

AMENDED IN SENATE MAY 13, 2008

SENATE BILL

No. 1420

Introduced by Senators Padilla and Migden
(Principal coauthor: Assembly Member DeSaulnier)
(*Coauthors: Senators Alquist, Cedillo, and Romero*)

February 21, 2008

An act to add Section 114094 to the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1420, as amended, Padilla. Food facilities: nutritional information.

The California ~~Uniform Retail Food Facilities Law (CURFFL)~~ *Code* provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing ~~CURFFL~~ *this code*. A violation of any of these provisions is punishable as a misdemeanor.

This bill would require each food facility in the state that meets specified criteria to provide nutritional information that includes, per standard menu item, the total number of calories, *grams of carbohydrates*, grams of saturated fat, grams of trans fat, and milligrams of sodium. It would also require the menu boards to include the total number of calories *for each listed item*. The bill would provide that, on and after July 1, 2009, a food facility that violates the provisions of the bill is guilty of an infraction, and would specifically provide that a violation of these provisions is not a misdemeanor. By creating an infraction and adding a new local enforcement duty, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

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

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 hereby finds and declares all of
2 the following:

3 ~~(a) Research continues to reveal the strong link between diet~~
4 ~~and health, and that diet-related diseases start early in life.~~

5 *(a) Over the past two decades, there has been a significant*
6 *increase in the number of meals prepared or eaten outside the*
7 *home, with an estimated one-third of calories being consumed in,*
8 *and almost one-half of total food dollars being spent on, food*
9 *purchased from or eaten at restaurants and other food facilities.*

10 (b) Increased caloric intake is a key factor contributing to the
11 alarming increase in obesity in the United States. According to the
12 Centers for Disease Control and Prevention, two-thirds of
13 American adults are overweight or obese, and the rates of obesity
14 have tripled in children and teens since 1980.

15 (c) Obesity increases the risk of diabetes, heart disease, stroke,
16 some cancers, and other health problems.

17 ~~(d) Basic nutritional information is extremely important to~~
18 ~~consumers who are dealing with chronic diseases like~~
19 ~~cardiovascular disease and diabetes.~~

20 ~~(e) Over the past two decades, there has been a significant~~
21 ~~increase in the number of meals prepared or eaten outside the~~
22 ~~home, with an estimated one-third of calories and almost one-half~~
23 ~~(46 percent) of total food dollars being spent on food purchased~~
24 ~~from or eaten at restaurants and other food facilities.~~

25 *(d) Broader availability of nutrition information regarding foods*
26 *served at restaurants and other food service establishments would*

1 *allow customers to make more informed decisions about the food*
2 *they purchase.*

3 ~~(f)~~

4 (e) Three-quarters of American adults report using food labels
5 on packaged foods, which are required by the federal Nutrition
6 Labeling and Education Act of 1990.

7 (f) *Availability of nutrition information regarding restaurant*
8 *food assists consumers who are monitoring their diets or dealing*
9 *with chronic diseases' such as cardiovascular disease and diabetes.*

10 (g) Consumers should be provided with point of purchase access
11 to nutritional information when eating out in order to make
12 informed decisions involving their health and diet.

13 (h) It is the intent of the Legislature to provide consumers with
14 better access to nutritional information about prepared foods sold
15 at food facilities so that consumers can understand the nutritional
16 value of available foods.

17 SEC. 2. Section 114094 is added to the Health and Safety Code,
18 to read:

19 114094. (a) Each food facility in this state that operates under
20 common ownership or control with at least 14 other food facilities
21 with the same name in the state that offer for sale substantially the
22 same menu items, or operates as a franchised outlet of a parent
23 company with at least 14 other franchised outlets with the same
24 name in the state that offer for sale substantially the same menu
25 items, shall make nutritional information available to consumers
26 for all standard menu items. This information shall include, but
27 not be limited to, all of the following, per standard menu item, as
28 usually prepared and offered for sale:

- 29 (1) Total number of calories.
- 30 (2) Total number of grams of saturated fat.
- 31 (3) Total number of grams of trans fat.
- 32 (4) Total number of *grams* of carbohydrates.
- 33 (5) Total number of milligrams of sodium.

34 ~~(b) Each food facility described in subdivision (a) that uses a~~
35 ~~standard menu shall provide the nutritional information next to~~

36 (b) *The nutrition information required in subdivision (a) shall*
37 *be provided next to each item on the menu in a size and typeface*
38 *that is clear and conspicuous. A page of the menu shall include,*
39 *in a clear and conspicuous manner, the following statement:*
40 *“Recommended limits for a 2,000 calorie daily diet are 20 grams*

1 of saturated fat and 2,300 milligrams of sodium.” If the food
2 facility also uses a menu board, the food facility may limit the
3 nutritional information listed on the menu board to the total number
4 of calories per item in a size and typeface that is clear and
5 conspicuous.

6 (c) Each food facility described in subdivision (a) that uses only
7 a menu board shall provide on the menu board the total number
8 of calories per item in a size and typeface that is clear and
9 conspicuous. This type of food facility shall, upon request, make
10 the other nutritional information described in subdivision (a)
11 available to consumers in writing at the point of sale.

12 (d) Menus and menu boards may include a disclaimer that
13 indicates that there may be minimal variations in nutritional content
14 across servings, based on slight variations in overall size and
15 quantities of ingredients, and based on special ordering.

16 (e) The nutritional information required by this section shall be
17 ~~based upon a verifiable analysis of the menu item, which may~~
18 ~~include the use of nutrient databases, laboratory testing, or other~~
19 ~~reliable methods of analysis.~~ *determined on a reasonable basis.*
20 *For purposes of this section, “reasonable basis” means any*
21 *reasonable means of determining nutrition information for a*
22 *standard menu item, as recognized by the federal Food and Drug*
23 *Administration, including, but not limited to, nutrient databases*
24 *and laboratory analyses. A reasonable basis determination of*
25 *nutrition information shall be required only once per standard*
26 *menu item, provided that portion size is reasonably consistent and*
27 *the covered food facility follows a standardized recipe and trains*
28 *to a consistent method of preparation.*

29 (f) Notwithstanding Section 113789, for purposes of this section,
30 food facility does not include any of the following:

31 (1) Certified farmers’ markets.

32 (2) Commissaries.

33 (3) *Grocery stores, except for separately owned food facilities*
34 *to which this section otherwise applies that are located in the*
35 *grocery store. For purposes of this paragraph, “grocery store”*
36 *means a store primarily engaged in the retail sale of canned food,*
37 *dry goods, fresh fruits and vegetables, and fresh meats, fish, and*
38 *poultry. “Grocery store” includes convenience stores.*

39 ~~(3)~~

40 (4) Licensed health care facilities.

- 1 ~~(4)~~
- 2 (5) Mobile support units.
- 3 ~~(5)~~
- 4 (6) Public and private school cafeterias.
- 5 ~~(6)~~
- 6 (7) Restricted food service facilities.
- 7 ~~(7)~~
- 8 (8) Temporary food facilities.
- 9 ~~(8)~~
- 10 (9) Vending machines.

11 ~~(9) Grocery stores, except for separately owned food facilities~~
12 ~~to which this section otherwise applies that are located in the~~
13 ~~grocery store. For purposes of this paragraph, “grocery store”~~
14 ~~means a store primarily engaged in the retail sale of canned foods,~~
15 ~~dry goods, fresh fruits and vegetables, and fresh and prepared~~
16 ~~meats, fish, and poultry, and includes convenience stores.~~

17 (g) For purposes of this section, a standard menu item does not
18 include food items that are on the menu for less than six months,
19 condiments, other items placed on the table or counter for general
20 use without charge ~~and~~, alcoholic beverages, *or packaged foods*
21 *otherwise subject to the nutrition labeling requirements of the*
22 *federal Nutrition Labeling and Education Act of 1990.*

23 (h) Commencing July 1, 2009, a food facility that violates this
24 section is guilty of an infraction, punishable by a fine of not less
25 than fifty dollars (\$50) or more than five hundred dollars (\$500),
26 which may be assessed by a local enforcement agency. However,
27 a food facility may not be found to violate this section more than
28 once during an inspection visit. Notwithstanding Section ~~113395~~
29 *114395*, a violation of this section is not a misdemeanor.

30 *(i) If any provision of this section, or the application thereof, is*
31 *for any reason held invalid, ineffective, or unconstitutional by a*
32 *court of competent jurisdiction, the remainder of this section, shall*
33 *not be affected thereby, and to this end, the provisions of this*
34 *section are severable.*

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution for certain
37 costs that may be incurred by a local agency or school district
38 because, in that regard, this act creates a new crime or infraction,
39 eliminates a crime or infraction, or changes the penalty for a crime
40 or infraction, within the meaning of Section 17556 of the

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

4 However, if the Commission on State Mandates determines that
5 this act contains other costs mandated by the state, reimbursement
6 to local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

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