

## **BILL ANALYSIS**

C.S.H.B. 1523  
By: Alvarado  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Scientific evidence shows that consumption of trans fat raises low-density lipoprotein (LDL) levels, known as "bad cholesterol," and lowers high-density lipoprotein (HDL), or "good cholesterol," which increases the risk of coronary heart disease. According to the National Heart, Lung, and Blood Institute of the National Institutes of Health, more than 12.5 million Americans have coronary heart disease and more than 500,000 die each year, making it one of the leading causes of death in the United States.

A labeling requirement for packaged foods became effective in January 2006, and since then packaged foods in the United States labeled "zero grams trans fat," both new products and those already in production, have been extensively marketed. Due to the increased labeling of food items, trans fats have appeared less in foods found on grocery store shelves; however, restaurants have largely been exempt from revealing their use of trans fats.

Experts agree that trans fats should be significantly reduced in the American diet. Americans are eating out or picking up take out more than ever and, with well over 35,000 restaurants in Texas, assuring safe and healthy dining options is a public health priority.

C.S.H.B. 1523 prohibits restaurants in Texas from packaging, storing, serving, or preparing food containing trans fats, except as otherwise provided.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1523 amends the Health and Safety Code to prohibit a food service establishment from packaging, storing, serving, or using a trans fat to prepare or serve food, effective September 1, 2010. The bill excludes from application of the prohibition a trans fat used to deep-fry yeast dough or cake batter, or a packaged food to be served in its original package with a label indicating that the food has trans fat content of less than 0.5 grams per serving. The bill exempts certain nonprofit organizations, volunteer fire departments, private home kitchens, caterers, shelters, food preparation or serving areas, and businesses that attribute at least 50 percent of their gross receipts to the retail sale of gas and diesel fuel to consumers from the prohibition.

C.S.H.B. 1523 requires a food service establishment to maintain on the establishment's premises an original label for any food or food additive that is required by federal law to have a label affixed to it when purchased by the establishment and that contains fat, for as long as the food or additive is used, stored, or served by the establishment. The bill requires a food service establishment to make such a label available on request to a person conducting an inspection.

C.S.H.B. 1523 adds a temporary provision, set to expire August 31, 2011, to exclude a food service establishment that is not part of a chain operating with the same name or as a franchised outlet of the same parent company at 15 or more locations in Texas from application of the prohibition on a food service establishment packaging, storing, serving, or using a trans fat to prepare or serve food.

C.S.H.B. 1523, effective September 1, 2011, prohibits a food service establishment from preparing, packaging, storing, or serving a food containing trans fat except for a packaged food served in an original package with a label indicating that the food has a trans fat content of less than 0.5 grams per serving.

C.S.H.B. 1523 provides a temporary exemption, set to expire on the later of the date a contract between a food service establishment and a food manufacturer or distributor expires, excluding an extension provided for on or after September 1, 2009, if the contract was executed before September 1, 2009, or August 31, 2011, excluding from application of the prohibition an individual food service establishment that contracts with a food manufacturer or distributor for the provision of a food that is prepared wholly or partly by the manufacturer or distributor and served by the food service establishment without the food's original packaging.

C.S.H.B. 1523 defines "trans fat" as a food or food additive artificially created by partial hydrogenation. The bill defines "food service establishment," "food," and "label."

#### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1523 adds a provision not in the original to include a business that attributes at least 50 percent of the business's gross receipts to the retail sale of gasoline and diesel fuel to consumers among the entities exempt from application of the prohibition on foods containing trans fats. The substitute omits a provision in the original granting rulemaking authority to the executive commissioner of the Health and Human Services Commission. The substitute omits a reference in the original to a label required under state law and references to the distribution of food.

C.S.H.B. 1523 omits a provision in the original requiring a food service establishment to obtain and maintain documentation from the manufacturer of certain unlabeled foods indicating whether the food contains trans fat and the food's trans fat content. The substitute adds a provision not in the original exempting a trans fat used to deep-fry yeast dough or cake batter from the prohibition on foods containing trans fat. The substitute adds provisions not in the original setting forth a temporary exception to the prohibition for a food service establishment operating as part of a franchise or chain, and temporary exception for a food service establishment that contracts with a food manufacturer or distributor for food to be served by the establishment without the manufacturer's original packaging. The substitute omits provisions in the original relating to inspections and penalties.

C.S.H.B. 1523 adds a provision not in the original, effective September 1, 2011, prohibiting a food establishment from preparing, packaging, storing, or serving a food containing trans fat except for certain pre-packaged and labeled foods.

C.S.H.B. 1523 omits provisions in the original defining "commissioner" and "department." The substitute differs from the original by defining "food service establishment" as a business that sells certain food, whereas the original defines "food service facility" as an establishment that sells certain food or drink.