

Introduced by Senator CorbettFebruary 9, 2007

An act to amend Section 12108 of, and to add Section 12109 to, the Business and Professions Code, and to amend Sections 111070, 111115, 111130, and 111170 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as introduced, Corbett. Vended water.

Existing law prescribes various quality and labeling standards for bottled water and vended water, including mineral water, and limits the levels of certain contaminants that may be contained in those water products. Violation of these provisions is a crime.

Existing law requires the State Department of Health Services to perform various duties under these provisions.

Existing law establishes a fee schedule for annual bottled and vended water licenses, and sets the fee for water-vending machines at \$10.25.

Effective July 1, 2007, responsibility for the administration of the above-mentioned provisions will be transferred to the State Department of Public Health.

This bill would increase the annual license fee for a water-vending machine to \$40, and would require water-vending machines to be cleaned and serviced at least once every 31 days. The bill would require that maintenance and complaint records be kept for a minimum of 2 years and be made available to the department upon request.

Existing law requires that each water-vending machine, retail water facility, and private water source that sells water at retail display prescribed information, including, but not limited to, a telephone number for further information, service, or complaints.

This bill would require that the telephone number be a toll-free number, that the toll-free telephone number of the department’s food and drug branch also be displayed, and that the notice include prescribed license, maintenance, and suitable container information.

By changing the definition of an existing crime, this bill would impose a state-mandated local program.

Existing law establishes the Department of Food and Agriculture and sets forth its duties and responsibilities, including, but not limited to, general supervision of the weights and measures and weighing and measuring devices sold or used in this state, and sets forth the enforcement duties of the state sealer and county sealer.

This bill would require the State Department of Public Health to contract with the sealer to visually inspect water-vending machines. This bill would require the department to impose a fine on the owner of a water-vending machine for a violation, in accordance with specified requirements, to test the water for purity when an apparent violation is reported, and to assess a fee not to exceed the costs of inspection, processing the violation, and testing.

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. Section 12108 of the Business and Professions
- 2 Code is amended to read:
- 3 12108. The director may arrange for the services of a sealer
- 4 employed in a county on a collaborative basis and allow reasonable
- 5 compensation and expenses for the purpose of performing services
- 6 not already within his duties and ~~which~~ *that* are subject to
- 7 administration or enforcement by the department under the
- 8 provisions of this code or of the *Food and Agricultural Code*.
- 9 SEC. 2. Section 12109 is added to the Business and Professions
- 10 Code, to read:
- 11 12109. (a) The sealer may, upon the request of the State
- 12 Department of Public Health, enter into an agreement with the

1 State Department of Public Health to visually inspect
2 water-vending machines to ensure compliance as set forth in
3 paragraph (1) of subdivision (b) of Section 111115 of the Health
4 and Safety Code and in subdivisions (c) and (d) of Section 111170
5 of the Health and Safety Code.

6 (b) The inspection shall take place within the regularly scheduled
7 inspection dates the sealer undertakes pursuant to this division
8 regarding water-vending machines.

9 (c) If the sealer discovers any apparent violations of paragraph
10 (1) of subdivision (b) of Section 111115 of the Health and Safety
11 Code, or of subdivision (c) or (d) of Section 111170 of the Health
12 and Safety Code, the sealer shall provide notice of the apparent
13 violation to the State Department of Public Health as set forth in
14 the contract, within five business days of the discovery.

15 SEC. 3. Section 111070 of the Health and Safety Code is
16 amended to read:

17 111070. (a) “Bottled water,” means any water that is placed
18 in a sealed container at a water-bottling plant to be used for
19 drinking, culinary, or other purposes involving a likelihood of the
20 water being ingested by humans. Bottled water shall not include
21 water packaged with the approval of the department for use in a
22 public emergency.

23 (b) “Vended water” means any water that is dispensed by a
24 water-vending machine, retail water facility, or water from a private
25 water source, or other water as defined in Section 111170 that is
26 not placed by a bottler in sealed containers, and that is dispensed
27 by a water-vending machine, retail water facility, water hauler, or
28 any other person or facility for drinking, culinary, or other purposes
29 involving a likelihood of the water being ingested by humans.
30 “Vended water,” does not include water from a public water system
31 that has not undergone additional treatment. Water sold without
32 further treatment is not “vended water” and shall be labeled in
33 accordance with ~~paragraph (10) of subdivision (a) of Section~~
34 111170.

35 (c) “Water-bottling plant” means any facility in which bottled
36 water is produced.

37 (d) A “water-vending machine” means ~~any self-service device~~
38 ~~that, upon insertion of a coin, coins, or token, or upon receipt of~~
39 ~~payment by any other means, dispenses a unit volume of water to~~
40 ~~be used for drinking, culinary, or other purposes involving a~~

1 ~~likelihood of the water being ingested by humans a~~
2 *water-connected vending machine designed to dispense drinking*
3 *water, purified or other water products. The machines shall be*
4 *designed to reduce or remove turbidity, off-tastes, and odors to*
5 *provide disinfection treatment, processes for dissolved solids*
6 *reduction or removal shall also be used.*

7 (e) “Water hauler,” means any person who hauls water in bulk
8 by any means of transportation if the water is to be used for
9 drinking, culinary, or other purposes involving a likelihood of the
10 water being ingested by humans.

11 “In bulk,” as used in this subdivision, means containers having
12 capacities of 250 gallons or greater.

13 (f) “Retail water facility” means any commercial establishment
14 where vended water is sold, and placed in customer’s containers,
15 or placed in containers sold or given to customers who come to
16 the establishment to obtain water.

17 (g) “Private water source,” means a privately owned source of
18 water, other than a public water system, that is used for bottled or
19 vended water and meets the requirements of an approved source
20 for bottled water as defined in Section 129.3 of Title 21 of the
21 Code of Federal Regulations.

22 (h) “Bottled water distributor” means any person, other than an
23 employee or representative of a bottled water plant, who delivers
24 bottled water directly to customers.

25 SEC. 4. Section 111115 of the Health and Safety Code is
26 amended to read:

27 111115. (a) The department shall require that each
28 water-vending machine, retail water treatment plant, water hauler
29 vehicle and facility, and private water source be maintained in a
30 clean and sanitary condition at all times.

31 (b) (1) *The department shall require that water-vending*
32 *machines be cleaned, serviced, and sanitized in accordance with*
33 *the manufacturer’s specifications, but at least once every 31 days.*

34 (2) *Inspection records shall be kept for every visit made by*
35 *either the operator or the maintenance personnel pursuant to this*
36 *subdivision. These records shall show the date and time of the*
37 *visit, any tests performed, any maintenance performed, and the*
38 *signature or electronic signature of the operator or maintenance*
39 *personnel. The records shall be kept by the owner of the*

1 water-vending machine for a minimum of two years and shall be
2 made available to the department upon request.

3 (c) A record of any consumer complaints shall be kept on file
4 with the owner of the water-vending machine for a minimum of
5 two years, and shall be made available to the department upon
6 request.

7 (d) (1) The department shall request to enter into an agreement
8 with the sealer pursuant to subdivision (b) of Section 12108 of the
9 Business and Professions Code to authorize the sealer, as defined
10 in Section 12008 of the Business and Professions Code, to visually
11 inspect water-vending machines to ensure compliance with
12 paragraph (1) of subdivision (b) of Section 111115 and
13 subdivisions (c) and (d) of Section 111170. The department may
14 use a standardized agreement format in entering into agreements
15 with the sealers.

16 (2) The department may opt out of the requirements of
17 paragraph (1) if the department determines that the agreement is
18 economically infeasible because there are less than 25 licensed
19 water-vending machines in a county.

20 (3) The department shall arrange for the services of a sealer
21 employed in a county in accordance with paragraph (1) on a
22 collaborative basis and allow reasonable compensation and
23 expenses for the purpose of performing services not already within
24 his or her duties and that are subject to administration or
25 enforcement by the department under this code or of the Food and
26 Agricultural Code.

27 (4) (A) Upon receiving a notice of apparent violation from the
28 sealer, the department shall determine whether a violation of this
29 subdivision and subdivisions (c) and (d) of Section 111170 has
30 occurred.

31 (B) If a violation is found, the department shall take all
32 necessary actions to ensure correction and compliance with this
33 article, including, but not limited to, conducting an inspection of
34 the water-vending machine if the notice of violation is for a
35 violation of paragraph (6) or (8) of subdivision (c) of Section
36 111170. The inspection shall consist of the collection of water
37 samples to analyze for coliform bacteria, total trihalomethanes,
38 heterotrophic bacteria, and lead. The department may send samples
39 to an independent Environmental Protection Agency
40 (EPA)-certified laboratory, as set forth in Section 111165.

1 (C) The department may charge and collect a fee from the owner
 2 of the water-vending machine to recover the department’s actual
 3 cost incurred in complying with subparagraph (B). The fee shall
 4 not exceed the actual costs of performing the inspection, processing
 5 the violation, and testing pursuant to subparagraph (B).

6 (e) If the department determines that there is a violation of this
 7 article, the department may do either of the following:

8 (1) Embargo the machine pursuant to Section 111860.

9 (2) Impose a fine, as determined appropriate by the department.

10 (f) The department shall, annually, conduct inspections of not
 11 less than 4 percent of the licensed water-vending machines in the
 12 state and shall be representative of the different licensed operators
 13 and shall be representative of the differing geographic areas of
 14 the state. The inspection shall include, but is not limited to, the
 15 collection of water samples to analyze for coliform bacteria, total
 16 trihalomethanes, and lead. The department may send samples to
 17 an independent Environmental Protection Agency (EPA)
 18 EPA-certified laboratory, as set forth in Section 111165.

19 SEC. 5. Section 111130 of the Health and Safety Code is
 20 amended to read:

21 111130. (a) The department shall charge and collect a fee for
 22 each license application submitted in accordance with the fee
 23 schedule in Table 1, that shall be an amount reasonably necessary
 24 to produce sufficient revenue to enforce this article. The fees
 25 collected shall be adjusted annually as required by Section 100425.
 26 New applicants for a water bottling plant license shall pay Category
 27 2 fees for the first license year.

28 (b) The water-bottling plant and bottled water distributor
 29 categories shall be determined by dividing by 52 the number of
 30 gallons produced or shipped into California during the previous
 31 year. If the result is an average of 5,000 gallons or less per week,
 32 the firm is Category 1. If the average exceeds 5,000 gallons per
 33 week, the firm is Category 2.

34
 35 Table 1
 36 License Fees

License Class	Annual Fee
Water-Bottling Plant	
Category 1	\$310
Category 2	875

Table 1
License Fees

License Class	Annual Fee
Water-Vending Machine	10.25 40
Water Hauler	310
Retail Water Facility	310
Private Water Source Operator	310
Bottled Water Distributor	310

(c) The owners or operators of each water-bottling plant, retail water facility, private water source, each water hauler in California and bottlers or distributors of water bottled out-of-state shall make application for a license on forms provided by the department. Applications and license fees shall be submitted for each calendar year *annually*.

(d) Each water-vending machine owner or operator shall make application ~~each calendar year~~ *annually* for a license for all machines on forms provided by the department. A decal or seal provided by the department indicating a license fee has been paid shall be affixed in a prominent place to each water-vending machine in service. *The duty to display the decal or seal shall apply only on and after the decal has been received by the operator.*

SEC. 6. Section 111170 of the Health and Safety Code is amended to read:

111170. (a) Labeling and advertising of bottled water and vended water shall conform with this section, Chapter 4 (commencing with Section 110290), and applicable portions of Part 101 of Title 21 of the Code of Federal Regulations.

(b) Each container of bottled water sold in this state, each water-vending machine, and each container provided by retail water facilities located in this state shall be clearly labeled in an easily readable format. Retail water facilities that do not provide labeled containers shall post, in a location readily visible to consumers, a sign conveying required label information.

(c) Water-vending machines, retail water facilities, and private water sources that sell water at retail shall display in a position clearly visible to customers the following information:

- (1) The name and address of the operator.

1 (2) The fact that the water is obtained from an approved public
2 water supply or licensed private water source.

3 (3) A statement describing the treatment process used.

4 (4) If no treatment process is utilized, a statement to that effect.

5 (5) A *toll-free* telephone number that may be called for further
6 information, service, or complaints, *and the toll-free telephone*
7 *number of the department’s food and drug branch that may be*
8 *called for complaints or questions.*

9 (6) A sign or label indicating the date on which the
10 water-vending machine was last sanitized and serviced by the
11 operator or maintenance personnel as required pursuant to
12 paragraph (1) of subdivision (b) of Section 111115.

13 (7) A notice to consumers listing the industry’s recommendations
14 for the type and condition of container suitable for use with the
15 water-vending machine.

16 (8) A valid decal or seal received from the department indicating
17 that a license fee has been paid and a license issued for the
18 water-vending machine as set forth in subdivision (d) of Section
19 111130.

20 (d) The department shall require the information required
21 pursuant to subdivision (c) to be displayed in both English and
22 Spanish.

23 ~~(e)~~

24 (e) Bottled water may be labeled “drinking water,”
25 notwithstanding the source or characteristics of the water, only if
26 it is processed pursuant to the Food and Drug Administration Good
27 Manufacturing Practices contained in Section 165.110 and Parts
28 110 and 129 of Title 21 of the Code of Federal Regulations,
29 Sections 12235 to 12285, inclusive, of Title 17 of the California
30 Code of Regulations, and any other requirements established by
31 the department pursuant to Sections 111145, 111150, and 111155.
32 Any vended water and any water from a retail water facility may
33 be labeled “drinking water,” notwithstanding the source or
34 characteristics of the water, only if it is processed pursuant to
35 Article 10 (commencing with Section 114200) of Chapter 4 of
36 Part 7 and any other requirements established by the department
37 pursuant to Sections 111145, 111150, and 111155.

38 SEC. 7. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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