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CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2540

Introduced by Assembly Member Mendoza
(Coauthor: Senator Runner)

February 22, 2008

An act to amend Sections 113784, 113818, 113831, 113984, 114067, 114205, 114295, 114297, 114311, 114313, and 114314 of, and to add Section 114306 to, the Health and Safety Code, relating to food facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2540, as amended, Mendoza. Mobile food facilities.

The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health, including mobile food facilities and satellite food service, as defined. Under existing law, local health agencies are primarily responsible for enforcing this code.

This bill would additionally define a "single operating site mobile food facility" for purposes of the California Retail Food Code, and impose various requirements on these facilities. The bill would revise various standards applicable to mobile food facilities and satellite food

service, with respect to water storage, contamination prevention, and construction standards.

Because local agencies are required to enforce the provisions of the California Retail Food Code, and because the bill would impose additional requirements on mobile food facilities, the bill would create a state-mandated local program. Additionally, because a violation of the California Retail Food Code is a misdemeanor, the bill would, by changing the definition of a crime, create 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 113784 of the Health and Safety Code
- 2 is amended to read:
- 3 113784. "Food compartment" means an enclosed space,
- 4 including, but not limited to, an air pot, blender, bulk dispensing
- 5 system, covered chafing dish, and covered ice bin, with all of the
- 6 following characteristics:
- 7 (a) The space is defined by a physical barrier from the outside
- 8 environment that completely encloses all food, food-contact
- 9 surfaces, and the handling of nonprepackaged food.
- 10 (b) All access openings are equipped with tight-fitting closures,
- 11 or one or more alternative barriers that effectively protect the food
- 12 from contamination, facilitate safe food handling, while minimizing
- 13 exposure to the environment.

1 (c) It is constructed from materials that are nontoxic, smooth,
2 easily cleanable, and durable and is constructed to facilitate the
3 cleaning of the interior and exterior of the compartment.

4 SEC. 2. Section 113818 of the Health and Safety Code is
5 amended to read:

6 113818. (a) “Limited food preparation” means food preparation
7 that is restricted to one or more of the following:

8 (1) Heating, frying, baking, roasting, popping, shaving of ice,
9 blending, steaming or boiling of hot dogs, or assembly of
10 nonprepackaged food.

11 (2) Dispensing and portioning of nonpotentially hazardous food.

12 (3) Holding, portioning, and dispensing of any foods that are
13 prepared for satellite food service by the onsite permanent food
14 facility or prepackaged by another approved source.

15 (4) Slicing and chopping of food on a heated cooking surface
16 during the cooking process.

17 (5) Cooking and seasoning to order.

18 (6) Preparing beverages that are for immediate service, in
19 response to an individual consumer order, that do not contain
20 frozen milk products.

21 (b) “Limited food preparation” does not include any of the
22 following:

23 (1) Slicing and chopping unless it is on the heated cooking
24 surface.

25 (2) Thawing.

26 (3) Cooling of cooked potentially hazardous food.

27 (4) Grinding raw ingredients or potentially hazardous food.

28 (5) Reheating of potentially hazardous foods for hot holding,
29 except for steamed or boiled hot dogs and tamales in the original,
30 inedible wrapper.

31 (6) Hot holding of nonprepackaged potentially hazardous food,
32 except for roasting corn on the cob.

33 (7) Washing of foods.

34 (8) Cooking of potentially hazardous foods for later use.

35 SEC. 3. Section 113831 of the Health and Safety Code is
36 amended to read:

37 113831. (a) “Mobile food facility” means any vehicle used in
38 conjunction with a commissary or other permanent food facility
39 upon which food is sold or distributed at retail. “Mobile food

1 facility” does not include a “transporter” used to transport packaged
2 food from a food facility, or other approved source to the consumer.

3 (b) “Single operating site mobile food facilities” means at least
4 one, but not more than four, unenclosed mobile ~~fast~~ food facilities,
5 and their auxiliary units, that operate adjacent to each other at a
6 single location.

7 SEC. 4. Section 113984 of the Health and Safety Code is
8 amended to read:

9 113984. (a) Adequate and suitable counter space shall be
10 provided for all food preparation operations.

11 (b) Except as specified in subdivision (c), food preparation shall
12 be conducted within a fully enclosed food facility.

13 (c) Limited food preparation shall be conducted within a food
14 compartment or as approved by the enforcement agency. Subject
15 to subdivision (g), this subdivision shall not be construed to require
16 an additional food compartment when adding ingredients to a
17 beverage or dispensing into a serving container when the beverage
18 is prepared for immediate service in response to an individual
19 consumer order.

20 (d) Food shall be prepared with suitable utensils and on surfaces
21 that, prior to use, have been cleaned, rinsed, and sanitized as
22 specified in Section 114117 to prevent cross-contamination.

23 (e) Overhead protection shall be provided above all food
24 preparation, food display, warewashing, and food storage areas.

25 (f) All food shall be thawed, washed, sliced, and cooled within
26 an approved fully enclosed food facility.

27 (g) Based upon local environmental conditions, location, and
28 other similar factors, the enforcement officer may establish
29 additional structural or operational requirements, or both, *for*
30 *mobile food facilities* as necessary to ensure that foods,
31 food-contact surfaces, and utensils are of a safe and sanitary
32 quality.

33 SEC. 5. Section 114067 of the Health and Safety Code is
34 amended to read:

35 114067. (a) Satellite food service is restricted to limited food
36 preparation.

37 (b) Satellite food service shall only be operated by a fully
38 enclosed permanent food facility that meets the requirements for
39 food preparation and service and that is responsible for servicing
40 the satellite food service operation.

1 (c) Prior to conducting satellite food service, the permitholder
2 of the permanent food facility shall submit to the enforcement
3 agency written standard operating procedures that include all of
4 the following information:

- 5 (1) All food products that will be handled and dispensed.
- 6 (2) The proposed procedures and methods of food preparation
7 and handling.
- 8 (3) Procedures, methods, and schedules for cleaning utensils,
9 equipment, structures, and for the disposal of refuse.
- 10 (4) How food will be transported to and from the permanent
11 food facility and the satellite food service operation, and procedures
12 to prevent contamination of foods.
- 13 (5) How potentially hazardous foods will be maintained in
14 accordance with Section 113996.

15 (d) All food preparation shall be conducted within a food
16 compartment or fully enclosed facility approved by the enforcement
17 officer.

18 (e) Satellite food service areas shall have overhead protection
19 that extends over all food handling areas.

20 (f) Satellite food service operations that handle nonprepackaged
21 food shall be equipped with approved handwashing facilities and
22 warewashing facilities that are either permanently plumbed or
23 self-contained.

24 (g) Notwithstanding subdivision (f), the local enforcement
25 agency may approve the use of alternative warewashing facilities.

26 (h) During nonoperating hours and periods of inclement weather,
27 food, food contact surfaces, and utensils shall be stored within any
28 of the following:

- 29 (1) A fully enclosed satellite food service operation.
- 30 (2) Approved food compartments where food, food contact
31 surfaces, and utensils are protected at all times from contamination,
32 exposure to the elements, ingress of vermin, and temperature abuse.
- 33 (3) A fully enclosed permanent food facility.

34 (i) Satellite food service activities shall be conducted by and
35 under the constant and complete control of the permitholder of the
36 fully enclosed permanent food facility, or the duly contracted
37 personnel of, or third party providers to, the permitholder.

38 (j) For purposes of permitting and enforcement, the permitholder
39 of the permanent food facility and the permitholder of the satellite
40 food service shall be the same.

1 SEC. 6. Section 114205 of the Health and Safety Code is
2 amended to read:

3 114205. (a) *Nonpermanent food facilities that handle*
4 *nonprepackaged food shall be equipped with both potable water*
5 *and wastewater tanks, unless approved temporary water and*
6 *wastewater connections are provided.*

7 (b) Permanent food facilities shall be in compliance with
8 Sections 114190 to 114201, inclusive.

9 SEC. 7. Section 114295 of the Health and Safety Code is
10 amended to read:

11 114295. (a) Except as specified in subdivision (b), all mobile
12 food facilities shall operate in conjunction with a commissary,
13 mobile support unit, or other facility approved by the enforcement
14 agency.

15 (b) This section does not apply to mobile food facilities that
16 operate at community events as defined in Section 113755 and
17 that remain in a fixed position during food preparation and its
18 hours of operation.

19 (c) Mobile food facilities shall be stored at or within a
20 commissary or other location approved by the enforcement agency
21 in order to have protection from unsanitary conditions.

22 (d) Mobile support units shall be operated from and stored at a
23 designated commissary and shall be subject to permitting and plan
24 review.

25 (e) Notwithstanding any other provisions of this section, a
26 mobile food facility that is engaged in food preparation, other than
27 limited food preparation, as defined in Section 113818, shall not
28 operate in conjunction with a mobile support unit.

29 SEC. 8. Section 114297 of the Health and Safety Code is
30 amended to read:

31 114297. (a) Mobile food facilities shall be cleaned and serviced
32 at least once daily during an operating day.

33 (b) Except as specified in subdivision (c), all mobile food
34 facilities shall report to the commissary or other approved facility
35 on a daily basis.

36 (c) Mobile food facilities that are serviced by a mobile support
37 unit and that do not report to a commissary on a daily basis shall
38 be stored in a manner that protects the mobile food facility from
39 contamination.

1 (d) Mobile support units shall report to a commissary or other
2 approved facility for cleaning, servicing, and storage at least daily.

3 SEC. 9. Section 114306 is added to the Health and Safety Code,
4 to read:

5 114306. (a) A single operating site mobile food facility shall
6 not provide whole fish, whole aquatic invertebrates, or prepackaged
7 food. A single operating site mobile food facility shall not engage
8 in limited food preparation.

9 (b) Notwithstanding Section 113984, a mobile food facility
10 operating within a fully enclosed structure shall not be required to
11 provide a secondary food compartment over food preparation areas.

12 (c) A single operating site mobile food facility that is required
13 to provide warewashing and handwashing facilities shall provide
14 a warewashing sink and handwashing sink per site or operation.
15 ~~A warewashing~~ *warewashing* and handwashing sink contained in
16 a facility to which this subdivision applies shall be conveniently
17 located so as to be accessible during all hours of operation.
18 Additional handwashing sinks may be required pursuant to
19 paragraph (1) of subdivision (b) of Section 113953.

20 (d) Notwithstanding Section 114095, a warewashing sink may
21 be shared by not more than four mobile food facilities operating
22 as a single operating site mobile food facility that is required to
23 provide a warewashing sink, if the sink is conveniently located so
24 as to be accessible during all hours of operation.

25 (e) For purposes of permitting and enforcement, the permitholder
26 of each single operating site mobile food facility location shall be
27 the same.

28 SEC. 10. Section 114311 of the Health and Safety Code is
29 amended to read:

30 114311. Mobile food facilities not under a valid permit as of
31 January 1, 1997, from which nonprepackaged food is sold shall
32 provide handwashing facilities. The handwashing facilities shall
33 be separate from the warewashing sink.

34 (a) The handwashing sink shall have a minimum dimension of
35 nine inches by nine inches in length and width and five inches in
36 depth and be easily accessible by food employees.

37 (b) The handwashing facility shall be separated from the
38 warewashing sink by a metal splashguard with a height of at least
39 six inches that extends from the back edge of the drainboard to the
40 front edge of the drainboard, the corners of the barrier to be

1 rounded. No splashguard is required if the distance between the
2 handwashing sink and the warewashing sink drainboards is 24
3 inches or more.

4 (c) This section shall not apply to mobile food facilities handling
5 only whole produce, whole fish, whole aquatic invertebrates, or
6 the bulk dispensing of nonpotentially hazardous beverages.

7 SEC. 11. Section 114313 of the Health and Safety Code is
8 amended to read:

9 114313. (a) Except as specified in subdivisions (b) and (c), a
10 mobile food facility where nonprepackaged food is cooked,
11 blended, or otherwise prepared shall provide a warewashing sink
12 with at least three compartments with two integral metal
13 drainboards.

14 (1) The dimensions of each compartment shall be *large enough*
15 *to accommodate the cleaning of the largest utensil and* either of
16 the following:

17 (A) At least 12 inches wide, 12 inches long, and 10 inches deep.

18 (B) At least 10 inches wide, 14 inches long, 10 inches deep, ~~and~~
19 ~~large enough to accommodate the cleaning of the largest utensil.~~

20 (2) Each drainboard shall be at least the size of one of the sink
21 compartments. The drainboards shall be installed with at least
22 one-eighth inch per foot slope toward the sink compartment, and
23 fabricated with a minimum of one-half inch lip or rim to prevent
24 the draining liquid from spilling onto the floor.

25 (3) The sink shall be equipped with a mixing faucet and shall
26 be provided with a swivel spigot capable of servicing all sink
27 compartments.

28 (b) If all utensils and equipment of a mobile food facility are
29 washed and sanitized on a daily basis at the approved commissary
30 or other approved food facility, and the mobile food facility
31 provides and maintains an adequate supply of spare preparation
32 and serving utensils in the mobile food facility as needed to replace
33 those that become soiled or contaminated, then the mobile food
34 facility shall not be required to provide a warewashing sink to only
35 handle any the following:

36 (1) Nonpotentially hazardous foods that do not require
37 preparation other than heating, baking, popping, portioning, bulk
38 dispensing, assembly, or shaving of ice.

39 (2) Steamed or boiled hot dogs.

40 (3) Tamales in the original, inedible wrapper.

1 (c) An unenclosed mobile food facility that prepares potentially
2 hazardous beverages for immediate service in response to an
3 individual consumer order shall do one of the following:

4 (1) Provide a three compartment sink described in subdivision
5 (a).

6 (2) Provide at least one-two compartment sink that complies
7 with subdivision (e) of Section 114099.3.

8 (3) Provide a one compartment sink with at least one integral
9 metal drainboard, an adequate supply of spare preparation and
10 serving utensils to replace those that become soiled or
11 contaminated, and warewashing facilities that comply with
12 subdivision (a) in reasonable proximity to, and readily accessible
13 for use by, food employees at all times.

14 SEC. 12. Section 114314 of the Health and Safety Code is
15 amended to read:

16 114314. (a) Handwashing sinks and warewashing sinks for
17 unenclosed mobile food facilities shall be an integral part of the
18 primary unit or on an approved auxiliary conveyance that is used
19 in conjunction with the mobile food facility.

20 (b) Warewashing sinks for unenclosed mobile food facilities
21 shall be equipped with overhead protection made of wood, canvas,
22 or other materials that protect the sinks from bird and insect
23 droppings, dust, precipitation, and other contaminants.

24 SEC. 13. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution for certain
26 costs that may be incurred by a local agency or school district
27 because, in that regard, this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty for a crime
29 or infraction, within the meaning of Section 17556 of the
30 Government Code, or changes the definition of a crime within the
31 meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 However, if the Commission on State Mandates determines that
34 this act contains other costs mandated by the state, reimbursement
35 to local agencies and school districts for those costs shall be made
36 pursuant to Part 7 (commencing with Section 17500) of Division
37 4 of Title 2 of the Government Code.

38 SEC. 14. This act is an urgency statute necessary for the
39 immediate preservation of the public peace, health, or safety within

- 1 the meaning of Article IV of the Constitution and shall go into
- 2 immediate effect. The facts constituting the necessity are:
- 3 In order to make essential changes to provisions relating to
- 4 mobile food facilities, at the earliest possible time, it is necessary
- 5 that this act go into immediate effect.

O