

# HOUSE BILL 727

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HB 567/09 – HGO

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By: **Delegate Hubbard**  
Introduced and read first time: February 5, 2010  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Food Service Facilities – 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 by 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 obtain certain documentation under certain circumstances; requiring the  
11 Secretary of Health and Mental Hygiene to adopt certain regulations; requiring  
12 the Department of Health and Mental Hygiene to list certain food service  
13 facilities on the Department's website under certain circumstances; providing  
14 that a violation of this Act shall have no effect on the issuance of a certain  
15 license; providing for the applicability of this Act to certain penalties; providing  
16 that certain provisions of this Act do not preempt certain local entities from  
17 enacting certain measures; providing for a delayed effective date; and generally  
18 relating to the prohibition on the use of artificial trans fat in a food service  
19 facility.

20 BY repealing and reenacting, without amendments,  
21 Article – Health – General  
22 Section 21-301(e), (f), and (h) and 21-304(a)(1)  
23 Annotated Code of Maryland  
24 (2009 Replacement Volume)

25 BY repealing and reenacting, with amendments,  
26 Article – Health – General  
27 Section 21-314, 21-315, 21-318, and 21-1214  
28 Annotated Code of Maryland  
29 (2009 Replacement Volume)

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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 21–357 to be under the new part “Part VIII. Artificial  
4 Trans Fat”  
5 Annotated Code of Maryland  
6 (2009 Replacement Volume)

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

9 **Article – Health – General**

10 21–301.

11 (e) “Excluded organization” means:

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

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

19 (f) “Food establishment” means:

20 (1) A food service facility; or

21 (2) A food processing plant.

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

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

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

27 (2) “Food service facility” does not include:

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

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

4 21-304.

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

7 21-314.

8 **(A) THIS SECTION DOES NOT APPLY TO PART VIII OF THIS SUBTITLE.**

9 **(B)** If the Department finds that a food establishment is in violation of this  
10 subtitle or any rule or regulation adopted under this subtitle, is in an unsanitary  
11 condition, or is not equipped properly, the Secretary shall notify the licensee:

12 (1) Of the specific findings;

13 (2) Of a specific, reasonable date by which the licensee shall correct  
14 the violations or deficiencies specified in the notice; and

15 (3) That, if the licensee fails to correct the conditions by the date  
16 specified, the Department may suspend or revoke the license issued under this  
17 subtitle.

18 21-315.

19 **(A) THIS SECTION DOES NOT APPLY TO PART VIII OF THIS SUBTITLE.**

20 **(B)** The Department may suspend or revoke a license issued under this  
21 subtitle if the licensee:

22 (1) Violates or fails to meet the requirements of this subtitle or any  
23 regulation adopted under this subtitle; or

24 (2) Fraudulently or deceptively obtains a license.

25 21-318.

26 **(A) THIS SECTION DOES NOT APPLY TO PART VIII OF THIS SUBTITLE.**

27 **[(a)] (B)** If the Department believes that a person is violating any provision  
28 of this subtitle or of any regulation adopted under this subtitle, the Department may  
29 have the person served with a written order that directs the person served to abate the  
30 violation within a time specified in the order.



1           **(B) A FOOD WITH A NUTRITION FACTS LABEL OR OTHER**  
2 **DOCUMENTATION FROM THE MANUFACTURER THAT LISTS THE TRANS FAT**  
3 **CONTENT OF THE FOOD AS LESS THAN 0.5 GRAMS PER SERVING MAY NOT BE**  
4 **CONSIDERED 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 SERVICE, 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 SERVED**  
11 **DIRECTLY TO PATRONS IN THE ORIGINAL SEALED PACKAGE OF THE**  
12 **MANUFACTURER.**

13 **21-355.**

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

16                   **(1) THAT CONTAINS FATS, OILS, OR SHORTENINGS;**

17                   **(2) THAT IS REQUIRED BY FEDERAL OR STATE LAW TO HAVE A**  
18 **LABEL WHEN PURCHASED BY A FOOD SERVICE FACILITY; AND**

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

22           **(B) A FOOD SERVICE FACILITY MAY PROVIDE DOCUMENTATION**  
23 **ACCEPTABLE TO THE DEPARTMENT FROM THE MANUFACTURER OF A FOOD,**  
24 **INDICATING TRANS FAT CONTENT OR WHETHER THE FOOD CONTAINS**  
25 **PARTIALLY HYDROGENATED:**

26                   **(1) VEGETABLE SHORTENING;**

27                   **(2) MARGARINE; OR**

28                   **(3) VEGETABLE OIL.**

29           **(C) (1) IF A FOOD THAT IS RESTRICTED UNDER § 21-354 OF THIS**  
30 **PART CONTAINS FATS, OILS, OR SHORTENINGS AND THE FOOD IS NOT REQUIRED**  
31 **TO BE LABELED WHEN PURCHASED, A FOOD SERVICE FACILITY SHALL OBTAIN**

1 AND MAINTAIN DOCUMENTATION FROM THE MANUFACTURER OF THE FOOD  
2 INDICATING WHETHER THE FOOD CONTAINS PARTIALLY HYDROGENATED  
3 VEGETABLE SHORTENING, PARTIALLY HYDROGENATED MARGARINE, OR ANY  
4 KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL, OR INDICATING TRANS  
5 FAT CONTENT.

6 (2) THE SECRETARY SHALL ADOPT REGULATIONS THAT PROVIDE  
7 FOR THE DOCUMENTATION TO BE OBTAINED BY A FOOD SERVICE FACILITY  
8 FROM THE MANUFACTURER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

9 **21-356.**

10 (A) (1) THE DEPARTMENT SHALL LIST ON THE DEPARTMENT'S  
11 WEBSITE A FOOD SERVICE FACILITY THAT IS IN VIOLATION OF THIS PART.

12 (2) A FOOD SERVICE FACILITY LISTED ON THE DEPARTMENT'S  
13 WEBSITE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REMAIN LISTED  
14 ON THE WEBSITE UNTIL THE DEPARTMENT FINDS THAT THE FOOD SERVICE  
15 FACILITY IS IN COMPLIANCE WITH THIS PART.

16 (B) A VIOLATION OF THIS PART SHALL HAVE NO EFFECT ON THE  
17 LICENSE ISSUED BY THE DEPARTMENT TO THE FOOD SERVICE FACILITY UNDER  
18 § 21-305 OF THIS SUBTITLE.

19 **21-357.**

20 NOTHING IN THIS PART MAY BE CONSTRUED TO PREEMPT A COUNTY OR  
21 MUNICIPAL GOVERNMENT FROM ENACTING AND ENFORCING MORE STRINGENT  
22 MEASURES TO REGULATE THE USE OF ARTIFICIAL TRANS FAT BY FOOD SERVICE  
23 FACILITIES.

24 **21-1214.**

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

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

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

32 (2) For a second offense, a fine not exceeding \$2,500 or imprisonment  
33 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, 2011.