

1-1 By: Shapleigh S.B. No. 204  
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; May 5, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0,  
1-6 1 present not voting; May 5, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 204 By: Shapleigh

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to a prohibition of foods containing trans fat.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 437, Health and Safety Code, is amended  
1-13 by adding Section 437.022 to read as follows:

1-14 Sec. 437.022. FOODS CONTAINING TRANS FAT. (a) In this  
1-15 section:

1-16 (1) "Food" and "label" have the meanings assigned by  
1-17 Section 431.002.

1-18 (2) "Food service establishment" means a business that  
1-19 sells or otherwise serves individual portions of food, intended for  
1-20 human consumption, directly to the consumer.

1-21 (3) "Trans fat" means a food or food additive  
1-22 artificially created by partial hydrogenation.

1-23 (b) This section does not apply to:

1-24 (1) a nonprofit organization, as defined by Section  
1-25 223.002, that serves food to the public only four days or less in  
1-26 any week, except that once each year the organization may serve food  
1-27 to the public for not more than 14 consecutive days;

1-28 (2) a volunteer fire department that serves food to  
1-29 the public only four days or less in any week, except that once each  
1-30 year the fire department may serve food to the public for not more  
1-31 than 30 consecutive days;

1-32 (3) a kitchen in a private home where food is prepared  
1-33 at no charge for guests in the home or at a social gathering;

1-34 (4) a shelter where food is prepared at no charge for  
1-35 unemployed, homeless, or other disadvantaged populations;

1-36 (5) a caterer that prepares food for consumption by  
1-37 persons in a private home or at a private social gathering;

1-38 (6) a food preparation area or serving area where only  
1-39 food that is not potentially hazardous food, as determined under  
1-40 the 2005 Model Food Code of the United States Food and Drug  
1-41 Administration and the guidelines interpreting that model code, or  
1-42 a subsequent model food code and related guidelines adopted by  
1-43 department rule, is prepared or served by an organization described  
1-44 by Subdivision (1) or (2); or

1-45 (7) a business that attributes at least 50 percent of  
1-46 the business's gross receipts to the retail sale of gasoline and  
1-47 diesel fuel to consumers.

1-48 (c) A food service establishment shall maintain on the food  
1-49 service establishment's premises an original label for any food or  
1-50 food additive that is required by federal law to have a label  
1-51 affixed to it when purchased and that contains a fat for as long as  
1-52 the food or food additive is used, stored, or served by the food  
1-53 service establishment.

1-54 (d) On request, a food service establishment shall make a  
1-55 label required under Subsection (c) available to a person  
1-56 conducting an inspection under Section 437.009.

1-57 (e) A food service establishment may not package, store, or  
1-58 use a trans fat to prepare or serve food, except for:

1-59 (1) a trans fat used to deep-fry yeast dough or cake  
1-60 batter; or

1-61 (2) a packaged food to be served in its original  
1-62 package with a label indicating that the food has a trans fat  
1-63 content of less than 0.5 grams per serving.

2-1 (e-1) Subsection (e) does not apply to a food service  
2-2 establishment that is not part of a chain operating with the same  
2-3 name or as a franchised outlet of the same parent company at 15 or  
2-4 more locations in this state. This subsection expires August 31,  
2-5 2011.

2-6 (f) A food service establishment may not prepare, package,  
2-7 store, or serve a food containing trans fat except for a packaged  
2-8 food served in an original package with a label indicating that the  
2-9 food has a trans fat content of less than 0.5 grams per serving.

2-10 (g) Subsections (e) and (f) do not apply to a food service  
2-11 establishment that contracts with a food manufacturer or  
2-12 distributor for the provision of a food that is prepared wholly or  
2-13 partly by the manufacturer or distributor and served by the food  
2-14 service establishment without the food's original packaging. For  
2-15 an individual food service establishment, the exemption under this  
2-16 subsection expires on the later of:

2-17 (1) the date the contract between the food service  
2-18 establishment and the food manufacturer or distributor expires,  
2-19 excluding an extension provided for on or after September 1, 2009,  
2-20 if the contract was executed before September 1, 2009; or

2-21 (2) August 31, 2011.

2-22 SECTION 2. This Act takes effect September 1, 2009, except  
2-23 that Subsection (e), Section 437.022, Health and Safety Code, as  
2-24 added by this Act, takes effect September 1, 2010, and Subsection  
2-25 (f), Section 437.022, Health and Safety Code, as added by this Act,  
2-26 takes effect September 1, 2011.

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