

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 916

H.P. 634

House of Representatives, March 9, 2009

An Act Regarding Trans Fat

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WEBSTER of Freeport.
Cosponsored by Senator MILLS of Somerset and
Representatives: CAIN of Orono, CAMPBELL of Newfield, CONNOR of Kennebunk,
MILLER of Somerville, PERRY of Calais, Speaker PINGREE of North Haven, Senator:
BRANNIGAN of Cumberland.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 22 MRSA §2152, sub-§2-A is enacted to read:

3 2-A. Eating establishment. "Eating establishment" means any place where food or
4 drink is prepared and served, or served to the public for consumption on the premises, or
5 catering establishments, or establishments dispensing food from vending machines, or
6 establishments preparing foods for vending machines dispensing foods other than in
7 original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile
8 eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms,
9 sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands,
10 industrial feeding establishments, private or public institutions routinely serving foods,
11 retail frozen dairy product establishments, airports, parks, theaters, vacation camps or any
12 other catering or nonalcoholic drinking establishments or operations where food is
13 prepared and served or served for consumption on the premises, or catering
14 establishments where food is prepared, or where foods are prepared for vending machines
15 dispensing food other than in original sealed packages.

16 Sec. 2. 22 MRSA §2152, sub-§4-A, ¶A, as enacted by PL 1995, c. 331, §1, is
17 amended to read:

18 A. Eating establishments, as defined in section 2491, subsection 7;

19 Sec. 3. 22 MRSA §2152, sub-§4-C is enacted to read:

20 4-C. Food containing artificial trans fat. "Food containing artificial trans fat"
21 means a food that is labeled as, lists as an ingredient or contains vegetable shortening,
22 margarine or any kind of partially hydrogenated vegetable oil. "Food containing artificial
23 trans fat" does not include a food whose "nutrition facts" label or other documentation
24 from the manufacturer lists the trans fat content of the food as less than 0.5 grams per
25 serving.

26 Sec. 4. 22 MRSA §2155-A, sub-§1, ¶Q, as enacted by PL 2003, c. 452, Pt. K,
27 §13 and affected by Pt. X, §2, is amended to read:

28 Q. Forge, counterfeit, simulate or falsely represent or without proper authority use
29 any mark, stamp, tag, label or other identification device authorized or required by
30 rules adopted under this subchapter; or

31 Sec. 5. 22 MRSA §2155-A, sub-§1, ¶R, as enacted by PL 2003, c. 452, Pt. K,
32 §13 and affected by Pt. X, §2, is amended to read:

33 R. Violate paragraph Q after having previously violated this subsection; or

34 Sec. 6. 22 MRSA §2155-A, sub-§1, ¶S is enacted to read:

35 S. Store, distribute, hold for service or use in the preparation of any menu item or
36 serve in any eating establishment a food containing artificial trans fat.

37 Sec. 7. 22 MRSA §2155-A, sub-§2, ¶A, as enacted by PL 2003, c. 452, Pt. K,
38 §13 and affected by Pt. X, §2, is amended to read:

1 A. Except as otherwise provided in this subsection, a person who violates subsection
2 1, paragraph A, C, E, G, I, K, M, O or Q or S commits a civil violation for which a
3 fine of not more than \$1,000 may be adjudged.

4 **Sec. 8. 22 MRSA §2157-A** is enacted to read:

5 **§2157-A. Labeling and documentation; food containing artificial trans fat**

6 **1. Labels.** Except as provided in subsections 2 and 3, the owner or manager of an
7 eating establishment shall maintain on site the original labels for all food products that:

8 A. Are, or that contain, fats, oils or shortenings;

9 B. When purchased by an eating establishment, are required by applicable federal
10 and state law to have labels; and

11 C. Are being stored, distributed, held for service, used in preparation of any menu
12 items or served by the eating establishment.

13 **2. Documentation instead of labels.** Documentation from a manufacturer
14 indicating whether a food product described in subsection 1 is or contains vegetable
15 shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating
16 artificial trans fat content, may be maintained instead of an original label.

17 **3. Documentation required when food products are not labeled.** For food
18 products described under subsection 1, paragraphs A and C that are not required to be
19 labeled under state or federal law, the owner or manager of an eating establishment shall
20 obtain and maintain documentation from the manufacturers of the food products
21 indicating whether the food products are foods containing artificial trans fat.

22 **4. Rulemaking.** The commissioner shall adopt rules to specify the documentation
23 necessary to comply with subsections 2 and 3. The commissioner may adopt other rules
24 necessary to implement this section. Rules adopted under this subsection are routine
25 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

26 **5. Enforcement.** The commissioner shall enforce the provisions of this section. An
27 employee of the Department of Health and Human Services authorized to enter and
28 inspect an eating establishment for purposes of inspection under section 2497 may
29 enforce this section and rules adopted under subsection 4 under a memorandum of
30 agreement between the commissioner and the Commissioner of Health and Human
31 Services.

32 **6. Penalty.** The owner or manager of an eating establishment who fails to comply
33 with this section or rules adopted under this section commits a civil violation for which a
34 fine of not less than \$25 and not more than \$1,000 may be imposed.

35 **Sec. 9. Effective date.** This Act takes effect July 1, 2010.

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SUMMARY

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This bill defines "food containing artificial trans fat" and prohibits the storage, distribution or use of these foods in an eating establishment. It requires the owner or manager of an eating establishment to maintain labels or provide documentation to facilitate enforcement of the prohibition.

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