

AMENDED IN ASSEMBLY MARCH 25, 2010
AMENDED IN ASSEMBLY MARCH 10, 2010
AMENDED IN ASSEMBLY JANUARY 5, 2010
AMENDED IN ASSEMBLY JULY 1, 2009
AMENDED IN SENATE MAY 28, 2009
AMENDED IN SENATE MAY 18, 2009
AMENDED IN SENATE APRIL 28, 2009
AMENDED IN SENATE APRIL 21, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 602

**Introduced by Senator Padilla
(Coauthors: Senators Denham and DeSaulnier)**

February 27, 2009

An act to amend Sections 113947.2 and 113947.3 of, and to add Sections 113790 and 113948 to, the Health and Safety Code, relating to food safety, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 602, as amended, Padilla. Food safety.

The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Under existing law, a violation of these provisions is a misdemeanor. Local health agencies are primarily responsible for enforcing this law.

This law generally requires food facilities, except temporary food facilities, to have an owner or employee who has successfully passed an approved and accredited food safety certification examination from an accredited food protection manager certification organization, except as specified.

This bill would require at least one of the accredited food safety certification examinations to be offered online.

This bill would also require, commencing January 1, 2011, and with specified exceptions, a food handler, as defined, to obtain a food handler card. The bill would require food handlers hired after ~~January~~ *June* 1, 2011, to obtain a food handler card within 30 days of his or her date of hire, and would require all other food handlers to obtain a food handler card prior to ~~February~~ *July* 1, 2011. It would require each food handler to maintain a valid food handler card for the duration of his or her employment as a food handler.

This bill would exempt from compliance any food handler subject to an existing local food handler program that took effect prior to January 1, 2009, and would also require a food facility that employs food handlers to maintain records documenting that each food handler employed by the facility possesses a food handler card. The bill would require at least one food handler training course to cost no more than \$15 and, if a training course is not available at that cost, would remove the requirement to obtain a food handler card.

By creating a new crime and expanding the duties of local enforcement officials, 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.

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

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 113790 is added to the Health and Safety
2 Code, to read:

3 113790. "Food handler" means an individual who is involved
4 in the preparation, storage, or service of food in a food facility,
5 other than an individual holding a valid food safety certificate
6 issued pursuant to Section 113947.3 or an individual involved in
7 the preparation, storage, or service of food in a temporary food
8 facility.

9 SEC. 2. Section 113947.2 of the Health and Safety Code is
10 amended to read:

11 113947.2. The food safety certification examination for
12 purposes of Section 113947.1 shall include, but need not be limited
13 to, all of the following elements of knowledge:

14 (a) Foodborne illness, including terms associated with foodborne
15 illness, micro-organisms, hepatitis A, and toxins that can
16 contaminate food and the illness that can be associated with
17 contamination, definition and recognition of potentially hazardous
18 foods, chemical, biological, and physical contamination of food,
19 and the illnesses that can be associated with food contamination,
20 and major contributing factors for foodborne illness.

21 (b) The relationship between time and temperature with respect
22 to foodborne illness, including the relationship between time and
23 temperature and micro-organisms during the various food handling,
24 preparation, and serving states, and the type, calibration, and use
25 of thermometers in monitoring food temperatures.

26 (c) The relationship between personal hygiene and food safety,
27 including the association of hand contact, personal habits and
28 behaviors, and food employee health to foodborne illness, and the
29 recognition of how policies, procedures, and management
30 contribute to improved food safety practices.

31 (d) Methods of preventing food contamination in all stages of
32 food handling, including terms associated with contamination and
33 potential hazards prior to, during, and after delivery.

34 (e) Procedures for cleaning and sanitizing equipment and
35 utensils.

36 (f) Problems and potential solutions associated with facility and
37 equipment design, layout, and construction.

1 (g) Problems and potential solutions associated with temperature
2 control, preventing cross-contamination, housekeeping, and
3 maintenance.

4 SEC. 3. Section 113947.3 of the Health and Safety Code is
5 amended to read:

6 113947.3. (a) Food safety certification required pursuant to
7 Section 113947.1 shall be achieved by successfully passing an
8 examination from an accredited food protection manager
9 certification organization. The certification organization shall be
10 accredited by the American National Standards Institute as meeting
11 the requirements of the Conference for Food Protection's
12 "Standards for Accreditation of Food Protection Manager
13 Certification Programs." Those food employees who successfully
14 pass an approved certification examination shall be issued a
15 certificate by the certifying organization. The issuance date for
16 each original certificate issued pursuant to this section shall be the
17 date when the individual successfully completes the examination.
18 Certificates shall be valid for five years from the date of original
19 issuance. Any replacement or duplicate certificate shall have as
20 its expiration date the same expiration date that was on the original
21 certificate.

22 (b) (1) By July 20, 2008, the department, in consultation with
23 the California Conference of Directors of Environmental Health,
24 representatives of the retail food industry, and other interested
25 parties, shall develop and implement a program for the purposes
26 of demonstrating adequate knowledge for operators of temporary
27 food facilities.

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

38 (3) At least one of the accredited food safety certification
39 examinations shall be offered online.

1 SEC. 4. Section 113948 is added to the Health and Safety Code,
2 to read:

3 113948. (a) (1) Commencing January 1, 2011, and subject to
4 the exceptions described in subdivision (d), a food handler shall
5 obtain a food handler card from a food protection manager
6 certification organization described in Section 113947.3. Food
7 handlers hired on or after ~~January~~ *June* 1, 2011, shall obtain a food
8 handler card within 30 days after the date of hire. All other food
9 handlers shall obtain a food handler card prior to ~~February~~ *July* 1,
10 2011. Each food handler shall maintain a valid food handler card
11 for the duration of his or her employment as a food handler.

12 (2) Food handler cards shall be valid for three years from the
13 date of issuance, regardless of whether the food handler changes
14 employers during that period.

15 (3) A food handler card shall be recognized throughout the state,
16 except in jurisdictions described in subdivision (e).

17 (b) A food handler card shall be issued only upon successful
18 completion of an approved food handler training course and
19 assessment that meets at least all of the following requirements:

20 (1) The course provides basic, introductory instruction on the
21 elements of knowledge described in subdivisions (a), (b), (c), (d),
22 (e), and (g) of Section 113947.2.

23 (2) The course and assessment is designed to be completed
24 within approximately two and one-half hours.

25 (3) The assessment consists of at least 40 questions regarding
26 the required subject matter.

27 (4) A minimum score of 70 percent on the assessment is required
28 to successfully complete the assessment.

29 (c) The food handler training course and assessment may be
30 offered through a trainer-led class and assessment or self-training
31 and assessment. For purposes of this section, “self-training and
32 assessment” means a process where the individual trains, and takes
33 an assessment, without the presence or intervention of a trainer or
34 instructor, and includes, but is not limited to, training and
35 assessment through the use of a computer program or the Internet.

36 (d) This section shall not apply to a food handler who is
37 employed by any of the following:

38 (1) Certified farmer’s markets.

39 (2) Commissaries.

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

7 (4) Licensed health care facilities.

8 (5) Mobile support units.

9 (6) Public and private school cafeterias.

10 (7) Restricted food service facilities.

11 (8) Retail stores in which a majority of sales are from a
12 pharmacy, as defined in Section 4037 of the Business and
13 Professions Code.

14 (9) A food facility that provides in-house food safety training
15 to all employees involved in the preparation, storage, or service
16 of food if all of the following conditions are met:

17 (A) The food facility uses a training course that has been
18 approved for use by the food facility in another state that has
19 adopted the requirements described in Subpart 2-103.11 of the
20 2001 edition of the model Food Code, not including the April 2004
21 update, published by the federal Food and Drug Administration.

22 (B) Upon request, the food facility provides evidence
23 satisfactory to the local enforcement officer demonstrating that
24 the food facility training program has been approved for use in
25 another state pursuant to subparagraph (A).

26 (C) The training is provided during normal work hours, and at
27 no cost to the employee.

28 (e) The requirements of this section shall not apply to a food
29 handler subject to an existing local food handler program that took
30 effect prior to January 1, 2009.

31 (f) Each food facility that employs a food handler subject to the
32 requirements of this section shall maintain records documenting
33 that each food handler employed by the food facility possesses a
34 valid food handler card, and shall provide those records to the local
35 enforcement officer upon request.

36 (g) At least one food handler training course and assessment
37 shall cost no more than fifteen dollars (\$15), including a food
38 handler card. If a food handler training course and assessment is
39 not available at that cost, the requirement to obtain a food handler
40 card imposed by this section shall not apply.

1 SEC. 5. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution for certain
3 costs that may be incurred by a local agency or school district
4 because, in that regard, this act creates a new crime or infraction,
5 eliminates a crime or infraction, or changes the penalty for a crime
6 or infraction, within the meaning of Section 17556 of the
7 Government Code, or changes the definition of a crime within the
8 meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 However, if the Commission on State Mandates determines that
11 this act contains other costs mandated by the state, reimbursement
12 to local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.

15 *SEC. 6. This act is an urgency statute necessary for the*
16 *immediate preservation of the public peace, health, or safety within*
17 *the meaning of Article IV of the Constitution and shall go into*
18 *immediate effect. The facts constituting the necessity are:*

19 *(In order to ensure a safer food supply by instituting the food*
20 *handler card program at the earliest possible time, it is necessary*
21 *for this act to take effect immediately.)*