

AMENDED IN SENATE MARCH 15, 2007

**SENATE BILL**

**No. 220**

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**Introduced by Senator Corbett**

February 9, 2007

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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, *and to add Section 111071 to*, the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, 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.

*This bill would also require, as a condition of licensure, a water-bottling plant, as defined, to annually prepare a consumer*

*confidence report, as specified, to make the report available to each customer, and to prepare the report in English, Spanish, and in other languages that exceeds 10 percent of the State's population.*

*Existing law requires 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 to contain specified information and to be clearly labeled in an easily readable format.*

*This bill would require each label on bottled water sold at retail or wholesale in this state in a plastic beverage container to also include the name and contact information for the bottler or brand owner, the source of the bottled water, and a California Water Quality Notice that contains specified information, as provided. The bill would also require bottlers that distribute directly to consumers to provide a statement on each billing statement that includes certain contact information, and the means by which a customer may obtain information relating to water quality.*

*By changing the definition of a crime, this bill would create a state-mandated local program.*

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 *telephone* 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.** *The Legislature finds and declares all of the*  
2 *following:*

3     *(a) According to a survey conducted in 2002 by the Public*  
4 *Policy Institute of California, 39 percent of all adults in California*  
5 *rely on bottled and vended water as their primary source of*  
6 *drinking water.*

7     *(b) Among low-income and immigrant communities, vended*  
8 *water is the alternative drinking water of choice, due to its lower*  
9 *cost.*

10     *(c) Many water vending machines fail to meet state health and*  
11 *consumer protection standards as a result of insufficient routine*  
12 *monitoring.*

13     *(d) Consumers of bottled and vended water should be afforded*  
14 *the same water quality “right to know” protections and regulatory*  
15 *oversight of bottled and vended water products as those established*  
16 *for tap water.*

17     ~~SECTION 1.~~

18     **SEC. 2.** Section 12108 of the Business and Professions Code  
19 is amended to read:

20     12108. The director may arrange for the services of a sealer  
21 employed in a county on a collaborative basis and allow reasonable  
22 compensation and expenses for the purpose of performing services  
23 not already within his *or her* duties and that are subject to  
24 administration or enforcement by the department under the  
25 provisions of this code or of the Food and Agricultural Code.

26     ~~SEC. 2.~~

27     **SEC. 3.** Section 12109 is added to the Business and Professions  
28 Code, to read:

1 12109. (a) The sealer may, upon the request of the State  
2 Department of Public Health, enter into an agreement with the  
3 State Department of Public Health to visually inspect  
4 water-vending machines to ensure compliance as set forth in  
5 paragraph (1) of subdivision (b) of Section 111115 of the Health  
6 and Safety Code and in subdivisions (c) and (d) of Section 111170  
7 of the Health and Safety Code.

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

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

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 111070 of the Health and Safety Code is  
19 amended to read:

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

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

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

39 (d) A “water-vending machine” means a water-connected  
40 vending machine designed to dispense drinking water, purified or

1 other water products. The machines shall be designed to reduce  
2 or remove turbidity, off-tastes, and odors to provide disinfection  
3 treatment, processes for dissolved solids reduction or removal shall  
4 also be used.

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

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

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

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

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

23 *SEC. 5. Section 111071 is added to the Health and Safety Code,*  
24 *to read:*

25 *111071. (a) As a condition of licensure, each bottled water*  
26 *plant, as defined in subdivision (c) of Section 111070, shall*  
27 *annually prepare a consumer confidence report, in accordance*  
28 *with the most current version of the department’s guidelines for*  
29 *public water suppliers, titled “Preparing Your CALIFORNIA*  
30 *Drinking Water Consumer Confidence Report (CCR),” and shall*  
31 *make that report available to each customer.*

32 *(b) The report shall be prepared in English, Spanish, and in the*  
33 *appropriate languages for each non-English-speaking group other*  
34 *than Spanish that exceeds 10 percent of the state’s population.*

35 *(c) For purposes of complying with this section, when bottled*  
36 *water comes from a municipal source, the relevant information*  
37 *from the consumer confidence report or water quality report*  
38 *prepared for that year by the public water system pursuant to*  
39 *Section 116470, may be used.*

1     ~~SEC. 4.~~

2     *SEC. 6.* Section 111115 of the Health and Safety Code is  
3 amended to read:

4     111115. (a) The department shall require that each  
5 water-vending machine, retail water treatment plant, water hauler  
6 vehicle and facility, and private water source be maintained in a  
7 clean and sanitary condition at all times.

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

11     (2) Inspection records shall be kept for every visit made by  
12 either the operator or the maintenance personnel pursuant to this  
13 subdivision. These records shall show the date and time of the  
14 visit, any tests performed, any maintenance performed, and the  
15 signature or electronic signature of the operator or maintenance  
16 personnel. The records shall be kept by the owner of the  
17 water-vending machine for a minimum of two years and shall be  
18 made available to the department upon request.

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

23     (d) (1) The department shall request to enter into an agreement  
24 with the sealer pursuant to subdivision (b) of Section 12108 of the  
25 Business and Professions Code to authorize the sealer, as defined  
26 in Section 12008 of the Business and Professions Code, to visually  
27 inspect water-vending machines to ensure compliance with  
28 paragraph (1) of subdivision (b) of Section 111115 and  
29 subdivisions (c) and (d) of Section 111170. The department may  
30 use a standardized agreement format in entering into agreements  
31 with the sealers.

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

36     (3) The department shall arrange for the services of a sealer  
37 employed in a county in accordance with paragraph (1) on a  
38 collaborative basis and allow reasonable compensation and  
39 expenses for the purpose of performing services not already within  
40 his or her duties and that are subject to administration or

1 enforcement by the department under this code or of the Food and  
2 Agricultural Code.

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

7 (B) If a violation is found, the department shall take all necessary  
8 actions to ensure correction and compliance with this article,  
9 including, but not limited to, conducting an inspection of the  
10 water-vending machine if the notice of violation is for a violation  
11 of paragraph (6) or (8) of subdivision (c) of Section 111170. The  
12 inspection shall consist of the collection of water samples to  
13 analyze for coliform bacteria, total trihalomethanes, heterotrophic  
14 bacteria, and lead. The department may send samples to an  
15 independent Environmental Protection Agency (EPA)-certified  
16 laboratory, as set forth in Section 111165.

17 (C) The department may charge and collect a fee from the owner  
18 of the water-vending machine to recover the department's actual  
19 cost incurred in complying with subparagraph (B). The fee shall  
20 not exceed the actual costs of performing the inspection, processing  
21 the violation, and testing pursuant to subparagraph (B).

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

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

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

26 (f) The department shall, annually, conduct inspections of not  
27 less than 4 percent of the licensed water-vending machines in the  
28 state and shall be representative of the different licensed operators  
29 and shall be representative of the differing geographic areas of the  
30 state. The inspection shall include, but is not limited to, the  
31 collection of water samples to analyze for coliform bacteria, total  
32 trihalomethanes, and lead. The department may send samples to  
33 an independent Environmental Protection Agency (EPA)  
34 EPA-certified laboratory, as set forth in Section 111165.

35 ~~SEC. 5.~~

36 *SEC. 7.* Section 111130 of the Health and Safety Code is  
37 amended to read:

38 111130. (a) The department shall charge and collect a fee for  
39 each license application submitted in accordance with the fee  
40 schedule in Table 1, that shall be an amount reasonably necessary

1 to produce sufficient revenue to enforce this article. The fees  
 2 collected shall be adjusted annually as required by Section 100425.  
 3 New applicants for a water bottling plant license shall pay Category  
 4 2 fees for the first license year.

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

11  
 12 Table 1  
 13 License Fees

14 License Class	Annual Fee
15 Water-Bottling Plant	
16 Category 1	\$310
17 Category 2	875
18 Water-Vending Machine	40
19 Water Hauler	310
20 Retail Water Facility	310
21 Private Water Source Operator	310
22 Bottled Water Distributor	310

23  
 24 (c) The owners or operators of each water-bottling plant, retail  
 25 water facility, private water source, each water hauler in California  
 26 and bottlers or distributors of water bottled out-of-state shall make  
 27 application for a license on forms provided by the department.  
 28 Applications and license fees shall be submitted annually.

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

36 ~~SEC. 6.~~

37 SEC. 8. Section 111170 of the Health and Safety Code is  
 38 amended to read:

39 111170. (a) Labeling and advertising of bottled water and  
 40 vended water shall conform with this section, Chapter 4

1 (commencing with Section 110290), and applicable portions of  
2 Part 101 of Title 21 of the Code of Federal Regulations.

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

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

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

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

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

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

17 (5) A toll-free telephone number that may be called for further  
18 information, service, or complaints, and the toll-free telephone  
19 number of the department's food and drug branch that may be  
20 called for complaints or questions.

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

25 (7) A notice to consumers listing the industry's  
26 recommendations for the type and condition of container suitable  
27 for use with the water-vending machine.

28 (8) A valid decal or seal received from the department indicating  
29 that a license fee has been paid and a license issued for the  
30 water-vending machine as set forth in subdivision (d) of Section  
31 111130.

32 (d) The department shall require the information required  
33 pursuant to subdivision (c) to be displayed in both English and  
34 Spanish *and other languages as deemed appropriate by the*  
35 *department.*

36 ~~(e) Bottled water may be labeled "drinking water,"~~  
37 ~~notwithstanding the source or characteristics of the water, only if~~  
38 ~~it is processed pursuant to the Food and Drug Administration Good~~  
39 ~~Manufacturing Practices contained in Section 165.110 and Parts~~  
40 ~~110 and 129 of Title 21 of the Code of Federal Regulations,~~

1 Sections 12235 to 12285, inclusive, of Title 17 of the California  
2 Code of Regulations, and any other requirements established by  
3 the department pursuant to Sections 111145, 111150, and 111155.  
4 Any vended water and any water from a retail water facility may  
5 be labeled “drinking water,” notwithstanding the source or  
6 characteristics of the water, only if it is processed pursuant to  
7 Article 10 (commencing with Section 114200) of Chapter 4 of  
8 Part 7 and any other requirements established by the department  
9 pursuant to Sections 111145, 111150, and 111155.

10 (e) Each container of bottled water sold at retail or wholesale  
11 in this state in a plastic beverage container shall include on its  
12 label all the following:

13 (1) The name and contact information for the bottler or brand  
14 owner.

15 (2) The source of the bottled water.

16 (3) A California Water Quality Notice that contains the  
17 following statement and information:

18  
19 “For more information and to obtain additional consumer  
20 information relating to water quality, including a consumer  
21 confidence report, contact [name of bottled water company]  
22 at [telephone number or toll-free telephone number] and [at  
23 least one of the following: mailing address, e-mail address,  
24 and bottled water company Internet Web site address].”  
25

26 (f) Bottlers that distribute bottled or vended water directly to  
27 consumers shall provide a statement on each billing statement that  
28 includes both of the following:

29 (1) A telephone number and mailing address of the bottler or  
30 brand owner.

31 (2) The means by which a consumer may obtain consumer  
32 information relating to water quality, including a consumer  
33 confidence report, as described in Section 111071.

34 ~~SEC. 7.~~

35 ~~SEC. 9.~~ No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 the only costs that may be incurred by a local agency or school  
38 district will be incurred because this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within  
2 the meaning of Section 6 of Article XIII B of the California  
3 Constitution.

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