

**LOCAL LAW NO. 7 OF 2010
COUNTY OF ROCKLAND
STATE OF NEW YORK**

(Introduced by Hon. Alden H. Wolfe)

Mr. Wolfe offered the following Local Law, which was seconded by Ms. Coker and adopted:

A local law prohibiting use of artificial trans fat in any food item prepared or served at a food establishment within the County of Rockland.

Be it enacted by the legislature of the county of Rockland as follows:

Section 1. Name of local law

This law shall be known as “the Rockland County Healthy Heart Act.”

Section 2. Legislative intent.

Coronary heart disease (CHD), sometimes called ischemic heart disease, refers to *atherosclerosis* of the arteries that supply the heart muscle. Atherosclerosis is a disease condition that can occur throughout the arterial circulation. It is a broad term that refers to the thickening and hardening of the arteries. Insufficiency of blood supply may result from a reduction of blood flow through one or more of these arteries. Heart cells are dependent on blood flow through these arteries to provide oxygen and to carry away metabolic products. Without an adequate flow of blood, these cells can become injured or die. When this occurs, immediate emergency treatment is necessary to stop the injury from widening, killing additional heart cells, and increasing the risk of complications or death.

Facts about CHD:

1. Age-adjusted CHD mortality in New York for ages 35 and over is highest in the nation.
2. Most of the excess in New York's CHD mortality occurs for ages 65 and over.
3. CHD is the single largest killer of New York State Residents.
4. Heart attack is the leading cause of death among women in New York.
5. 26% of the deaths in the United States in 2006 were caused by CHD, the single largest killer in the United States.

Scientific evidence demonstrates a clear association between increased trans fat intake and the risk of coronary heart disease. Most dietary trans fat is found in partially hydrogenated vegetable oil (“PHVO”) - oil that has been chemically modified. Scientific studies which examine the change in cholesterol levels when trans fat is replaced with currently available heart healthy alternatives conservatively estimate a reduction of 6% in coronary heart disease events such as heart attacks (*Mozaffarian D. Katan MB. Ascherio A. Stampfer MJ. Willett WC. Trans Fatty Acids and Cardiovascular Disease. *New England Journal of Medicine*. April 13, 2006. 354;15:1601-13*). Even in the most conservative estimates, based on replacing trans fat primarily by saturated fat - an unlikely outcome given the widespread trend to healthier fats by food producers - a significant although smaller reduction in coronary heart disease events is still expected. Other scientific studies, based upon observing large groups of people over time estimate that up to 23% of coronary heart disease events could be avoided by replacing trans fat with healthy alternatives. Because an estimated one third of dietary trans fat comes from foods purchased in restaurants (*Guthrie JF. et al. Role of Food Prepared Away from Home in the American Diet, 1977-78 Versus 1994-96: Changes and Consequences. *Society for Nutrition Education* 2002; 34:140-150*), the continued presence of PHVO in restaurant foods represents an important contribution to cardiovascular risk for diners.

Dietary trans fat increases the risk of heart disease by elevating LDL (“bad”) cholesterol, and lowering HDL (“good”) cholesterol (*Ascherio A. Katan MB. Zock PL. Stampfer MJ. Willett WC. Trans fatty acids and coronary heart disease. *New England Journal of Medicine*. 1999; 340:1994-1998*). Because of its negative effect on “good cholesterol”, trans fat appears to be even worse than saturated fat. The Institute of Medicine (“IOM”) reviewed the scientific evidence and concluded that there is “a positive linear trend between trans fatty acid intake and total and LDL concentration, and therefore increased risk of coronary heart disease” (*Panel on Macronutrients, Institute of Medicine. Letter report on dietary reference intakes for trans fatty acids drawn from the Report on dietary reference intakes for energy, carbohydrate, fiber, fat, fatty acids, cholesterol, protein, and amino acids. 2002. Washington, DC, Institute of Medicine, Page 14*). The 2005 Dietary Guidelines for Americans, issued by the United States Department of Agriculture (“USDA”), recommends that dietary intake of trans fat be “as low as possible” (*Dietary Guidelines Advisory Committee. King J, et al. Dietary Guidelines for Americans 2005. January 12, 2005*.) and the American Heart Association guidelines issued in June 2006 recommend that trans fat intake be kept below 1% of total energy intake (*American Heart Association Nutrition Committee. Lichtenstein, A. et al. Diet and lifestyle recommendations revision 2006: a scientific statement from the American Heart Association Nutrition Committee. *Circulation*. 2006 July 4;114[1]e27*). In January of 2006, the FDA’s mandatory listing of trans fat content on the nutrition facts labels of packaged foods came into effect.

Approximately 80% of dietary trans fat is found in industrially-produced PHVO, which is used for frying and baking and is present in many processed foods. Approximately 20% is naturally occurring and is found in small amounts in dairy and meat products from ruminant animals.

The artificial trans fat found in PHVO is produced when hydrogen is added to vegetable oil in a process called hydrogenation. Common food service establishment sources of artificial trans fat include: foods fried in partially hydrogenated vegetable oils; margarine and vegetable shortening; prepared foods such as pre-fried French fries, fried chicken, taco shells and donuts; baked goods such as hamburger buns, pizza dough, crackers, cookies, and pies; and pre-mixed ingredients such as pancake and hot chocolate mix.

The major source of dietary trans fat, found in PHVO, can be replaced with currently available heart healthy alternatives. Denmark has recently successfully removed artificial trans fat by limiting industrially produced trans fat content in food to 2% of total calories from fat. In addition, in June 2006 the Canadian Trans Fat Task Force issued a report recommending that Canada limit trans fat in food service establishments to 2% of total fat content in margarines and vegetable oils and 5% of total fat content in all other food ingredients. "Zero grams" trans fat packaged foods in the US, both new products and those already in production, have been extensively marketed since the labeling requirement for packaged foods became effective in January of 2006. Many manufacturers have formulated a number of their existing products that are now widely available as "zero grams" trans fat (defined by the FDA as <0.5 grams per serving) on supermarket shelves. A recent *New England Journal of Medicine* article reports that industry and government representatives agreed that the restriction of trans fat in Denmark "did not appreciably affect the quality, cost or availability of food." This experience demonstrates that artificial trans fat can be replaced without consumers noticing an effect. Acceptable healthier alternatives to PHVOs include traditional mono and poly-unsaturated vegetable oils (e.g., canola, corn, olive, etc.) that have not been hydrogenated, as well as newly developed oils such as those made from specially cultivated varieties of soybeans, safflowers, and sunflowers. Further, many of the newer trans fat-free oils have long 'fry lives' and other favored characteristics of PHVOs. Educational and enforcement efforts will seek to promote a shift to healthier fats. In response to increased demand, US companies are expanding production of products that will increase the market supply of alternatives to hydrogenated oils.

Owners of many food service establishments in Rockland County, acknowledging the health risks caused by artificial trans fats and recognizing the availability of tasty healthy alternatives, have already voluntarily gone "trans-fat free." Hopefully, through this law and the widespread dissemination thereof, individuals and commercial owners who are not subject to its restrictions will also become better educated and make healthier choices for themselves and their patrons.

The purpose of this law is to safeguard the health and well-being of all Rockland County residents by prohibiting the use of artificial trans fat in any food item prepared or served at a food establishment within the County of Rockland in order to dramatically reduce the risks of CHD.

Section 3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

- A. **COUNTY** – The County of Rockland, New York.
- B. **FOOD SERVICE ESTABLISHMENT** - a place where food is prepared and intended for individual portion service and includes the site at which the individual portions are provided whether consumption occurs on or off the premises. The term excludes food processing establishments, retail food stores, private homes where food is prepared or served for family consumption, and food service operations where a distinct group mutually provides, prepares, serves, and consumes the food such as a "covered-dish supper" limited to a congregation, club or fraternal organization.
- C. For the purposes of this section, a food shall be deemed to **contain artificial trans fat** if the food is labeled as, lists as an ingredient, or has vegetable shortening, margarine (not including trans fat free or cholesterol lowering margarine) or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer lists the trans fat content of the food as less than 0.5 grams per serving, shall not be deemed to contain artificial trans fat.

Section 4. Prohibition.

No foods containing artificial trans fat, as defined in this section, shall be stored, distributed, held for service, used in preparation of any menu item, or served in any food service establishment within the County of Rockland, except food that is being served directly to patrons in a manufacturer's original sealed package.

Section 5. Labels required.

- A. Original labels. Food service establishments shall maintain on site for two (2) years the original labels for all food products:
- (i) that are, or that contain, fats, oils or shortenings, and
 - (ii) that are, when purchased by such food service establishments, required by applicable federal and state law to have labels, and
 - (iii) that are currently being stored, distributed, held for service, used in preparation of any menu items, or served by the food service establishment, or by the mobile food unit commissary.
- B. Documentation instead of labels. Documentation acceptable to the Department of Health, from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels. Said documentation shall be available for inspection upon demand by the Department of Health.
- C. Documentation required when food products are not labeled. If baked goods or other food products restricted pursuant to Section 4 that are or that contain fats, oils or shortenings are not required to be labeled when purchased, food service establishments and mobile food commissaries shall obtain and maintain documentation acceptable to the Department of Health, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content.

Section 6. Enforcement and Penalties.

Any person who violates the provisions of this chapter shall be subject to the imposition by the Rockland County Department of Health of a civil penalty pursuant to Section 1.25 of the Rockland County Sanitary Code. No civil penalty shall be imposed by the Department of Health as provided for herein unless the alleged violator has received notice of the charge against him or her and has had an opportunity to be heard pursuant to the normal procedures of the Department of Health. Prior to the imposition of the first civil penalty on an alleged violator, the Department of Health shall make a good-faith effort to issue a warning to the alleged violator and shall make a good-faith effort to educate the alleged violator about the provisions of this chapter.

Section 7. Education

The Department of Health shall promulgate and make available information regarding the dangers of trans fats and the availability of healthier alternatives, in such manner as may be reasonably determined by the Commissioner of Health, or his or her designees.

Section 8. Applicability

This law shall apply to any and all actions occurring on or after the effective date of this law.

Section 9. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 10. Effective date.

This local law shall take effect on January 1, 2011.

The vote resulted as follows:

Ayes: 12 (Legislators Coker, Darden, Grant, Hood, Jr., Jackson, Meyers,
Michel, Murphy, Schoenberger, Soskin, Wolfe, Cornell)

Nays: 05 (Legislators Bierker, Day, Jobson, Moroney Sparaco)