

AMENDED IN SENATE APRIL 16, 2012

AMENDED IN SENATE MARCH 28, 2012

SENATE BILL

No. 1486

Introduced by Senator Lieu
(Coauthor: Senator de León)

February 24, 2012

An act to add Section 114092 to the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1486, as amended, Lieu. Food facilities: menu labeling.

The Sherman Food, Drug, and Cosmetic Law contains various provisions regarding the contents, packaging, labeling, and advertising of food, drugs, and cosmetics. The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. A violation of any of these provisions is punishable as a misdemeanor. The code requires fish that are received for sale or service to be commercially and legally caught or harvested. The code also imposes various labeling and storage requirements for shellstock.

This bill would require a retail food facility, as defined, that offers or sells as a menu item seafood, as defined, ~~that is raised, caught, or produced outside the United States~~ to identify ~~on the menu~~ specified information regarding the seafood *and, if the retail food facility has a drive-through area and uses a menu board to display or list menu items, to disclose on this menu board a statement that this specified information is available upon request.*

The bill would require the department or local enforcement agencies to enforce these provisions, as specified, and would make a violation an infraction or subject to a civil penalty. *The bill would provide an exception to these enforcement provisions for food facilities that were provided inaccurate information by the entity that provided the seafood.*

By expanding the definition of a crime and imposing additional duties upon local 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.

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 114092 is added to the Health and Safety
- 2 Code, to read:
- 3 114092. (a) ~~A(1) Except as provided in paragraph (2), a~~
- 4 retail food facility that offers or sells *seafood* as a menu item
- 5 ~~seafood that is raised, caught, or produced outside the United States~~
- 6 shall identify ~~on the menu~~ *a display, brochure, or a menu insert*
- 7 *that is readily available to the consumer* all of the following
- 8 information:
- 9 ~~(1)~~
- 10 (A) ~~The species of seafood~~ *scientific common name of the*
- 11 *seafood that constitutes the menu item.*
- 12 ~~(2)~~
- 13 (B) The country in which the seafood was raised or caught.
- 14 ~~(3)~~
- 15 (C) Whether the seafood was raised or caught wild.
- 16 (2) *A retail food facility that has a drive-through area and uses*
- 17 *a menu board to display or list menu items within the drive-through*
- 18 *area at the point of sale shall disclose for any seafood item offered*

1 *for sale on this menu board a statement on the menu board that*
2 *reads “INFORMATION REGARDING THE SPECIES OF*
3 *SEAFOOD, THE COUNTRY WHERE IT WAS RAISED OR*
4 *CAUGHT, AND WHETHER IT WAS RAISED OR CAUGHT WILD,*
5 *IS AVAILABLE UPON REQUEST” or other similar statement.*

6 (b) (1) Enforcement of this section shall be pursuant to Section
7 113713.

8 (2) (A) A violation of this section is, notwithstanding Section
9 114395, an infraction, punishable by a fine of not less than fifty
10 dollars (\$50) nor more than five hundred dollars (\$500). A second
11 violation within a five-year period from a prior violation shall be
12 punishable by a fine of not less than one hundred dollars (\$100)
13 nor more than one thousand dollars (\$1,000). For a third or
14 subsequent violation within a five-year period, the fine shall be
15 not less than two hundred fifty dollars (\$250) nor more than two
16 thousand five hundred dollars (\$2,500). A food facility shall not
17 be found to have committed a violation under this paragraph more
18 than once during an inspection visit.

19 (B) Alternatively, the enforcement agency may assess a civil
20 penalty of an amount that is no less than or greater than the
21 amounts specified for fines in this paragraph.

22 (3) *A food facility shall not be liable for a violation of this*
23 *section if the food facility was provided false or inaccurate*
24 *information from the wholesaler, seafood distributor, or other*
25 *entity that provides the food facility with the seafood.*

26 (c) For purposes of this section, all of the following definitions
27 shall apply:

28 (1) “Food facility” means a food facility in the state that operates
29 as part of a chain with at least 19 other food facilities doing
30 business with the same name and offering for sale substantially
31 the same menu items.

32 (2) “Seafood” means naturally born, hatchery-raised, net-pen
33 aquacultural, or farm-raised fish and shellfish. “Seafood” includes
34 a fillet, steak, nugget, and any other flesh from fish or shellfish,
35 *even if the fish or shellfish is processed, breaded, and battered.*

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution for certain
38 costs that may be incurred by a local agency or school district
39 because, in that regard, this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty for a crime

1 or infraction, within the meaning of Section 17556 of the
2 Government Code, or changes the definition of a crime within the
3 meaning of Section 6 of Article XIII B of the California
4 Constitution.

5 However, if the Commission on State Mandates determines that
6 this act contains other costs mandated by the state, reimbursement
7 to local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

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