

ASSEMBLY BILL

No. 1252

Introduced by Committee on Health (Pan (Chair), Logue (Vice Chair), Ammiano, Chesbro, Gomez, Lowenthal, Mitchell, Nazarian, Nestande, Wieckowski, and Wilk)

February 22, 2013

An act to amend Sections 113818, 113903, 113949.2, 113953.3, 113973, 114047, 114099.7, 114268, 114271, 114294, 114295, 114315, 114325, and 114335 of, and to add Sections 113806 and 113975 to, the Health and Safety Code, relating to food safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1252, as introduced, Committee on Health. Retail food safety.

(1) Existing law, the California Retail Food Code, reestablishes uniform health and sanitation standards for retail food facilities, including mobile food facilities and temporary food facilities, by the State Department of Public Health. Existing law provides that local health agencies are primarily responsible for enforcing these provisions. A person who violates any provision of the code is guilty of a misdemeanor, except as otherwise provided.

(2) The code requires that all employees of food facilities thoroughly wash their hands before engaging in food preparation and before donning gloves for working with food. The code requires that employees wear gloves when contacting food and food-contact surfaces under certain conditions, including when they have cuts, sores, or rashes. The code also requires owners of food facilities and others, as specified, to require food employees to report to the person in charge if a food employee has a lesion or wound that is open or draining, as specified, unless the lesion is covered or protected.

This bill would, among other things, revise the code to require handwashing when changing gloves, except as specified, and that employees wear single-use gloves, as specified, when contacting food and food-contact surfaces under the conditions described above. The bill would prohibit an employee who has a wound, as specified, that is open and draining from handling food, unless the wound is covered, as specified. The bill would make conforming changes to the reporting requirement described above.

(3) The code requires that a food facility be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility.

This bill would require that the toilet and handwashing facility also be nonresidential.

(4) The code requires that a mobile food facility have a water heater with a minimum capacity of 3 gallons, except as specified.

This bill would increase the required minimum amount of capacity for a water heater on a mobile food facility to 4 gallons, or, if the facility only utilizes the water for handwashing purposes, require only $\frac{1}{2}$ gallon, except as specified. The bill would make other changes relating to mobile food facilities.

(5) The code requires a food facility to prevent the entrance and harborage of animals and prohibits a food employee from caring for or handling animals that may be present. The code permits a food employee with a service animal to handle or care for the service animal if the employee washes his or her hands as required. The code defines a service animal to mean a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

This bill would revise the definition of a “service animal” for purposes of the code to mean a dog that is individually trained to do work or perform tasks for the benefit of, and directly related to, an individual with a disability. The definition would specifically exclude other species of animals, as specified.

The bill would also define a “hot dog” for purposes of the code and would make a clarifying change to the definition of “limited food preparation.”

(6) By revising the standards that must be enforced by local health agencies and by expanding the scope of existing crimes, the bill would impose a state-mandated local program.

(7) 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 113806 is added to the Health and Safety
2 Code, to read:

3 113806. "Hot dog" means a whole, cured, cooked sausage that
4 is skinless or stuffed in a casing, that may be known as a
5 frankfurter, frank, furter, wiener, red hot, vienna, bologna, garlic
6 bologna, or knockwurst, and that may be served in a bun or roll.

7 SEC. 2. Section 113818 of the Health and Safety Code is
8 amended to read:

9 113818. (a) "Limited food preparation" means food preparation
10 that is restricted to one or more of the following:

11 (1) Heating, frying, baking, roasting, popping, shaving of ice,
12 blending, steaming or boiling of hot dogs, or assembly of
13 nonprepackaged food.

14 (2) Dispensing and portioning of nonpotentially hazardous food.

15 (3) Holding, portioning, and dispensing of any foods that are
16 prepared for satellite food service by the onsite permanent food
17 facility or prepackaged by another approved source.

18 (4) Slicing and chopping of food on a heated cooking surface
19 during the cooking process.

20 (5) Cooking and seasoning to order.

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

24 (b) "Limited food preparation" does not include any of the
25 following:

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

3 (2) Thawing.

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

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

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

9 (6) ~~Hot~~ Except as authorized in paragraph (3) of subdivision
10 (a), hot holding of nonprepackaged, potentially hazardous food,
11 except for roasting corn on the cob ~~roasting corn on the cob~~,
12 steamed or boiled hot dogs, and tamales in the original, inedible
13 wrapper.

14 (7) Washing of foods.

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

16 SEC. 3. Section 113903 of the Health and Safety Code is
17 amended to read:

18 113903. (a) ~~“Service animal” means an animal such as a guide~~
19 ~~dog, signal dog, or other animal individually trained to provide~~
20 ~~assistance to an individual with a disability any dog that is~~
21 ~~individually trained to do work or perform tasks for the benefit of~~
22 ~~an individual with a disability, including a physical, sensory,~~
23 ~~psychiatric, intellectual, or other mental disability. “Service~~
24 ~~animal” does not include any other species of animals, whether~~
25 ~~wild or domestic, trained or untrained.~~

26 (b) *The work or tasks performed by a service animal shall be*
27 *directly related to the individual’s disability. Examples of work or*
28 *tasks include, but are not limited to, assisting individuals who are*
29 *blind or have low vision with navigation and other tasks, alerting*
30 *individuals who are deaf or hard of hearing to the presence of*
31 *people or sounds, providing nonviolent protection or rescue work,*
32 *pulling a wheelchair, assisting an individual during a seizure,*
33 *alerting individuals to the presence of allergens, retrieving items*
34 *such as medicine or the telephone, providing physical support and*
35 *assistance with balance and stability to individuals with mobility*
36 *disabilities, and helping persons with psychiatric and neurological*
37 *disabilities by preventing or interrupting impulsive or destructive*
38 *behaviors. The crime deterrent effects of an animal’s presence*
39 *and the provision of emotional support, well-being, comfort, or*

1 *companionship do not constitute work or tasks for the purposes*
2 *of this subdivision.*

3 SEC. 4. Section 113949.2 of the Health and Safety Code is
4 amended to read:

5 113949.2. The owner who has a food safety certificate issued
6 pursuant to Section 113947.1 or the food employee who has this
7 food safety certificate shall instruct all food employees regarding
8 the relationship between personal hygiene and food safety,
9 including the association of hand contact, personal habits and
10 behaviors, and food employee health to foodborne illness. The
11 owner or food safety certified employee shall require food
12 employees to report the following to the person in charge:

13 (a) If a food employee is diagnosed with an illness due to one
14 of the following:

- 15 (1) *Salmonella typhi.*
- 16 (2) *Salmonella spp.*
- 17 (3) *Shigella spp.*
- 18 (4) *Entamoeba histolytica.*
- 19 (5) *Enterohemorrhagic or shiga toxin producing Escherichia*
20 *coli.*
- 21 (6) *Hepatitis A virus.*
- 22 (7) *Norovirus.*

23 (b) If a food employee has a ~~lesion or~~ wound that is ~~open or~~
24 ~~draining and~~ is one of the following:

- 25 (1) On the hands or wrists, unless an impermeable cover such
26 as a finger cot or stall protects the ~~lesion~~ *wound* and a single-use
27 glove is worn over the impermeable cover.
- 28 (2) On exposed portions of the arms, unless the ~~lesion~~ *wound*
29 is protected by an impermeable cover.
- 30 (3) On other parts of the body, unless the ~~lesion~~ *wound* is
31 covered by a dry, durable, tight-fitting bandage.

32 SEC. 5. Section 113953.3 of the Health and Safety Code is
33 amended to read:

34 113953.3. (a) Except as specified in subdivision (b), all
35 employees shall thoroughly wash their hands and that portion, if
36 any, of their arms exposed to direct food contact with cleanser and
37 warm water by vigorously rubbing together the surfaces of their
38 lathered hands and arms for at least 10 to 15 seconds and
39 thoroughly rinsing with clean running water followed by drying
40 of cleaned hands and that portion, if any, of their arms exposed.

1 Employees shall pay particular attention to the areas underneath
2 the fingernails and between the fingers. Employees shall wash
3 their hands in all of the following instances:

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

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

9 (3) After using the toilet room.

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

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

14 (6) After handling soiled equipment or utensils.

15 (7) During food preparation, as often as necessary to remove
16 soil and contamination and to prevent cross-contamination when
17 changing tasks.

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

20 (9) Before *initially* donning gloves for working with food *and*
21 *when changing gloves as required in Section 113973. Handwashing*
22 *is not required between glove changes when no contamination of*
23 *the gloves or hands has occurred.*

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

26 (11) After engaging in other activities that contaminate the
27 hands.

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

32 SEC. 6. Section 113973 of the Health and Safety Code is
33 amended to read:

34 113973. (a) ~~Gloves~~ *Single-use gloves* shall be worn when
35 contacting food and food-contact surfaces if the employee has any
36 cuts, sores, rashes, artificial nails, nail polish, rings (other than a
37 plain ring, such as a wedding band), uncleanable orthopedic support
38 devices, or fingernails that are not clean, smooth, or neatly
39 trimmed.

1 (b) Whenever gloves are worn, they shall be changed, replaced,
2 or washed as often as handwashing is required by this part.
3 *Single-use gloves shall not be washed.*

4 (c) If used, single-use gloves shall be used for only one task,
5 such as working with ready-to-eat food or with raw food of animal
6 origin, used for no other purpose, and shall be discarded when
7 damaged or soiled, or when interruptions in the food handling
8 occur.

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

14 (e) Slash-resistant gloves may be used with ready-to-eat food
15 that will not be subsequently cooked if the slash-resistant gloves
16 have a smooth, durable, and nonabsorbent outer surface or if the
17 slash-resistant gloves are covered with a smooth, durable,
18 nonabsorbent glove, or a single-use glove.

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

21 SEC. 7. Section 113975 is added to the Health and Safety Code,
22 to read:

23 113975. (a) Except as provided in subdivision (b), an employee
24 who has a wound that is open or draining shall not handle food.

25 (b) A food employee who has a wound is restricted from food
26 handling unless the food employee complies with all of the
27 following:

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

31 (2) If the wound is located on exposed portions of the arms, an
32 impermeable cover shall protect the wound.

33 (3) If the wound is located on other parts of the body, a dry,
34 durable, tight-fitting bandage shall cover the wound.

35 (4) For purposes of this section, a wound also includes a cut,
36 sore, rash, or lesion.

37 SEC. 8. Section 114047 of the Health and Safety Code is
38 amended to read:

39 114047. (a) Adequate and suitable space shall be provided for
40 the storage of food.

1 (b) Except as specified in subdivisions (c) ~~and~~, (d), *and (e)*, food
2 shall be protected from contamination by storing the food in a
3 clean, dry location, where it is not exposed to splash, dust, vermin,
4 or other forms of contamination or adulteration, and at least six
5 inches above the floor.

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

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

13 (e) *Temporary alternate food storage methods and locations*
14 *may be approved by the local enforcement agency.*

15 SEC. 9. Section 114099.7 of the Health and Safety Code is
16 amended to read:

17 114099.7. Mechanical sanitization shall be accomplished in
18 the final sanitizing rinse by one of the following:

19 (a) By being cycled through equipment that is used in
20 accordance with the manufacturer's specifications and achieving
21 a utensil surface temperature of 160°F as measured by an
22 irreversible registering temperature indicator.

23 (b) The mechanical application of sanitizing chemicals by
24 pressure spraying methods using one of the following solutions:

25 (1) Contact with a solution of 50 ppm available chlorine for at
26 least 30 seconds.

27 (2) Contact with a solution of 25 ppm available iodine for at
28 least one minute.

29 (3) Contact with any chemical sanitizer that meets the
30 requirements of Section 180.940 of Title 40 of the Code of Federal
31 Regulations when used in accordance with the following:

32 (A) The sanitizer manufacturer's use directions as specified on
33 the product label.

34 (B) The machine manufacturer's specifications as provided in
35 the manufacturer's operating instructions.

36 (c) *After being cleaned and sanitized, equipment and utensils*
37 *shall not be rinsed before air drying or use unless:*

38 (1) *The rinse is applied directly from a potable water supply by*
39 *a warewashing machine that meets the requirements of subdivision*

1 *(b) of Section 114130 and is maintained and operated in*
2 *accordance with the manufacturer's specifications.*

3 *(2) The rinse is applied only after the equipment and utensils*
4 *have been sanitized by the application of hot water or by the*
5 *application of a chemical sanitizer solution whose United States*
6 *Environmental Protection Agency-registered, label use instructions*
7 *require rinsing off the sanitizer after it is applied in an approved*
8 *commercial warewashing machine.*

9 SEC. 10. Section 114268 of the Health and Safety Code is
10 amended to read:

11 114268. (a) Except in sales areas and as otherwise specified
12 in subdivision (d), the floor surfaces in all areas in which food is
13 prepared, prepackaged, or stored, where any utensil is washed,
14 where refuse or garbage is stored, where janitorial facilities are
15 located in all toilet and handwashing areas, except with respect to
16 areas relating to guestroom accommodations and the private
17 accommodations of owners and operators in restricted food service
18 facilities, ~~and in employee change and storage areas~~ shall be
19 smooth and of durable construction and nonabsorbent material
20 that is easily cleanable.

21 (b) Floor surfaces shall be coved at the juncture of the floor and
22 wall with a $\frac{3}{8}$ inch minimum radius coving and shall extend up
23 the wall at least 4 inches, except in areas where food is stored only
24 in unopened bottles, cans, cartons, sacks, or other original shipping
25 containers.

26 (c) Public or private schools constructed or remodeled after the
27 effective date of this part shall comply with subdivision (b). Public
28 and private schools constructed before the effective date of this
29 part need not comply with subdivision (b), provided that the
30 existing floor surfaces are maintained in good repair and in a
31 sanitary condition.

32 (d) Except for dining and serving areas, the use of sawdust,
33 wood shavings, peanut hulls, or similar materials is prohibited.

34 (e) This section shall not prohibit the use of approved
35 dust-arresting floor sweeping and cleaning compounds during floor
36 cleaning operations or the use of antislip floor finishes or materials
37 in areas where necessary for safety reasons.

38 SEC. 11. Section 114271 of the Health and Safety Code is
39 amended to read:

1 114271. (a) Except as provided in subdivision (b), the walls
2 and ceilings of all rooms shall be of a durable, smooth,
3 nonabsorbent, and easily cleanable surface.

4 (b) This section shall not apply to any of the following areas:

5 (1) Walls and ceilings of bar areas in which alcoholic beverages
6 are sold or served directly to the consumers, except wall areas
7 adjacent to bar sinks and areas where food is prepared.

8 (2) Areas where food is stored only in unopened bottles, cans,
9 cartons, sacks, or other original shipping containers.

10 (3) Dining and sales areas.

11 (4) Offices.

12 (5) Restrooms that are used exclusively by the consumers, except
13 that the walls and ceilings in the restrooms shall be of a
14 nonabsorbent and washable surface.

15 (6) *Dressing rooms, dressing areas, or locker areas.*

16 (c) Acoustical paneling may be utilized if it is installed not less
17 than six feet above the floor. The paneling shall meet the other
18 requirements of this section.

19 (d) Conduits of all types shall be installed within walls as
20 practicable. When otherwise installed, they shall be mounted or
21 enclosed so as to facilitate cleaning.

22 (e) Attachments to walls and ceilings, such as light fixtures,
23 mechanical room ventilation system components, vent covers, wall
24 mounted fans, decorative items, and other attachments, shall be
25 easily cleanable.

26 SEC. 12. Section 114294 of the Health and Safety Code is
27 amended to read:

28 114294. (a) All mobile food facilities and mobile support units
29 shall meet the applicable requirements in ~~Chapters 1 to 8~~ *Chapter*
30 *1 (commencing with Section 113700) to Chapter 8 (commencing*
31 *with Section 114250), inclusive, and Chapter 13 12.6 (commencing*
32 *with Section 114377), and Chapter 13 (commencing with Section*
33 *114380), unless specifically exempted from any of these provisions*
34 *as provided in this chapter.*

35 (b) The enforcement agency shall initially approve all mobile
36 food facilities and mobile support units as complying with the
37 provisions of this chapter and may require reapproval if deemed
38 necessary.

39 (c) Each mobile food facility that is either a special purpose
40 commercial modular and coach as defined by Section 18012.5 or

1 a commercial modular coach as defined by Section 18001.8 shall
2 be certified by the Department of Housing and Community
3 Development, consistent with Chapter 4 (commencing with Section
4 18025) of Part 2 of Division 13, and regulations promulgated
5 pursuant to that chapter. In addition, the enforcement agency shall
6 approve all equipment installation prior to operation.

7 SEC. 13. Section 114295 of the Health and Safety Code is
8 amended to read:

9 114295. (a) Except as specified in subdivision (b), all mobile
10 food facilities shall operate in conjunction with a commissary,
11 mobile support unit, or other facility approved by the enforcement
12 agency.

13 (b) This section does not apply to mobile food facilities that
14 operate at community events as defined in Section 113755 and
15 that remain in a fixed position during food preparation and its
16 hours of operation, *if potable water and liquid waste disposal*
17 *facilities are available to mobile food facilities requiring potable*
18 *water.*

19 (c) Mobile food facilities shall be stored at or within a
20 commissary or other location approved by the enforcement agency
21 in order to have protection from unsanitary conditions.

22 (d) Mobile support units shall be operated from and stored at a
23 designated commissary and shall be subject to permitting and plan
24 review.

25 (e) Notwithstanding any other provisions of this section, a
26 mobile food facility that is engaged in food preparation, other than
27 limited food preparation, as defined in Section 113818, shall not
28 operate in conjunction with a mobile support unit.

29 SEC. 14. Section 114315 of the Health and Safety Code is
30 amended to read:

31 114315. (a) A food facility shall be operated within 200 feet
32 travel distance of an approved *nonresidential* and readily available
33 toilet and handwashing facility, or as otherwise approved by the
34 enforcement agency, to ensure that restroom facilities are available
35 to facility employees whenever the mobile food facility is stopped
36 to conduct business for more than a one-hour period.

37 (b) This section does not limit the authority of a local governing
38 body to adopt, by ordinance or resolution, additional requirements
39 for the public safety, including reasonable time, place, and manner

1 restrictions pursuant to its authority under subdivision (b) of
 2 Section 22455 of the Vehicle Code.

3 SEC. 15. Section 114325 of the Health and Safety Code is
 4 amended to read:

5 114325. (a) Except on a mobile food facility that only utilizes
 6 the water for handwashing purposes, a water heater or an
 7 instantaneous heater capable of heating water to a minimum of
 8 120°F, interconnected with a potable water supply, shall be
 9 provided and shall operate independently of the vehicle engine.
 10 On a mobile food facility that only utilizes the water for
 11 handwashing purposes, a *minimum one-half gallon-capacity* water
 12 heater or an instantaneous water heater capable of heating water
 13 to a minimum of 100°F, interconnected with a potable water
 14 supply, shall be provided and shall operate independently of the
 15 vehicle engine.

16 (b) ~~(1) Except as specified in paragraph (2), a~~ A water heater
 17 with a minimum capacity of ~~three~~ four gallons shall be provided
 18 for mobile food facilities *that have a warewashing sink*.

19 ~~(2) A minimum water heater capacity of one-half gallon shall~~
 20 ~~be provided for mobile food facilities approved for limited food~~
 21 ~~preparation.~~

22 (c) *A mobile food facility equipped with a three-gallon-capacity*
 23 *water heater that is in compliance with this section on January 1,*
 24 *2014, is in compliance with this section after that date.*

25 SEC. 16. Section 114335 of the Health and Safety Code is
 26 amended to read:

27 114335. (a) Temporary food facilities that operate at a swap
 28 meet are limited to only prepackaged nonpotentially hazardous
 29 food and whole uncut produce, and shall meet the applicable
 30 requirements in ~~Chapters 1 to 8~~ *Chapter 1 (commencing with*
 31 *Section 113700) to Chapter 8 (commencing with Section 114250),*
 32 *inclusive, and Chapter 13 12.6 (commencing with Section 114377),*
 33 *and Chapter 13 (commencing with Section 114380), unless*
 34 *specifically exempted from any of these provisions.*

35 (b) Temporary food facilities that operate at a community event
 36 shall meet the applicable requirements in ~~Chapters 1 to 8~~ *Chapter*
 37 *1 (commencing with Section 113700) to Chapter 8 (commencing*
 38 *with Section 114250), inclusive, and Chapter 13 12.6 (commencing*
 39 *with Section 114377), and Chapter 13 (commencing with Section*
 40 *114380), unless specifically exempted from any of these provisions.*

1 (c) Food facility requirements shall be determined by the
2 enforcement agency based on the food service activity to be
3 conducted, the type of food that is to be prepared or served, the
4 length of the event, and the extent of food preparation that is to be
5 conducted at a community event within a temporary food facility.

6 (d) Notwithstanding subdivision (a), the enforcement agency
7 may allow temporary food facilities at a swap meet, depending on
8 the food service activity to be conducted, the type of food that is
9 to be prepared or served, the duration of the swap meet, and the
10 extent of food preparation that is to be conducted at the swap meet.

11 SEC. 17. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution for certain
13 costs that may be incurred by a local agency or school district
14 because, in that regard, this act creates a new crime or infraction,
15 eliminates a crime or infraction, or changes the penalty for a crime
16 or infraction, within the meaning of Section 17556 of the
17 Government Code, or changes the definition of a crime within the
18 meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 However, if the Commission on State Mandates determines that
21 this act contains other costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.