to be minimal and would be recovered through higher food prices. Public schools and community colleges could potentially experience a minimal loss of revenues to the extent that individuals choose to go to nearby restaurants instead of eating at a public school food service facility as a result of the bill. Existing local health department staff could monitor compliance within existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Caroline County, Maryland School for the Deaf, Maryland State Department of Education, St. Mary's College, Morgan State University, Department of Health and Mental Hygiene, University System of Maryland, Maryland Higher Education Commission, Baltimore City, New York City Department of Health and Mental Hygiene Board of Health; *Revealing Trans Fats*, U.S. Food and Drug Administration; Department of Legislative Services

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