

## Senate Bill No. 744

### CHAPTER 96

An act to amend Sections 113709, 113725.1, 113751, 113789, 113818, 113907, 113909, 113945.1, 113947.1, 113947.3, 113949.1, 113949.2, 113949.5, 113961, 113967, 113977, 113982, 113984, 113984.1, 113986, 113996, 114000, 114029, 114035, 114039, 114039.1, 114039.4, 114039.5, 114060, 114074, 114091, 114099.2, 114099.3, 114149.1, 114185.1, 114192, 114245.1, 114254, 114257, 114259.1, 114259.4, 114259.5, 114271, 114276, 114299, 114311, 114323, 114325, 114326, 114358, 114371, 114380, 114393, 114417.1, 114417.6, and 114419 of, to repeal Sections 114056 and 114155 of, and to repeal and add Section 113953.4 of, the Health and Safety Code, relating to food facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 2007. Filed with  
Secretary of State July 20, 2007.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 744, Runner. Food facilities.

(1) The California Uniform Retail Food Facilities Law (CURFFL) provides for the regulation of health and sanitation standards for food facilities, including commissaries, by the State Department of Public Health and is primarily enforced by local health agencies. A violation of any provision of CURFFL is a misdemeanor.

CURFFL defines a commissary as a food facility that services mobile food facilities, mobile support units, or vending machines where all of specified actions occur.

This bill would revise the definition of a commissary to mean a food facility that services mobile food facilities, mobile support units, or vending machines where any of the specified actions occur. By extending the applicability of the misdemeanor provisions of the CURFFL and by increasing the duties of local enforcement agencies, this bill would create a state-mandated local program.

(2) CURFFL excludes from the definition of "limited food preparation" the slicing, chopping, or grinding of raw ingredients or potentially hazardous food.

This bill would eliminate the slicing or chopping of raw ingredients or potentially hazardous food from the exclusion.

(3) CURFFL imposes various requirements on retail food facilities regarding the identification and certification of molluscan shellfish that are harvested and received for sale or service.

The bill would revise certain requirements, as specified.

(4) CURFFL authorizes a local health officer or local enforcement agency to require the immediate restriction or exclusion of any employee or food employee applicant from a food facility under specified conditions.

This bill would delete this authorization with respect to food employee applicants.

(5) CURFFL requires a food facility permitholder to instruct all food employees regarding the relationship between personal hygiene and food safety.

This bill would, instead, require the owner who has a food safety certificate or employee who has this certificate to provide this instruction. By changing the definition of a crime, this bill would impose a state-mandated local program.

(6) CURFFL requires the person in charge to notify the local enforcement agency when notified that a food employee or food employee applicant has been diagnosed with an infectious agent.

This bill would require the local enforcement agency to be notified when the person in charge is made aware that a food employee has been so diagnosed.

(7) CURFFL specifies foods that may be held between 41°F and 45°F.

This bill would provide that these foods may be held at or below 45°F.

(8) CURFFL requires food to be inspected upon receipt and prior to any use, storage, or resale.

This bill would require this inspection to be as soon as practicable.

(9) CURFFL authorizes food facilities to engage in the brewing of alcoholic beverages only pursuant to a specified Hazard Analysis Critical Control Point plan.

This bill would delete this plan requirement.

(10) This bill would also make various technical, nonsubstantive changes to the above-described provisions.

(11) 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.

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

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

SECTION 1. Section 113709 of the Health and Safety Code is amended to read:

113709. Nothing in this part shall prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, or from regulating the provision of consumer toilet and handwashing facilities.

SEC. 2. Section 113725.1 of the Health and Safety Code is amended to read:

113725.1. A copy of the most recent routine inspection report conducted to assess compliance with this part shall be maintained at the food facility and made available upon request. The food facility shall post a notice advising consumers that a copy of the most recent routine inspection report is available for review by any interested party.

SEC. 3. Section 113751 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

113751. “Commissary” means a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur:

- (a) Food, containers, or supplies are stored.
- (b) Food is prepared or prepackaged for sale or service at other locations.
- (c) Utensils are cleaned.
- (d) Liquid and solid wastes are disposed, or potable water is obtained.

SEC. 4. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

- (1) Public and private school cafeterias.
- (2) Restricted food service facilities.
- (3) Licensed health care facilities.
- (4) Commissaries.
- (5) Mobile food facilities.
- (6) Mobile support units.
- (7) Temporary food facilities.
- (8) Vending machines.
- (9) Certified farmers’ markets, for purposes of permitting and enforcement.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, if no food or beverage is offered for sale for onsite consumption.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

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

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

(1) Heating, frying, baking, roasting, popping, blending, or assembly of nonprepackaged food.

(2) Bulk dispensing of nonpotentially hazardous beverages.

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

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

(5) Cooking and seasoning to order.

(b) “Limited food preparation” does not include slicing and chopping unless it is on the heated cooking surface, thawing, cooling of cooked potentially hazardous food, grinding raw ingredients or potentially hazardous food, reheating for hot holding, washing of foods, or cooking of potentially hazardous foods for later use.

SEC. 6. Section 113907 of the Health and Safety Code is amended to read:

113907. “Shellfish certification number” means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to law or to the provisions of the National Shellfish Sanitation Program.

SEC. 7. Section 113909 of the Health and Safety Code is amended to read:

113909. “Shellfish control authority” means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers.

SEC. 8. Section 113945.1 of the Health and Safety Code is amended to read:

113945.1. Except as specified in Section 113984.1, the person in charge shall ensure that persons unnecessary to the food facility operation shall not be allowed in the food preparation, food storage, or warewashing areas.

SEC. 9. Section 113947.1 of the Health and Safety Code is amended to read:

113947.1. (a) Food facilities that prepare, handle, or serve nonprepackaged potentially hazardous food, except temporary food facilities, shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3. There shall be at least one food safety certified owner or employee at each food facility. No certified person at a food facility may serve at any other food facility as the person required to be certified pursuant to this subdivision. The certified owner or employee need not be present at the food facility during all hours of operation.

(b) Food facilities that are not subject to the requirements of subdivision (a) that prepare, handle, or serve nonprepackaged, nonpotentially hazardous foods, except temporary food facilities, shall do one of the following:

(1) Have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3.

(2) Demonstrate to the enforcement officer that the employees have an adequate knowledge of food safety principles as they relate to the specific operation involved in their assigned duties.

(c) On and after July 1, 2007, temporary food facilities that prepare, handle, or serve nonprepackaged food shall have an owner or person in charge who can demonstrate to the enforcement officer that he or she has an adequate knowledge of food safety principles as they relate to the specific food facility operation.

(d) (1) For the purposes of this section, multiple contiguous food facilities permitted within the same site and under the same management, ownership, or control shall be deemed to be one food facility, notwithstanding the fact that the food facilities may operate under separate permits.

(2) This subdivision shall not apply to the premises of a licensed winegrower or brandy manufacturer utilized for wine tastings conducted pursuant to Section 23356.1 of the Business and Professions Code of wine or brandy produced or bottled by, or produced and prepackaged for, that licensee when use is limited to wine tasting.

(e) A food facility that commences operation, changes ownership, or no longer has a certified owner or employee pursuant to this section shall have 60 days to comply with this subdivision.

(f) The responsibilities of a certified owner or employee at a food facility or an owner or person in charge of a temporary food facility described in subdivision (c) shall include the safety of food preparation and service, including ensuring that all employees who handle, or have responsibility for handling, nonprepackaged foods of any kind, have sufficient knowledge to ensure the safe preparation or service of the food, or both. The nature and extent of the knowledge that each employee is required to have may be

tailored, as appropriate, to the employee's duties related to food safety issues.

(g) The food safety certificate issued pursuant to Section 113947.3 shall be retained on file at the food facility at all times, and shall be made available for inspection by the enforcement officer.

(h) Certified individuals shall be recertified every five years by passing an approved and accredited food safety certification examination.

(i) A food safety program that was not in effect prior to January 1, 1999, shall not be enacted, adopted, implemented, or enforced, unless the program fully conforms to the requirements of this part.

SEC. 10. Section 113947.3 of the Health and Safety Code is amended to read:

113947.3. (a) Food safety certification shall be achieved by successfully passing an examination from an accredited food protection manager certification organization. The certification organization must be accredited by the American National Standards Institute as meeting the requirements of the Conference for Food Protection's "Standards for Accreditation of Food Protection Manager Certification Programs." Those food employees who successfully pass an approved certification examination shall be issued a certificate by the certifying organization. The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. Certificates shall be valid for five years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate.

(b) (1) Within 12 months after the effective date of this part, the department, in consultation with the California Conference of Directors of Environmental Health, representatives of the retail food industry, and other interested parties, shall develop and implement a program for the purposes of demonstrating adequate knowledge for operators of temporary food facilities.

(2) At least one of the accredited food safety certification examinations shall cost no more than sixty dollars (\$60), including the certificate. However, the department may adjust the cost of food safety certification examinations to reflect actual expenses incurred in producing and administering the food safety certification examinations required under this section. If a food safety certification examination is not available at the price established by the department, the certification and recertification requirements relative to food safety certification examinations imposed by this section shall not apply.

SEC. 11. Section 113949.1 of the Health and Safety Code is amended to read:

113949.1. (a) When a local health officer is notified of an illness that can be transmitted by food in a food facility or by a food employee of a food facility, the local health officer shall inform the local enforcement agency. The local health officer or the local enforcement agency, or both, shall notify the person in charge of the food facility and shall investigate

conditions and may, after the investigation, take appropriate action, and for reasonable cause, require any or all of the following measures to be taken:

(1) The immediate restriction or exclusion of any employee from the affected food facility.

(2) The immediate closing of the food facility until, in the opinion of the local enforcement agency, the identified danger of disease outbreak has been addressed. Any appeal of the closure shall be made in writing within five days to the applicable local enforcement agency.

(3) Any medical evaluation of any employee, including any laboratory test or procedure, that may be indicated. If an employee refuses to participate in a medical evaluation, the local enforcement agency may require the immediate exclusion of the refusing employee from that or any other food facility until an acceptable medical evaluation or laboratory test or procedure shows that the food employee is not infectious.

(b) For purposes of this section, “illness” means a condition caused by any of the following infectious agents:

- (1) Salmonella typhi.
- (2) Salmonella spp.
- (3) Shigella spp.
- (4) Entamoeba histolytica.
- (5) Enterohemorrhagic or shiga toxin producing Escherichia coli.
- (6) Hepatitis A virus.
- (7) Norovirus.
- (8) Other communicable diseases that are transmissible through food.

SEC. 12. Section 113949.2 of the Health and Safety Code is amended to read:

113949.2. The owner who has a food safety certificate issued pursuant to Section 113947.1 or the employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The owner or employee shall require food employees to report the following to the person in charge:

(a) If an employee is diagnosed with an illness due to one of the following:

- (1) Salmonella typhi.
- (2) Salmonella spp.
- (3) Shigella spp.
- (4) Entamoeba histolytica.
- (5) Enterohemorrhagic or shiga toxin producing Escherichia coli.
- (6) Hepatitis A virus.
- (7) Norovirus.

(b) If a food employee has a lesion or wound that is open or draining and is one of the following:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover.

(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover.

(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

SEC. 13. Section 113949.5 of the Health and Safety Code is amended to read:

113949.5. (a) The person in charge shall notify the local enforcement agency when notified that the food employee has been diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1.

(b) A person in charge shall notify the local enforcement agency when he or she is aware that two or more food employees are concurrently experiencing symptoms associated with an acute gastrointestinal illness.

SEC. 14. Section 113953.4 of the Health and Safety Code is repealed.

SEC. 15. Section 113953.4 is added to the Health and Safety Code, to read:

113953.4. (a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall meet either one of the following requirements:

(1) Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness.

(2) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Antiseptic Health-Care Drug Products as an antiseptic handwash.

(b) In addition to the requirements of subdivision (a), the hand antiseptic used as a topical application, hand antiseptic solution used as a hand dip, or hand antiseptic soap shall meet either one of the following requirements:

(1) Have components that are exempted from the requirement of being listed in federal Food Additive regulations as specified in 21 CFR 170.39 – Threshold of regulation for substances used in food-contact articles.

(2) Comply with, and be listed in, either of the following federal regulations:

(A) 21 CFR 178 – Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a Food Additive with conditions of safety use.

(B) 21 CFR 182 – Substances Generally Recognized as Safe, 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food.

(c) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap that meets the requirements of subdivisions (a) and (b) shall be applied only to hands that are cleaned in a manner described in Section 113953.3.

(d) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the requirements of subdivision (b), the hand antiseptic or hand antiseptic solution used as a hand dip may be used only if its use is either of the following:

(1) Followed by thorough hand rinsing in clean water before hand contact with food directly or with the use of gloves.

(2) Limited to situations where bare hands do not come in direct contact with food.

(e) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/l chlorine.

SEC. 16. Section 113961 of the Health and Safety Code is amended to read:

113961. (a) Food employees shall minimize bare hand and arm contact with nonprepackaged food that is in a ready-to-eat form.

(b) Food employees shall use utensils, including scoops, forks, tongs, paper wrappers, gloves, or other implements, to assemble ready-to-eat food or to place ready-to-eat food on tableware or in other containers. However, food employees may assemble or place on tableware or in other containers ready-to-eat food in an approved food preparation area without using utensils if hands are cleaned in accordance with Section 113953.3.

(c) Food that has been served to the consumer and then wrapped or prepackaged at the direction of the consumer shall be handled only with utensils. These utensils shall be properly sanitized before reuse.

SEC. 17. Section 113967 of the Health and Safety Code is amended to read:

113967. No employee shall commit any act that may cause the contamination or adulteration of food, food-contact surfaces, or utensils.

SEC. 18. Section 113977 of the Health and Safety Code is amended to read:

113977. (a) Except as specified in subdivision (b), an employee shall eat, drink, or use any form of tobacco only in designated areas where contamination of nonprepackaged food; clean equipment, utensils, and linens; unwrapped single-use articles; or other items needing protection cannot result.

(b) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of the employee's hands, the container, nonprepackaged food, and food-contact surfaces.

SEC. 19. Section 113982 of the Health and Safety Code is amended to read:

113982. (a) Food shall be transported in a manner that meets the following requirements:

(1) The interior floor, sides, and top of the food holding area shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning.

(2) The food holding area shall be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.

(3) Approved methods shall be used to maintain potentially hazardous food at the required holding temperatures.

(b) This section shall not apply to the transportation of prepackaged nonpotentially hazardous foods.

SEC. 20. Section 113984 of the Health and Safety Code is amended to read:

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

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

(c) Limited food preparation shall be conducted within a food compartment or as approved by the enforcement agency. All food shall be thawed, washed, sliced, and cooled within an approved fully enclosed food facility.

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

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

SEC. 21. Section 113984.1 of the Health and Safety Code is amended to read:

113984.1. Consumer access to a food facility through the food preparation area is permissible, at the discretion of the permitholder, if ready-to-eat foods are prepared in approved areas separated from sources of contamination by a space of at least three feet from the consumer and in areas that are separate from raw or undercooked foods. The route of access shall be separated from the required space by a rail or wall at least three feet high or otherwise clearly delineated.

SEC. 22. Section 113986 of the Health and Safety Code is amended to read:

113986. (a) Food shall be protected from cross-contamination by utilizing one or more of the following methods:

(1) Separating raw food of animal origin during transportation, storage, preparation, holding, and display from raw ready-to-eat food, including other raw food of animal origin such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as produce, and cooked ready-to-eat food.

(2) Except when combined as ingredients, separating types of raw foods of animal origin from each other during transportation, storage, preparation, holding, and display in the following ways:

(A) Using separate equipment for each type.

(B) Arranging each type of food in equipment so that cross-contamination of one type with another is prevented.

(C) Preparing each type of food at different times or in separate areas.

(D) Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E) Cleaning hermetically sealed containers of food of visible soil before opening.

(F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened.

(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H) Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(b) Subparagraph (D) of paragraph (2) of subdivision (a) of this section shall not apply to any of the following:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption.

(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks.

(3) Whole, uncut, processed meats, such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks.

(4) Food being cooled as specified in subdivision (b) of Section 114002.1.

(5) Shellstock.

SEC. 23. Section 113996 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

113996. (a) Except during preparation, cooking, cooling, transportation to or from a retail food facility for a period of less than 30 minutes, or when time is used as the public health control as specified under Section 114000, or as otherwise provided in this section, potentially hazardous food shall be maintained at or above 135°F, or at or below 41°F.

(b) Roasts cooked to a temperature and for a time specified in subdivision (b) of Section 114004 may be held at a temperature of 130°F.

(c) The following foods may be held at or below 45°F:

(1) Raw shell eggs.

(2) Unshucked live molluscan shellfish.

(3) Pasteurized milk and pasteurized milk products in original, sealed containers.

(4) Potentially hazardous foods held for dispensing in serving lines and salad bars during periods not to exceed 12 hours in any 24-hour period or held in vending machines. For purposes of this subdivision, a display case shall not be deemed to be a serving line.

(5) Potentially hazardous foods held for sampling at a certified farmers' market.

(6) Potentially hazardous foods held during transportation.

SEC. 24. Section 114000 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114000. (a) Except as specified in subdivision (b), if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, the following shall occur:

(1) The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control.

(2) The food shall be cooked and served, served if ready-to-eat, or discarded within four hours from the point in time when the food is removed from temperature control.

(3) The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded.

(4) Written procedures shall be maintained in the food facility and made available to the enforcement agency upon request, that ensure compliance with this section and Section 114002, for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(b) Time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs in the following food facilities:

(1) Licensed health care facilities.

(2) Public and private school cafeterias.

SEC. 25. Section 114029 of the Health and Safety Code is amended to read:

114029. (a) Molluscan shellfish shall be obtained from sources according to law or the requirements specified in the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

(b) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(c) Molluscan shellfish that are recreationally caught shall not be received for sale or service.

SEC. 26. Section 114035 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114035. (a) Food shall be inspected as soon as practicable upon receipt and prior to any use, storage, or resale.

(b) Food shall be accepted only if the inspection conducted upon receipt determines that the food satisfies all of the following:

(1) Was prepared by and received from approved sources.

(2) Is received in a wholesome condition.

(3) Is received in packages that are in good condition and that protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(4) Is in containers and on pallets that are not infested with vermin or otherwise contaminated.

(c) Potentially hazardous food shall be inspected for signs of spoilage and randomly checked for adherence to the temperature requirements as specified in Section 113996.

SEC. 27. Section 114039 of the Health and Safety Code is amended to read:

114039. (a) Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies the name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish, and a “sell by” date or a “best if used by” date for packages with

a capacity of less than one-half gallon, or the date shucked for packages with a capacity of one-half gallon or more.

(b) A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information required by subdivision (a) shall be subject to impound pursuant to Section 114393.

SEC. 28. Section 114039.1 of the Health and Safety Code is amended to read:

114039.1. (a) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or each dealer that depurates, ships, or reships the shellstock. Except as specified by subdivision (c), on the harvester's or dealer's tag or label, the following information shall be listed in the following order:

- (1) The harvester's or dealer's name and address.
- (2) The harvester's certification number as assigned by the authority and the original shellstock shipper's certification number.
- (3) The date of harvesting.
- (4) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested.
- (5) The type and quantity of shellfish.
- (6) The following statement in bold, capitalized type: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

(7) The dealer's tag or label shall also indicate the original shipper's certification number, including the abbreviation of the name of the state or country in which the shellfish are harvested.

(b) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information required under subdivision (a) shall be subject to impound pursuant to Section 114393.

(c) If the harvester's tag or label is designed to accommodate each dealer's identification, individual dealer tags or labels need not be provided.

SEC. 29. Section 114039.4 of the Health and Safety Code is amended to read:

114039.4. (a) Except as specified by subdivision (b), shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

(b) The identity of the source of shellstock that are sold or served shall be maintained for 90 calendar days from the dates of harvest by using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date or dates the shellstock are sold or served.

(c) Notwithstanding subdivision (b), if shellstock are removed from their tagged or labeled container, the identity of the source of shellstock that are sold or served shall be maintained by doing the following:

- (1) Using a recordkeeping system as required under subdivision (b).
- (2) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different

certification numbers, harvest dates, or growing areas as identified on the tag or label before being ordered by the consumer.

(3) If shellstock are portioned and prepackaged, including a copy of the corresponding shellstock tag or properly labeling the package with the required shellfish information.

SEC. 30. Section 114039.5 of the Health and Safety Code is amended to read:

114039.5. (a) Except as specified in subdivision (b), molluscan shellfish life-support system display tanks shall not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

(b) Molluscan shellfish life support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with an HACCP plan as specified in Section 114419.1. Operation and maintenance shall ensure the following:

(1) Water used with fish other than molluscan shellfish does not flow into the molluscan tank.

(2) The safety and quality of the shellfish as they were received are not compromised by the use of the tank.

(3) The identity of the source of the shellstock is retained as specified in Section 114039.4.

(c) Molluscan shellfish life support system display tanks that were in operation prior to the effective date of this part need not comply with Section 114419.

SEC. 31. Section 114056 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is repealed.

SEC. 32. Section 114060 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114060. (a) Except for nuts in the shell and whole raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging, counter, service line, or sneeze guards that intercept a direct line between the consumer's mouth and the food being displayed, containers with tight-fitting securely attached lids, display cases, mechanical dispensers, or other effective means.

(b) Nonprepackaged food may be displayed and sold in bulk in other than self-service containers if both of the following conditions are satisfied:

(1) The food is served by a food employee directly to a consumer.

(2) The food is displayed in clean, sanitary, and covered, or otherwise protected, containers.

SEC. 33. Section 114074 of the Health and Safety Code is amended to read:

114074. If tableware is preset, exposed, and unused, extra settings shall either be removed when a consumer is seated or cleaned and sanitized before further use.

SEC. 34. Section 114091 of the Health and Safety Code is amended to read:

114091. In a licensed health care facility and a public or private school cafeteria, the following shall apply:

(a) Only pasteurized juice may be served.

(b) Only pasteurized fluid and dry milk and milk products complying with Grade A standards as specified in law shall be served.

(c) Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages, and, except as specified in subdivision (e), recipes in which more than one egg is broken and the eggs are combined.

(d) (1) Food shall not be reserved where the food was already served to patients or clients who are under contact precautions in medical isolation or quarantine or protective environment isolation.

(2) Food shall not be reserved to a patient or client in protective environment isolation.

(e) The following foods may not be served or offered for sale in a ready-to-eat form:

(1) Raw foods of animal origin such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare.

(2) A partially cooked food of animal origin, such as lightly cooked fish, rare meat, soft-cooked eggs, that is made from raw shell eggs, and meringue.

(3) Raw seed sprouts.

(f) Subdivision (c) does not apply in any of the following instances:

(1) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under Section 114004, and served immediately, such as an omelet, soufflé, or scrambled eggs.

(2) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

(3) The preparation of the food is conducted under a HACCP plan that:

(A) Identifies the food to be prepared.

(B) Prohibits contacting ready-to-eat food with bare hands.

(C) Includes specifications and practices that ensure salmonella enteritidis growth is controlled before and after cooking and is destroyed by cooking the eggs to an internal temperature of 145°F.

(D) Contains the information specified under a HACCP plan, including procedures that control cross-contamination of ready-to-eat food with raw eggs, and delineate cleaning and sanitization procedures for food-contact surfaces.

(E) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

SEC. 35. Section 114099.2 of the Health and Safety Code is amended to read:

114099.2. (a) Notwithstanding Section 114099, manual warewashing shall be accomplished by using a three-compartment sink.

(b) The temperature of the washing solution shall be maintained at not less than 110°F or the temperature specified on the cleaning agent manufacturer's label instructions.

(c) The utensils shall then be rinsed in clear water before being immersed in a sanitizing solution.

(d) Manual sanitization shall be accomplished as specified in Section 114099.6.

(e) In-place sanitizing shall be accomplished as specified in Section 114099.6.

(f) Other methods may be used if approved by the enforcement agency.

SEC. 36. Section 114099.3 of the Health and Safety Code is amended to read:

114099.3. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints, such as when equipment is fixed or the utensils are large, and the enforcement agency has approved the use of the alternative equipment. Alternative manual warewashing equipment may include any of the following:

(a) High-pressure detergent sprayers.

(b) Low-or-line pressure spray detergent foamers.

(c) Other task-specific cleaning equipment.

(d) Brushes or other implements.

(e) (1) A two-compartment sink, if the permit holder limits the number of utensils cleaned and sanitized in the two-compartment sink, limits warewashing to batch operations for cleaning and sanitizing utensils, such as between cutting one type of raw meat and another or cleanup at the end of a shift, and does either of the following:

(A) Makes up the cleaning and sanitizing solutions immediately before use and drains them immediately after use, as well as uses a detergent sanitizer to clean and sanitize in accordance with the manufacturer's label instructions where there is no distinct water rinse between the washing and sanitizing steps. The agent applied in the sanitizing step shall be the same detergent sanitizer that is used in the washing step.

(B) Use a hot water sanitization immersion step that incorporates a nondistinct water rinse.

(2) A two-compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of utensils in an ongoing warewashing process.

SEC. 37. Section 114149.1 of the Health and Safety Code is amended to read:

114149.1. (a) Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors. All mechanical exhaust ventilation equipment shall be installed and maintained in accordance with the California Mechanical Code, except that for units subject to Part

2 (commencing with Section 18000) of Division 13, an alternative code adopted pursuant to Section 18028 shall govern the construction standards.

(b) Restricted food service facilities shall be exempt from subdivision (a), but shall still provide ventilation to remove gases, odors, steam, heat, grease, vapors and smoke from the food facility. In the event that the enforcement officer determines that the ventilation must be mechanical in nature, the ventilation shall be accomplished by methods approved by the enforcement agency.

(c) This section shall not apply to cooking equipment when the equipment has been submitted to the local enforcement agency for evaluation, and the local enforcement agency has found that the equipment does not produce toxic gases, smoke, grease, vapors, or heat when operated under conditions recommended by the manufacturer. The local enforcement agency may recognize a testing organization to perform any necessary evaluations.

(d) Makeup air shall be provided at the rate of that exhausted.

SEC. 38. Section 114155 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is repealed.

SEC. 39. Section 114185.1 of the Health and Safety Code is amended to read:

114185.1. (a) Wiping cloths that are in use for cleaning food spills shall not be used for any other purpose.

(b) Cloths used for wiping food spills shall be dry and used for cleaning food spills from tableware and carry-out containers or used only once, or if used repeatedly, held in a sanitizing solution of an approved concentration as specified in Section 114099.6.

(c) Dry or wet cloths that are used with raw foods of animal origin shall be kept separate from cloths used for other purposes, and wet cloths used with raw foods of animal origin shall be kept in a separate sanitizing solution.

(d) Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.

(e) Working containers of sanitizing solutions for storage of in-use wiping cloths shall be used in a manner to prevent contamination of food, equipment, utensils, linens, or single-use articles.

SEC. 40. Section 114192 of the Health and Safety Code is amended to read:

114192. (a) Except as provided in subdivision (d), an adequate, protected, pressurized, potable supply of hot water and cold water shall be provided. Hot water shall be supplied at a minimum temperature of at least 120°F measured from the faucet, unless otherwise specified in this part. The water supply shall be from a water system approved by the health officer or the local enforcement agency.

(b) Any hose used for conveying potable water shall be constructed of nontoxic materials, shall be used for no other purpose, and shall be clearly labeled as to its use. The hose shall be stored and used so as to be kept free of contamination.

(c) The potable water supply shall be protected with a backflow or back siphonage protection device when required by applicable plumbing codes.

Exposed piping of a nonpotable water system shall be identified so that it is readily distinguishable from piping that carries potable water.

(d) A food facility may provide only warm water if the water supply is used only for handwashing, as required in Section 113953.

SEC. 41. Section 114245.1 of the Health and Safety Code is amended to read:

114245.1. (a) All refuse, recyclables, and returnables shall be kept in nonabsorbent, durable, cleanable, leakproof, and rodentproof containers and shall be contained so as to minimize odor and insect development by covering with close-fitting lids or placement in a disposable bag that is impervious to moisture and then sealed.

(b) Refuse containers inside a food facility need not be covered during periods of operation.

(c) All refuse shall be removed and disposed of in a sanitary manner as frequently as may be necessary to prevent the creation of a nuisance.

(d) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(e) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

SEC. 42. Section 114254 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114254. Only those insecticides, rodenticides, and other pesticides that are necessary and specifically approved for use in a food facility may be used. The use shall be in accordance with the manufacturer's instructions.

SEC. 43. Section 114257 of the Health and Safety Code is amended to read:

114257. All premises of a food facility shall be kept clean fully operative, and in good repair.

SEC. 44. Section 114259.1 of the Health and Safety Code is amended to read:

114259.1. The premises of each food facility shall be kept free of vermin.

SEC. 45. Section 114259.4 of the Health and Safety Code is amended to read:

114259.4. (a) Except as specified in subdivision (b), food employees shall not care for or handle animals that may be present, such as patrol dogs, service animals, or pets that are allowed as specified in subdivision (b) of Section 114259.5.

(b) Food employees with service animals may handle or care for their service animals if they wash their hands as required in this part. Food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as required in this part.

SEC. 46. Section 114259.5 of the Health and Safety Code is amended to read:

114259.5. (a) Except as specified in subdivision (b), live animals may not be allowed in a food facility.

(b) Live animals may be allowed in any of the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result:

(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems.

(2) Animals intended for consumption if the live animals are kept separate from all food and utensil handling areas, are held in sanitary conditions, are slaughtered in a separate room designed solely for that purpose and separated from other food and utensil handling areas, and maintained in an area that has ventilation separate from food and utensil handling areas.

(3) Dogs under the control of a uniformed law enforcement officer or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) In areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.

(5) Pets in the common dining areas of restricted food service facilities at times other than during meals if all of the following conditions are satisfied:

(A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas.

(B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present.

(C) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(6) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

(7) If kept at least 20 feet (6 meters) away from any mobile food facility, temporary food facility, or certified farmers' market.

(c) Those persons and operators described in paragraphs (3) and (4) are liable for any damage done to the premises or facilities by the dog.

(d) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result.

SEC. 47. Section 114271 of the Health and Safety Code is amended to read:

114271. (a) Except as provided in subdivision (b), the walls and ceilings of all rooms shall be of a durable, smooth, nonabsorbent, and easily cleanable surface.

(b) This section shall not apply to any of the following areas:

(1) Walls and ceilings of bar areas in which alcoholic beverages are sold or served directly to the consumers, except wall areas adjacent to bar sinks and areas where food is prepared.

(2) Areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(3) Dining and sales areas.

(4) Offices.

(5) Restrooms that are used exclusively by the consumers, except that the walls and ceilings in the restrooms shall be of a nonabsorbent and washable surface.

(c) Acoustical paneling may be utilized if it is installed not less than six feet above the floor. The paneling shall meet the other requirements of this section.

(d) Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed so as to facilitate cleaning.

(e) Attachments to walls and ceilings, such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments, shall be easily cleanable.

SEC. 48. Section 114276 of the Health and Safety Code is amended to read:

114276. (a) A permanent food facility shall provide clean toilet facilities in good repair for use by employees.

(b) (1) A permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or invitees when there is onsite consumption of foods or when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space.

(2) Notwithstanding Section 113984.1, toilet facilities that are provided for use by consumers, guests, or invitees shall be in a location where consumers, guests, and invitees do not pass through food preparation, food storage, or utensil washing areas to reach the toilet facilities.

(3) For purposes of this section, a building subject to paragraph (1) that has a food facility with more than 20,000 square feet of floor space shall provide at least one separate toilet facility for men and one separate toilet facility for women.

(4) For purposes of this section, the gas pump area of a service station that is maintained in conjunction with a food facility shall not be considered as property used in connection with the food facility or be considered in determining the square footage of floor space of the food facility.

(c) (1) Toilet rooms shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

(2) Toilet room doors shall be kept closed except during cleaning and maintenance operations.

(d) Handwashing facilities, in good repair, shall be provided as specified in Sections 113953 and 113953.3.

(e) Any city, county, or city and county may enact ordinances that are more restrictive than this section.

(f) (1) Except as provided in paragraph (1) of subdivision (b), any building that is constructed before January 1, 2004, that has a food facility that provides space for the consumption of food on the premises shall either provide clean toilet facilities in good repair for consumers, guests, or invitees on property used in connection with, or in, the food facility or prominently post a sign within the food facility in a public area stating that toilet facilities are not provided.

(2) The first violation of paragraph (1) shall result in a warning. Subsequent violations shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars (\$250).

(3) The requirements of this section for toilet facilities that are accessible to consumers, guests, or invitees on the property may be satisfied by permitting access by those persons to the toilet and handwashing facilities that are required by this part.

SEC. 49. Section 114299 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114299. (a) Except as specified in subdivision (c), the business name or name of the operator, city, state, ZIP Code, and name of the permittee, if different from the name of the food facility, shall be legible, clearly visible to consumers, and permanently affixed on the consumer side of the mobile food facility and on a mobile support unit.

(b) The name shall be in letters at least 3 inches high and shall be of a color contrasting with the vehicle exterior. Letters and numbers for the city, state, and ZIP Code shall not be less than one inch high.

(c) Notwithstanding subdivision (a), motorized mobile food facilities and mobile support units shall have the required identification on two sides.

SEC. 50. Section 114311 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

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

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

(b) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

SEC. 51. Section 114323 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114323. (a) A first-aid kit shall be provided and located in a convenient area in an enclosed case.

(b) Mobile food facilities that operate at more than one location in a calendar day shall be equipped to meet all of the following requirements:

(1) All utensils in a mobile food facility shall be stored so as to prevent their being thrown about in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleanable and be manufactured of materials approved by the enforcement agency.

(2) Coffee urns, deep fat fryers, steam tables, and similar equipment shall be equipped with positive closing lids that are fitted with a secure latch mechanism that will prevent excessive spillage of hot liquids into the interior of a mobile food facility in the event of a sudden stop, collision, or overturn. As an alternative to this requirement, a coffee urn may be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit.

(3) Metal protective devices shall be installed on the glass liquid level sight gauges on all coffee urns.

(c) Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent, and installed so as to not constitute a hazard to personnel or food.

(d) All liquefied petroleum equipment shall be installed to meet applicable fire authority standards, and this installation shall be approved by the fire authority. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, this equipment and its installation shall comply with standards prescribed by Sections 18028 and 18029.5.

(e) A properly charged and maintained minimum 10 BC-rated fire extinguisher to combat grease fires shall be properly mounted and readily accessible on the interior of any mobile food facility that is equipped with heating elements or cooking equipment.

(f) (1) Except for units subject to Part 2 (commencing with Section 18000) of Division 13, a second means of exit shall be provided in the side opposite the main exit door, or in the roof, or the rear of the unit, with an unobstructed passage of at least 24 inches by 36 inches. The interior latching mechanism shall be operable by hand without special tools or key. The exit shall be labeled "Safety Exit" in contrasting colors with letters at least one inch high.

(2) For units subject to Part 2 (commencing with Section 18000) of Division 13, the size, latching, and labeling of the second means of exit shall comply with standards prescribed by Sections 18028 and 18029.5.

(g) All gas-fired appliances shall be properly insulated in a manner that will prevent excessive heat buildup and injury.

SEC. 52. Section 114325 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114325. (a) Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous water heater

capable of heating water to a minimum of 100°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b) (1) Except as specified in paragraph (2), a water heater with a minimum capacity of three gallons shall be provided for mobile food facilities.

(2) A minimum water heater capacity of one-half gallon shall be provided for mobile food facilities approved for limited food preparation.

SEC. 53. Section 114326 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114326. All commissaries and other approved facilities servicing mobile support units, mobile food facilities, and vending machines shall meet the applicable requirements in this part and any of the following to accommodate all operations necessary to support mobile support units, mobile food facilities, and vending machines:

(a) Adequate facilities shall be provided for the sanitary disposal of liquid waste from the mobile food facility or mobile support unit being serviced.

(b) Adequate facilities shall be provided for the handling and disposal of garbage and refuse originating from a mobile food facility or mobile support unit.

(c) Potable water shall be available for filling the water tanks of each mobile food facility and mobile support unit that requires potable water. Faucets and other potable water sources shall be constructed, located, and maintained so as to minimize the possibility of contaminating the water being loaded.

(d) Hot and cold water, under pressure, shall be available for cleaning mobile food facilities and mobile support units.

(e) Adequate facilities shall be provided for the storage of food, utensils, and other supplies.

(f) Notwithstanding Section 113984, commissaries that service mobile food facilities that conduct limited food preparation shall provide a food preparation area.

(g) Servicing areas at commissaries shall be provided with overhead protection, except that areas used only for the loading of water or the discharge of sewage and other liquid waste through the use of a closed system of hoses need not be provided with overhead protection.

(h) Servicing areas used for cleaning shall be sloped and drained to an approved wastewater system.

(i) Adequate electrical outlets shall be provided for mobile food facilities and mobile support units that require electrical service.

SEC. 54. Section 114358 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114358. (a) Notwithstanding Section 113953, handwashing facilities for temporary food facilities that operate for three days or less may include a container capable of providing a continuous stream of water from an approved source that leaves both hands free to allow vigorous rubbing with soap and warm water for 10 to 15 seconds, inclusive.

(b) Food facilities that handle only prepackaged food may provide cold water with a germicidal soap at the handwashing facility.

(c) A catch basin shall be provided to collect wastewater, and the wastewater shall be properly disposed of according to Section 114197.

(d) Handwashing facilities shall be equipped with handwashing cleanser and single-use sanitary towels.

(e) A separate receptacle shall be available for towel waste.

SEC. 55. Section 114371 of the Health and Safety Code is amended to read:

114371. Certified farmers' markets shall meet all of the following requirements:

(a) All food shall be stored at least six inches off the floor or ground or under any other conditions that are approved.

(b) Food preparation is prohibited at certified farmers' markets with the exception of food samples. Distribution of food samples may occur provided that the following sanitary conditions exist:

(1) Samples shall be kept in approved, clean, covered containers.

(2) All food samples shall be distributed by the producer in a sanitary manner.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Food intended for sampling shall be washed or cleaned in another manner of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Notwithstanding Section 114205, potable water shall be available for handwashing and sanitizing as approved by the enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45°F and shall be disposed of within two hours after cutting.

(7) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleanable, or single-use articles shall be utilized.

(c) Approved toilet and handwashing facilities shall be available within 200 feet travel distance of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement officer.

(f) Notwithstanding Chapter 10 (commencing with Section 114294), vendors selling food adjacent to, and under the jurisdiction and management of, a certified farmers' market may store, display, and sell from a table or display fixture apart from the mobile food facility in a manner approved by the enforcement agency.

(g) Temporary food facilities may be operated as a separate community event adjacent to and in conjunction with certified farmers' markets that are operated as a community event. The organization in control of the event at which one or more temporary food facilities operate shall comply with Section 114383.

SEC. 56. Section 114380 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114380. (a) A person proposing to build or remodel a food facility shall submit complete, easily readable plans drawn to scale, and specifications to the enforcement agency for review, and shall receive plan approval before starting any new construction or remodeling of any facility for use as a retail food facility.

(b) Plans and specifications may also be required by the enforcement agency if the agency determines that they are necessary to assure compliance with the requirements of this part, including, but not limited to, a menu change or change in the facility's method of operation.

(c) (1) All new school food facilities or school food facilities that undergo modernization or remodeling shall comply with all structural requirements of this part. Upon submission of plans by the school authority, the Office of the State Architect and the local enforcement agency shall review and approve all new and remodeled school facilities for compliance with all applicable requirements.

(2) Except where a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing food facilities shall be deemed to be in compliance with the law pending replacement or renovation. If a determination is made by the enforcement agency that a structural condition poses a public health hazard, the food facility shall remedy the deficiency to the satisfaction of the enforcement agency.

(d) The plans shall be approved or rejected within 20 working days after receipt by the enforcement agency and the applicant shall be notified of the decision. Unless the plans are approved or rejected within 20 working days, they shall be deemed approved. The building department shall not issue a building permit for a food facility until after it has received plan approval by the enforcement agency. Nothing in this section shall require that plans or specifications be prepared by someone other than the applicant.

SEC. 57. Section 114393 of the Health and Safety Code is amended to read:

114393. (a) Based upon inspection findings or other evidence, an enforcement officer may impound food, equipment, or utensils that are found to be, or suspected of being, unsanitary or in such disrepair that food, equipment, or utensils may become contaminated or adulterated, and inspect, impound, or inspect and impound any utensil that is suspected of releasing lead or cadmium in violation of Section 108860. The enforcement officer may attach a tag to the food, equipment, or utensils that shall be removed only by the enforcement officer following verification that the condition has been corrected.

(b) No food, equipment, or utensils impounded pursuant to subdivision (a) shall be used unless the impoundment has been released.

(c) Within 30 days, the enforcement agency that has impounded the food, equipment, or utensils pursuant to subdivision (a) shall commence proceedings to release the impounded materials or to seek administrative or legal remedy for its disposition.

SEC. 58. Section 114417.1 of the Health and Safety Code is amended to read:

114417.1. (a) Within 180 days after the effective date of this part, the department shall develop the form of application that an applicant for a variance must submit. The department may amend the form as it deems appropriate. The application shall contain, at a minimum, the following information:

(1) A detailed description of the requested variance, including citation to the relevant subdivisions specified in Section 113936.

(2) An analysis of the science-based rationale upon which the proposed alternate practice or procedure is based, to include, if and as appropriate, microbial challenge and process validation studies demonstrating how potential health hazards dealt with in those subdivisions that are relevant to the requested variance will be addressed.

(3) A description of the specific procedures, processes, monitoring steps, and other relevant protocols that will be implemented pursuant to the variance to address potential health hazards dealt with in those subdivisions specified in Section 113936 that are relevant to the requested variance.

(4) An HACCP plan, if required pursuant to Section 114419, that includes all applicable information relevant to the requested variance.

(b) An application for a variance shall be submitted to the department, and must be accompanied at the time of submission by the fees specified in subdivision (c).

(c) Each application for a variance shall be accompanied at the time of submission by payment of fees sufficient to pay the necessary costs of the department as specified in Section 113717. Any overpayment by the applicant in excess of the recovery rate and other costs incurred shall be repaid to the applicant within 30 calendar days after final action is taken by the department on the application.

SEC. 59. Section 114417.6 of the Health and Safety Code is amended to read:

114417.6. If the department grants a variance, or if an HACCP plan is required pursuant to Section 114419, the permitholder shall do both of the following:

(a) Comply with the HACCP plan and procedures that are submitted as specified in Sections 114419.1 and 114419.2 and approved as a condition for the granting of the variance.

(b) Maintain and provide to the enforcement agency, upon request, records specified under a HACCP plan, or otherwise pursuant to the variance letter, that demonstrate that the following are routinely employed:

(1) Procedures for monitoring critical control points.

- (2) Monitoring of the critical control points.
- (3) Verification of the effectiveness of an operation or process.
- (4) Necessary corrective actions if there is a failure at a critical control point.

SEC. 60. Section 114419 of the Health and Safety Code is amended to read:

114419. (a) Food facilities may engage in any of the following activities only pursuant to an HACCP plan as specified in Section 114419.1:

- (1) Smoking food as a method of food preservation rather than as a method of flavor enhancement.
- (2) Curing food.
- (3) Using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement, or to render a food so that it is not potentially hazardous.
- (4) Operating a molluscan shellfish life support system display tank used to store and display shellfish that are offered for human consumption.
- (5) Custom processing animals that are for personal use as food and not for sale or service in a food facility.
- (6) Preparing food by another method that is determined by the enforcement agency to require an HACCP plan.

(b) Food facilities may engage in the following only pursuant to an HACCP plan that has been approved by the department:

- (1) Using acidification or water activity to prevent the growth of *Clostridium botulinum*.
- (2) Packaging potentially hazardous food using a reduced-oxygen packaging method as specified in Section 114057.1.

SEC. 61. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 62. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that laws regulating food safety at retail food facilities are enacted at the earliest possible time, thereby protecting public health, it is necessary that this act take effect immediately.