

By: Shapleigh

S.B. No. 204

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition of foods containing trans fat.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 437, Health and Safety Code, is amended by adding Section 437.022 to read as follows:

Sec. 437.022. FOODS CONTAINING TRANS FAT. (a) In this section:

(1) "Food" and "label" have the meanings assigned by Section 431.002.

(2) "Food service establishment" means a business that sells or otherwise serves individual portions of food, intended for human consumption, directly to the consumer.

(3) "Trans fat" means a food or food additive artificially created by partial hydrogenation.

(b) This section does not apply to:

(1) a nonprofit organization;

(2) a volunteer fire department that serves food to the public only four days or less in any week, except that once each year the fire department may serve food to the public for not more than 30 consecutive days;

(3) a kitchen in a private home where food is prepared at no charge for guests in the home or at a social gathering;

(4) a shelter where food is prepared at no charge for unemployed, homeless, or other disadvantaged populations;

1           (5) a caterer that prepares food for consumption by  
2 persons in a private home or at a private social gathering;

3           (6) a food preparation area or serving area where only  
4 food that is not potentially hazardous food, as determined under  
5 the 2005 Model Food Code of the United States Food and Drug  
6 Administration and the guidelines interpreting that model code, or  
7 a subsequent model food code and related guidelines adopted by  
8 department rule, is prepared or served by an organization described  
9 by Subdivision (1) or (2);

10           (7) a business that attributes at least 50 percent of  
11 the business's gross receipts to the retail sale of gasoline and  
12 diesel fuel to consumers; or

13           (8) a grocery store, except for a separately owned  
14 restaurant located inside a grocery store to which this section  
15 otherwise applies.

16           (c) A food service establishment shall maintain on the food  
17 service establishment's premises an original label for any food or  
18 food additive that is required by federal law to have a label  
19 affixed to it when purchased and that contains a fat for as long as  
20 the food or food additive is used, stored, or served by the food  
21 service establishment.

22           (d) On request, a food service establishment shall make a  
23 label required under Subsection (c) available to a person  
24 conducting an inspection under Section 437.009.

25           (e) A food service establishment may not package, store, or  
26 use a trans fat to prepare or serve food, except for:

27           (1) a trans fat used to produce bakery items, yeast

1 dough, or cake batter; or

2 (2) a packaged food to be served in its original  
3 package with a label indicating that the food has a trans fat  
4 content of less than 0.5 grams per serving.

5 (e-1) Subsection (e) does not apply to a food service  
6 establishment that is not part of a chain operating with the same  
7 name or as a franchised outlet of the same parent company at 15 or  
8 more locations in this state. This subsection expires August 31,  
9 2011.

10 (f) A food service establishment may not prepare, package,  
11 store, or serve a food containing trans fat except for a packaged  
12 food served in an original package with a label indicating that the  
13 food has a trans fat content of less than 0.5 grams per serving.

14 (g) Subsections (e) and (f) do not apply to a food service  
15 establishment that contracts with a food manufacturer or  
16 distributor for the provision of a food that is prepared wholly or  
17 partly by the manufacturer or distributor and served by the food  
18 service establishment without the food's original packaging. For  
19 an individual food service establishment, the exemption under this  
20 subsection expires on the later of:

21 (1) the date the contract between the food service  
22 establishment and the food manufacturer or distributor expires,  
23 excluding an extension provided for on or after September 1, 2009,  
24 if the contract was executed before September 1, 2009; or

25 (2) August 31, 2011.

26 SECTION 2. This Act takes effect September 1, 2009, except  
27 that Subsection (e), Section 437.022, Health and Safety Code, as

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1 added by this Act, takes effect September 1, 2010, and Subsection  
2 (f), Section 437.022, Health and Safety Code, as added by this Act,  
3 takes effect September 1, 2011.