

AMENDED IN SENATE JANUARY 4, 2012

**SENATE BILL**

**No. 359**

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**Introduced by Senator Hernandez**

February 15, 2011

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~~An act to add Article 5.7 (commencing with Section 14186) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal. An act to amend Sections 113953.3 and 113973 of, and to add Section 113975 to, the Health and Safety Code, relating to food facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 359, as amended, Hernandez. ~~Medi-Cal: ground ambulance rates. Food facilities: hand washing.~~

*Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities, as defined. The law requires the State Department of Public Health to adopt regulations to implement and administer those provisions, and delegates primary enforcement duties to local health agencies. A violation of any of these provisions is punishable as a misdemeanor.*

*The code requires food employees to report to the person in charge of a food facility when a food employee has a lesion or wound that is open or draining unless specified conditions to cover or protect the lesion are met. The code requires all employees to wash their hands in specified instances, including before donning gloves for working with food.*

*The code also requires gloves to be worn when contacting food and food-contact surfaces under specified conditions, including when the employee has any cuts, sores, or rashes. Gloves are required to be changed, replaced, or washed as often as hand washing is required.*

*This bill would require hands to be washed before initially donning gloves and before donning gloves after specified instances where gloves were required to be changed or replaced. The bill would prohibit single-use gloves from being washed. The bill would also prohibit an employee who has a lesion or wound that is open or draining from handling food and would require a food employee who has any cuts, sores, rashes, lesions, or wounds to cover or protect the lesion, as specified. By imposing new duties upon local agencies and expanding 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 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.*

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which health care services, including medical transportation services, are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded under federal Medicaid provisions. Existing law and regulations prescribe various requirements governing payment policies and reimbursement rates for these services.~~

~~This bill would require the department, by July 1, 2012, to adopt regulations establishing the Medi-Cal reimbursement rate for ground ambulance services using one of 2 specified methodologies.~~

Vote: majority. 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 113953.3 of the Health and Safety Code
- 2     is amended to read:
- 3     113953.3. (a) Except as specified in subdivision (b), all
- 4     employees shall thoroughly wash their hands and that portion, if
- 5     any, of their arms exposed to direct food contact with cleanser and

1 warm water by vigorously rubbing together the surfaces of their  
2 lathered hands and arms for at least 10 to 15 seconds and  
3 thoroughly rinsing with clean running water followed by drying  
4 of cleaned hands and that portion, if any, of their arms exposed.  
5 Employees shall pay particular attention to the areas underneath  
6 the fingernails and between the fingers. Employees shall wash  
7 their hands in all of the following instances:

8 (1) Immediately before engaging in food preparation, including  
9 working with nonprepackaged food, clean equipment and utensils,  
10 and unwrapped single-use food containers and utensils.

11 (2) After touching bare human body parts other than clean hands  
12 and clean, exposed portions of arms.

13 (3) After using the toilet room.

14 (4) After caring for or handling any animal allowed in a food  
15 facility pursuant to this part.

16 (5) After coughing, sneezing, using a handkerchief or disposable  
17 tissue, using tobacco, eating, or drinking.

18 (6) After handling soiled equipment or utensils.

19 (7) During food preparation, as often as necessary to remove  
20 soil and contamination and to prevent cross-contamination when  
21 changing tasks.

22 (8) When switching between working with raw food and  
23 working with ready-to-eat food.

24 ~~(9) Before donning gloves for working with food.~~

25 ~~(10)~~

26 (9) Before dispensing or serving food or handling clean  
27 tableware and serving utensils in the food service area.

28 ~~(11)~~

29 (10) After engaging in other activities that contaminate the  
30 hands.

31 (11) *Before initially donning gloves for working with food and*  
32 *before donning gloves to replace gloves that were changed or*  
33 *replaced due to the circumstances described in paragraphs (2) to*  
34 *(10), inclusive.*

35 (b) If approved and capable of removing the types of soils  
36 encountered in the food operations involved, an automatic  
37 handwashing facility may be used by food employees to clean  
38 their hands.

39 *SEC. 2. Section 113973 of the Health and Safety Code is*  
40 *amended to read:*

1 113973. (a) Gloves shall be worn when contacting food and  
2 food-contact surfaces if the employee has any cuts, sores, rashes,  
3 artificial nails, nail polish, rings (other than a plain ring, such as  
4 a wedding band), uncleanable orthopedic support devices, or  
5 fingernails that are not clean, smooth, or neatly trimmed.

6 (b) Whenever gloves, *except single-use gloves*, are worn, they  
7 shall be changed, replaced, or washed as often as handwashing is  
8 required by this part.

9 (c) If *single-use gloves are used*, single-use gloves shall be used  
10 for only one task, such as working with ready-to-eat food or with  
11 raw food of animal origin, used for no other purpose, and shall be  
12 discarded when damaged or soiled, or when interruptions in the  
13 food handling occur. *Single-use gloves shall not be washed.*

14 (d) Except as specified in subdivision (e), slash-resistant gloves  
15 that are used to protect the hands during operations requiring  
16 cutting shall be used only with food that is subsequently cooked  
17 as specified in Section 114004, such as frozen food or a primal  
18 cut of meat.

19 (e) Slash-resistant gloves may be used with ready-to-eat food  
20 that will not be subsequently cooked if the slash-resistant gloves  
21 have a smooth, durable, and nonabsorbent outer surface or if the  
22 slash-resistant gloves are covered with a smooth, durable,  
23 nonabsorbent glove, or a single-use glove.

24 (f) Cloth gloves may not be used in direct contact with food  
25 unless the food is subsequently cooked.

26 *SEC. 3. Section 113975 is added to the Health and Safety Code,*  
27 *to read:*

28 *113975. (a) Except as provided in subdivision (b), an employee*  
29 *who has a lesion or wound that is open or draining shall not handle*  
30 *food.*

31 *(b) In addition to wearing gloves when contacting food and*  
32 *food-contact surfaces, a food employee who has a cut, sore, rash,*  
33 *lesion, or wound shall do all of the following:*

34 *(1) If the lesion is located on the hand or wrist, an impermeable*  
35 *cover, such as a finger cot or stall shall protect the lesion. A*  
36 *single-use glove shall be worn over the impermeable cover.*

37 *(2) If the lesion is located on exposed portions of the arms, an*  
38 *impermeable cover shall protect the lesion.*

39 *(3) If the lesion is located on other parts of the body, a dry,*  
40 *durable, tight-fitting bandage shall cover the lesion.*

1     *SEC. 4. 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     ~~SECTION 1. The Legislature finds and declares all of the~~  
16 ~~following:~~

17     ~~(a) The State Department of Health Care Services is required~~  
18 ~~to adhere to the current regulations establishing Medi-Cal payment~~  
19 ~~rates for ground ambulance services and the department is currently~~  
20 ~~not in compliance with those regulations.~~

21     ~~(b) Regarding Medi-Cal payment rates for ground ambulance~~  
22 ~~services, the State Plan under Title XIX of the federal Social~~  
23 ~~Security Act for the State of California requires that reimbursement~~  
24 ~~for each of the other types of care or service listed in Section 1396d~~  
25 ~~of Title 42 of the United States Code that are included in the~~  
26 ~~program under the plan will be at the lesser of usual charges or~~  
27 ~~the limits specified in Article 7 (commencing with Section 51501)~~  
28 ~~of Chapter 3 of Division 3 of Title 22 of the California Code of~~  
29 ~~Regulations.~~

30     ~~(c) In establishing the evidentiary base, the Ninth Circuit Court~~  
31 ~~of Appeals has ordered the department to consider the costs of~~  
32 ~~providing the service.~~

33     ~~(d) Current law requires ground ambulance services provided~~  
34 ~~to state prison inmates to be reimbursed at the maximum rate of~~  
35 ~~120 percent of the Medicare Ambulance Fee Schedule (Sec. 5023.5,~~  
36 ~~Pen. C.).~~

37     ~~(e) Current law requires ground ambulance services provided~~  
38 ~~under the state workers compensation program to be reimbursed~~  
39 ~~at the maximum rate of 120 percent of the Medicare Ambulance~~  
40 ~~Fee Schedule (8 Cal. Code Regs. 9789.70).~~

1 (f) Emergency medical services systems are a critical safety net  
2 service relied upon by the entire California population.

3 (g) Ninety percent of Medi-Cal ground ambulance transports  
4 are emergencies. Ground ambulance safety net providers cannot  
5 legally or morally refuse to respond to emergency medical requests  
6 for service and cannot refuse medically necessary emergency  
7 medical treatment and transport.

8 (h) Independent government cost studies indicate current  
9 Medi-Cal payment rates cover just one quarter of the average cost  
10 of ground ambulance service. Severe below-cost Medi-Cal payment  
11 rates threaten to collapse the entire 911 emergency medical system  
12 safety net in California.

13 SEC. 2. Article 5.7 (commencing with Section 14186) is added  
14 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
15 Code, to read:

16

17 Article 5.7. Ground Ambulance Services

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19 14186. (a) No later than July 1, 2012, the department shall  
20 adopt regulations establishing the Medi-Cal reimbursement rate  
21 for ground ambulance services, based upon existing statutes,  
22 regulations, and case law.

23 (b) In establishing the rates as required in subdivision (a), the  
24 department shall use one of the following methodologies:

25 (1) Establish payment rates through regulation based on the  
26 methodology required by the courts including doing all of the  
27 following:

28 (A) Develop a rate study or establish a cost-based evidentiary  
29 base that results in proposed rates.

30 (B) Present the proposed rates at a public hearing.

31 (C) Combine public input and the evidentiary base for a final  
32 adopted regulation.

33 (2) Establish payment rates for ground ambulance services at  
34 120 percent of the current Medicare Ambulance Fee Schedule and  
35 designate the ambulance cost study conducted by the federal  
36 Government Accountability Office (GAO-07-383) as the  
37 evidentiary base.

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