

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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)~~

(3) 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 ½ gallon, except as specified. The bill would make other changes relating to mobile food facilities.

~~(5)~~

(4) 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)~~

(5) 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)~~

(6) 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.

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

18 (7) Washing of foods.

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

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

22 113903. (a) “Service animal” means any dog that is
23 individually trained to do work or perform tasks for the benefit of
24 an individual with a disability, including a physical, sensory,
25 psychiatric, intellectual, or other mental disability. “Service animal”
26 does not include any other species of animals, whether wild or
27 domestic, trained or untrained.

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

1 the provision of emotional support, well-being, comfort, or
2 companionship do not constitute work or tasks for the purposes
3 of this subdivision.

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

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

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

- 16 (1) *Salmonella typhi*.
- 17 (2) *Salmonella spp.*
- 18 (3) *Shigella spp.*
- 19 (4) *Entamoeba histolytica*.
- 20 (5) Enterohemorrhagic or shiga toxin producing *Escherichia*
21 *coli*.

22 (6) Hepatitis A virus.

23 (7) Norovirus.

24 (b) If a food employee has a wound that 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 wound and a single-use glove
27 is worn over the impermeable cover.

28 (2) On exposed portions of the arms, unless the wound is
29 protected by an impermeable cover.

30 (3) On other parts of the body, unless the wound is covered by
31 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) Single-use gloves shall be worn when contacting
35 food and food-contact surfaces if the employee has any cuts, sores,
36 rashes, artificial nails, nail polish, rings (other than a plain ring,
37 such as a wedding band), uncleanable orthopedic support devices,
38 or fingernails that are not clean, smooth, or neatly 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), (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 accordance
2 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, shall be smooth and of durable construction and
19 nonabsorbent material that is easily cleanable.

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

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

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

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

37 SEC. 11. Section 114271 of the Health and Safety Code is
38 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 Chapter 1 (commencing
 30 with Section 113700) to Chapter 8 (commencing with Section
 31 114250), inclusive, Chapter 12.6 (commencing with Section
 32 114377), and Chapter 13 (commencing with Section 114380),
 33 unless specifically exempted from any of these provisions as
 34 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.~~

4 *SEC. 14.* Section 114325 of the Health and Safety Code is
5 amended to read:

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

17 (b) A water heater with a minimum capacity of four gallons
18 shall be provided for mobile food facilities that have a warewashing
19 sink.

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

23 ~~SEC. 16.~~

24 *SEC. 15.* Section 114335 of the Health and Safety Code is
25 amended to read:

26 114335. (a) Temporary food facilities that operate at a swap
27 meet are limited to only prepackaged nonpotentially hazardous
28 food and whole uncut produce, and shall meet the applicable
29 requirements in Chapter 1 (commencing with Section 113700) to
30 Chapter 8 (commencing with Section 114250), inclusive, Chapter
31 12.6 (commencing with Section 114377), and Chapter 13
32 (commencing with Section 114380), unless specifically exempted
33 from any of these provisions.

34 (b) Temporary food facilities that operate at a community event
35 shall meet the applicable requirements in Chapter 1 (commencing
36 with Section 113700) to Chapter 8 (commencing with Section
37 114250), inclusive, Chapter 12.6 (commencing with Section
38 114377), and Chapter 13 (commencing with Section 114380),
39 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.~~

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

21 However, if the Commission on State Mandates determines that
22 this act contains other costs mandated by the state, reimbursement
23 to local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.