

AMENDED IN SENATE MARCH 17, 2011

SENATE BILL

No. 303

Introduced by Senator Padilla

February 14, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 303, as amended, Padilla. Food safety: food handlers.

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. Local health agencies are primarily responsible for enforcing this law. *Violation of these provisions is a misdemeanor.*

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. Existing law generally defines a food facility to mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level.

Existing law also requires, with specified exceptions, a food handler, as defined, who is hired prior to June 1, 2011, to obtain a food handler card from a food protection manager certification organization, as described. A food handler hired after June 1, 2011, is required to obtain a food handler card within 30 days of his or her date of hire. A food handler must maintain a valid food handler card for the duration of his or her employment as a food handler.

This bill would, for purposes of the above-described food handler requirements, define a food facility to mean a food facility that sells food for human consumption. *The bill would instead, until January 1, 2012, require a food handler to obtain a food handler card from either a food protection manager certification organization or a specified training provider; and would require, commencing January 1, 2012, the card to be obtained only from a specified training provider.*

By changing the definition of a crime, 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 no reimbursement is required by this act for a specified reason.

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: ~~no~~-yes.

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

1 SECTION 1. Section 113790 of the Health and Safety Code
 2 is amended to read:

3 113790. (a) “Food handler” means an individual who is
 4 involved in the preparation, storage, or service of food in a food
 5 facility, as defined in subdivision (b), other than an individual
 6 holding a valid food safety certificate issued pursuant to Section
 7 113947.3 or an individual involved in the preparation, storage, or
 8 service of food in a temporary food facility, as defined in Section
 9 113930.

10 (b) For purposes of the definition of a “food facility” in
 11 subdivision (a) and in Section 113948, a food facility means a food
 12 facility, as defined in Section 113789, that sells food for human
 13 consumption.

14 SEC. 2. Section 113947.3 of the Health and Safety Code is
 15 amended to read:

16 113947.3. (a) Food safety certification required pursuant to
 17 Section 113947.1 shall be achieved by successfully passing an
 18 examination from an accredited food protection manager

1 certification organization. The certification organization shall be
2 accredited by the American National Standards Institute as meeting
3 the requirements of the Conference for Food Protection’s
4 “Standards for Accreditation of Food Protection Manager
5 Certification Programs.” Those food employees who successfully
6 pass an approved certification examination shall be issued a
7 certificate by the certifying organization. The issuance date for
8 each original certificate issued pursuant to this section shall be the
9 date when the individual successfully completes the examination.
10 Certificates shall be valid for five years from the date of original
11 issuance. Any replacement or duplicate certificate shall have as
12 its expiration date the same expiration date that was on the original
13 certificate.

14 (b) (1) By July 20, 2008, the department, in consultation with
15 the California Conference of Directors of Environmental Health,
16 representatives of the retail food industry, and other interested
17 parties, shall develop and implement a program for the purposes
18 of demonstrating adequate knowledge for operators of temporary
19 food facilities.

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

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

32 (4) *An accredited food safety certification examination that is*
33 *provided with an in-person trainer-led class shall be proctored*
34 *under secure conditions to protect the validity of the food*
35 *protection manager certification examination.*

36 *SEC. 3. Section 113948 of the Food and Agricultural Code is*
37 *amended to read:*

38 113948. (a) (1) Subject to the exceptions described in
39 subdivision (d), a food handler who is hired prior to June 1, 2011,
40 shall obtain a food handler card ~~from a food protection manager~~

1 ~~certification organization described in Section 113947.3~~ on or
2 before July 1, 2011. ~~Food handlers~~ *Subject to the exceptions*
3 *described in subdivision (d), a food handler who is hired on or*
4 *after June 1, 2011, shall obtain a food handler card within 30 days*
5 *after the date of hire. Each food handler shall maintain a valid food*
6 *handler card for the duration of his or her employment as a food*
7 *handler.*

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

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

13 (b) (1) *Prior to January 1, 2012, a food handler may obtain a*
14 *food handler card from either one of the following:*

15 (A) *An American National Standards Institute (ANSI) accredited*
16 *training provider that meets ASTM International 2659-Standard*
17 *Practice for Certification Programs.*

18 (B) *A food protection manager certification organization*
19 *described in Section 113947.3.*

20 (2) *Commencing January 1, 2012, a food handler may obtain*
21 *a food handler card from only an American National Standards*
22 *Institute (ANSI) accredited training provider that meets ASTM*
23 *International 2659-Standard Practice for Certification Programs.*

24 (3) A food handler card shall be issued only upon successful
25 completion of an approved food handler training course and
26 ~~assessment examination~~ that meets at least all of the following
27 requirements:

28 (1)

29 (A) The course provides basic, introductory instruction on the
30 elements of knowledge described in subdivisions (a), (b), (c), (d),
31 (e), and (g) of Section 113947.2.

32 (2)

33 (B) The course and ~~assessment examination~~ is designed to be
34 completed within approximately two and one-half hours.

35 (3)

36 (C) The ~~assessment examination~~ consists of at least 40 questions
37 regarding the required subject matter.

38 (4)

1 (D) A minimum score of 70 percent on the ~~assessment~~
2 *examination* is required to successfully complete the ~~assessment~~
3 *examination*.

4 (c) The food handler training course and ~~assessment~~ *examination*
5 may be offered through a trainer-led class and ~~assessment or~~
6 ~~self-training and assessment~~. For purposes of this section,
7 “~~self-training and assessment~~” means a process where the
8 individual trains, and takes an assessment, without the presence
9 or intervention of a trainer or instructor, and includes, but is not
10 limited to, ~~training and assessment~~ *examination*, through the use
11 of a computer program or the Internet, *or through a combination*
12 *of trainer-led class and the use of a computer program or the*
13 *Internet. The use of the computer program or Internet shall have*
14 *sufficient security channels and procedures to guard against*
15 *fraudulent activity. However, this subdivision shall not be*
16 *construed to require the presence or participation of a proctor*
17 *during a food handler training course examination that is provided*
18 *through a computer program or the Internet.*

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

21 (1) Certified farmer’s markets.

22 (2) Commissaries.

23 (3) Grocery stores, except for separately owned food facilities
24 to which this section otherwise applies that are located in the
25 grocery store. For purposes of this paragraph, “grocery store”
26 means a store primarily engaged in the retail sale of canned food,
27 dry goods, fresh fruits and vegetables, and fresh meats, fish, and
28 poultry and any area that is not separately owned within the store
29 where food is prepared and served, including a bakery, deli, and
30 meat and seafood counter. “Grocery store” includes convenience
31 stores.

32 (4) Licensed health care facilities.

33 (5) Mobile support units.

34 (6) Public and private school cafeterias.

35 (7) Restricted food service facilities.

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

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

4 (A) The food facility uses a training course that has been
5 approved for use by the food facility in another state that has
6 adopted the requirements described in Subpart 2-103.11 of the
7 2001 edition of the model Food Code, not including the April 2004
8 update, published by the federal Food and Drug Administration.

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

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

15 (10) A food facility that is subject to a collective bargaining
16 agreement with its food handlers.

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

20 (f) Each food facility that employs a food handler subject to the
21 requirements of this section shall maintain records documenting
22 that each food handler employed by the food facility possesses a
23 valid food handler card, and shall provide those records to the local
24 enforcement officer upon request.

25 (g) At least one food handler training course and ~~assessment~~
26 *examination* shall cost no more than fifteen dollars (\$15), including
27 a food handler card. If a food handler training course and
28 ~~assessment~~ *examination* is not available at that cost, the
29 requirement to obtain a food handler card imposed by this section
30 shall not apply.

31 *SEC. 4. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *the only costs that may be incurred by a local agency or school*
34 *district will be incurred because this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *the Government Code, or changes the definition of a crime within*
38 *the meaning of Section 6 of Article XIII B of the California*
39 *Constitution.*

1 *SEC. 5. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety within*
3 *the meaning of Article IV of the Constitution and shall go into*
4 *immediate effect. The facts constituting the necessity are:*

5 *In order to enable food handlers to have more options toward*
6 *improving food safety, it is necessary that this act take effect*
7 *immediately as an urgency statute.*