

Introduced by Senator Bowen

February 19, 2004

An act to add Article 9 (commencing with Section 17600) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 1580, as introduced, Bowen. Food product advertising.

Existing law makes it a crime to engage in various unlawful advertising practices conducted by specified means of dissemination or publication.

This bill would make it unlawful for a manufacturer, wholesaler, distributor, or other person to place a health claim upon a product declaring the content of the product to be "low fat," "reduced fat," or "fat free" without including the amount of trans fatty acids present in the product. The bill would make it false and misleading advertising for a manufacturer, wholesaler, distributor, or other person that packages products containing trans fatty acids to willfully or negligently fail to include the content of trans fatty acids present in a product when making a health claim regarding the product.

Because a violation of the bill's false advertising requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 9 (commencing with Section 17600) is
2 added to Chapter 1 of Part 3 of Division 7 of the Business and
3 Professions Code, to read:

4
5 Article 9. Food Product Advertising
6

7 17600. (a) It is the intent of the Legislature in enacting this
8 article to enable California consumers to make knowledgeable
9 choices about food consumption based on the disclosure of
10 information concerning the makeup of that food.

11 (b) According to a report released in July 2002 by the National
12 Academy of Sciences’ Institute of Medicine the following has
13 been determined:

- 14 (1) Saturated fat and trans fat promote heart disease.
- 15 (2) The only safe intake of trans fat is zero.
- 16 (3) Trans fatty acid consumption should be as low as possible.

17 17601. For purposes of this article, the following definitions
18 apply:

19 (a) “Hydrogenation” is a process of adding hydrogen to liquid
20 oils, enabling liquid oils to solidify, which increases the shelf life
21 and flavor stability of the liquid oils and the foods that contain
22 those liquid oils.

23 (b) “Trans fatty acids” are acids made through the process of
24 hydrogenation that solidifies liquid oils, thereby increasing the
25 shelf life of processed foods containing the liquid oils.

26 17602. (a) It is unlawful for a manufacturer, wholesaler,
27 distributor, or other person to place a health claim upon a product
28 declaring the content of the product to be “low fat,” “reduced
29 fat,” or “fat free” without including the amount of trans fatty
30 acids present in the product.

31 (b) If a manufacturer, wholesaler, distributor, or other person
32 that packages products containing trans fatty acids willfully or
33 negligently fails to include the content of trans fatty acids present
34 in a product when making a health claim regarding the product, it



1 shall be considered false and misleading advertising under Section
2 17500 and subject to the enforcement provisions of that section.
3 17603. This article shall apply only when there is a claim
4 made on the labeling of the product about the low level of saturated
5 fat, as permitted under federal law, when the amount of saturated
6 fat contained in the product does not exceed a specified maximum
7 amount.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

