

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

February 29, 2008

The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202

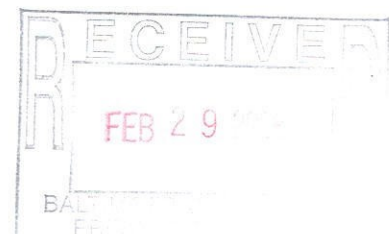
RE: City Council Bill 08-0034 – Food Service Facilities – Trans Fat

Dear President and Members

You have requested the advice of the Law Department regarding City Council Bill 08-0034. Bill 34 will prohibit food service facilities from serving using, storing, distributing, or holding food containing trans fat. Food service facilities as defined in the bill to include any place where food is prepared for sale or service on the premises or elsewhere or where food is manufactured, processed, stored packaged, handled, distributed or sold.

Article II, Section 8 of the Baltimore City Code grants to the Mayor and City Council the authority “to license, regulate and inspect the manufacture, transportation, storage, sale and disposition of food of every kind.” The City Council seeks to exercise this authority in City Council Bill 34. The bill is within the authority of the City Council. One concern that should be considered is whether the definitions in the bill are so broad that the law could be interpreted to prohibit the sale of food containing trans fat in grocery stores. The definition of food service facility would include a grocery store. Section 6-507 (b) prohibits foods containing trans fat to be stored or distributed in any food service facility. Grocery stores that sell items containing trans fat would be prohibited from storing these items in the store. If this is not the intent of the legislation, the language should be amended to make clear the circumstances under which food containing trans fat are banned.

Although the language may be overly and reaches activity that the City Council does not intend to regulate, City Council Bill 08-0034 is consistent with the authority of the City Council.



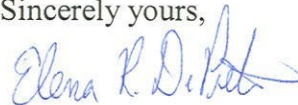
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There is also one technical issue to address in 6-507(c) of the bill, there appears to be no (c) (2). The numbering should be adjusted accordingly. The Law Department, therefore, approves the City Council Bill 08-0034 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Assistant Solicitor

cc: Honorable Agnes Welch
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Linda C. Barclay, Chief Solicitor
Deepa Bhattacharyya, Assistant Solicitor