

AMENDED IN ASSEMBLY JUNE 27, 2012
AMENDED IN SENATE JANUARY 10, 2012
AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 359

Introduced by Senator Hernandez

February 15, 2011

An act to amend Sections 113818, 113953.3, 113973, 114047, ~~and 114294~~, 114325, *and 114335* 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. Food facilities: hand washing.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for mobile food facilities and 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 revise requirements in connection with glove use and hand washing. This bill would revise the definition of “limited food preparation,” and authorize a local enforcement agency to approve temporary alternative storage methods and locations. By imposing new duties upon local agencies, and expanding the definition of a crime, this bill would impose a state-mandated local program.

This bill would also specify that provisions relating to the labeling of food that is, or includes, any trans fats, as specified, applies to food that is stored, distributed, or served by, or used within mobile food facilities and temporary food facilities.

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. Section 113818 of the Health and Safety Code
- 2 is amended to read:
- 3 113818. (a) “Limited food preparation” means food preparation
- 4 that is restricted to one or more of the following:
- 5 (1) Heating, frying, baking, roasting, popping, shaving of ice,
- 6 blending, steaming or boiling of hot dogs, or assembly of
- 7 nonprepackaged food.
- 8 (2) Dispensing and portioning of nonpotentially hazardous food.
- 9 (3) Holding, portioning, and dispensing of any foods that are
- 10 prepared for satellite food service by the onsite permanent food
- 11 facility or prepackaged by another approved source.
- 12 (4) Slicing and chopping of food on a heated cooking surface
- 13 during the cooking process.
- 14 (5) Cooking and seasoning to order.

1 (6) Preparing beverages that are for immediate service, in
2 response to an individual consumer order, that do not contain
3 frozen milk products.

4 (b) “Limited food preparation” does not include any of the
5 following:

6 (1) Slicing and chopping unless it is on the heated cooking
7 surface.

8 (2) Thawing.

9 (3) Cooling of cooked, potentially hazardous food.

10 (4) Grinding raw ingredients or potentially hazardous food.

11 (5) Reheating of potentially hazardous foods for hot holding,
12 except for steamed or boiled hot dogs and tamales in the original,
13 inedible wrapper.

14 (6) Except as allowed in paragraph (3) of subdivision (a), hot
15 holding of nonprepackaged, potentially hazardous food, except
16 for roasting corn on the cob ~~roasting corn on the cob~~, steamed or
17 boiled hot dogs, and tamales in the original, inedible wrapper.

18 (7) Washing of foods.

19 (8) Cooking of potentially hazardous foods for later use.

20 SEC. 2. Section 113953.3 of the Health and Safety Code is
21 amended to read:

22 113953.3. (a) Except as specified in subdivision (b), all
23 employees shall thoroughly wash their hands and that portion, if
24 any, of their arms exposed to direct food contact with cleanser and
25 warm water by vigorously rubbing together the surfaces of their
26 lathered hands and arms for at least 10 to 15 seconds and
27 thoroughly rinsing with clean running water followed by drying
28 of cleaned hands and that portion, if any, of their arms exposed.
29 Employees shall pay particular attention to the areas underneath
30 the fingernails and between the fingers. Employees shall wash
31 their hands in all of the following instances:

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

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

37 (3) After using the toilet room.

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

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

3 (6) After handling soiled equipment or utensils.

4 (7) During food preparation, as often as necessary to remove
5 soil and contamination and to prevent cross-contamination when
6 changing tasks.

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

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

11 (10) After engaging in other activities that contaminate the
12 hands.

13 (11) Before initially donning gloves for working with food and
14 when changing gloves as required in Section 113973. Handwashing
15 is not required between glove changes when no contamination of
16 the gloves or hands has occurred.

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

21 SEC. 3. Section 113973 of the Health and Safety Code is
22 amended to read:

23 113973. (a) Notwithstanding Section 113975, single-use gloves
24 shall be worn when contacting food and food-contact surfaces if
25 the employee has any cuts, sores, rashes, artificial nails, nail polish,
26 rings (other than a plain ring, such as a wedding band), uncleanable
27 orthopedic support devices, or fingernails that are not clean,
28 smooth, or neatly trimmed.

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

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

37 (d) Except as specified in subdivision (e), slash-resistant gloves
38 that are used to protect the hands during operations requiring
39 cutting shall be used only with food that is subsequently cooked

1 as specified in Section 114004, such as frozen food or a primal
2 cut of meat.

3 (e) Slash-resistant gloves may be used with ready-to-eat food
4 that will not be subsequently cooked if the slash-resistant gloves
5 have a smooth, durable, and nonabsorbent outer surface or if the
6 slash-resistant gloves are covered with a smooth, durable,
7 nonabsorbent glove, or a single-use glove.

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

10 SEC. 4. Section 113975 is added to the Health and Safety Code,
11 to read:

12 113975. (a) Except as provided in subdivision (b), an employee
13 who has a lesion or wound that is open or draining shall not handle
14 food.

15 (b) A food employee who has a cut, sore, rash, lesion, or wound
16 is restricted from food handling unless the food employee complies
17 with the following:

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

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

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

25 SEC. 5. Section 114047 of the Health and Safety Code is
26 amended to read:

27 114047. (a) Adequate and suitable space shall be provided for
28 the storage of food.

29 (b) Except as specified in subdivisions (c) and (d), food shall
30 be protected from contamination by storing the food in a clean,
31 dry location, where it is not exposed to splash, dust, vermin, or
32 other forms of contamination or adulteration, and at least six inches
33 above the floor.

34 (c) Food in packages and working containers may be stored less
35 than six inches above the floor on case lot handling equipment as
36 specified under Section 114165.

37 (d) Pressurized beverage containers, cased food in waterproof
38 containers such as bottles or cans, and milk containers in plastic
39 crates may be stored on a floor that is clean and not exposed to
40 moisture.

1 (e) Temporary alternative storage methods and locations may
2 be approved by the local enforcement agency.

3 *SEC. 6. Section 114294 of the Health and Safety Code is*
4 *amended to read:*

5 114294. (a) All mobile food facilities and mobile support units
6 shall meet the applicable requirements in ~~Chapters 1 to 8~~, *Chapter*
7 *1 (commencing with Section 113700) to Chapter 8 (commencing*
8 *with Section 114250), inclusive, and Chapter 12.6 (commencing*
9 *with Section 114377) and Chapter 13 (commencing with Section*
10 *114380), unless specifically exempted from any of these provisions*
11 *as provided in this chapter.*

12 (b) The enforcement agency shall initially approve all mobile
13 food facilities and mobile support units as complying with the
14 provisions of this chapter and may require reapproval if deemed
15 necessary.

16 (c) Each mobile food facility that is either a special purpose
17 commercial modular and coach as defined by Section 18012.5 or
18 a commercial modular coach as defined by Section 18001.8 shall
19 be certified by the Department of Housing and Community
20 Development, consistent with Chapter 4 (commencing with Section
21 18025) of Part 2 of Division 13, and regulations promulgated
22 pursuant to that chapter. In addition, the enforcement agency shall
23 approve all equipment installation prior to operation.

24 ~~SEC. 6.~~

25 *SEC. 7. Section 114325 of the Health and Safety Code is*
26 *amended to read:*

27 114325. (a) Except on a mobile food facility that only utilizes
28 the water for handwashing purposes, a water heater or an
29 instantaneous heater capable of heating water to a minimum of
30 120°F, interconnected with a potable water supply, shall be
31 provided and shall operate independently of the vehicle engine.
32 On a mobile food facility that only utilizes the water for
33 handwashing purposes, a minimum one-half-gallon capacity water
34 heater or an instantaneous water heater capable of heating water
35 to a minimum of 100°F, interconnected with a potable water
36 supply, shall be provided and shall operate independently of the
37 vehicle engine.

38 (b) A water heater with a minimum capacity of four gallons
39 shall be provided for mobile food facilities with one or more
40 warewashing sinks.

1 (c) A mobile food facility equipped with a three-gallon hot water
2 heater that was approved prior to adoption of this section need not
3 provide a four-gallon hot water heater.

4 *SEC. 8. Section 114335 of the Health and Safety Code is*
5 *amended to read:*

6 114335. (a) Temporary food facilities that operate at a swap
7 meet are limited to only prepackaged nonpotentially hazardous
8 food and whole uncut produce, and shall meet the applicable
9 requirements in ~~Chapters 1 to 8~~, *Chapter 1 (commencing with*
10 *Section 113700) to Chapter 8 (commencing with Section 114250),*
11 *inclusive, and Chapter 12.6 (commencing with Section 114377)*
12 *and Chapter 13 (commencing with Section 114380), unless*
13 *specifically exempted from any of these provisions.*

14 (b) Temporary food facilities that operate at a community event
15 shall meet the applicable requirements in ~~Chapters 1 to 8~~ *Chapter*
16 *1 (commencing with Section 113700) to Chapter 8 (commencing*
17 *with Section 114250), inclusive, and Chapter 12.6 (commencing*
18 *with Section 114377) and Chapter 13 (commencing with Section*
19 *114380), unless specifically exempted from any of these provisions.*

20 (c) Food facility requirements shall be determined by the
21 enforcement agency based on the food service activity to be
22 conducted, the type of food that is to be prepared or served, the
23 length of the event, and the extent of food preparation that is to be
24 conducted at a community event within a temporary food facility.

25 (d) Notwithstanding subdivision (a), the enforcement agency
26 may allow temporary food facilities at a swap meet, depending on
27 the food service activity to be conducted, the type of food that is
28 to be prepared or served, the duration of the swap meet, and the
29 extent of food preparation that is to be conducted at the swap meet.

30 ~~SEC. 7.~~

31 *SEC. 9.* No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution for certain
33 costs that may be incurred by a local agency or school district
34 because, in that regard, this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty for a crime
36 or infraction, within the meaning of Section 17556 of the
37 Government Code, or changes the definition of a crime within the
38 meaning of Section 6 of Article XIII B of the California
39 Constitution.

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

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