

AMENDED IN SENATE JULY 2, 2013
AMENDED IN SENATE JUNE 19, 2013
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 113758, 113818, 113903, 113949.2, 113953.3, 113973, 114047, 114099.7, 114268, 114271, 114294, 114295, 114299, 114325, 114332.2, 114335, 114351, 114365, and 114365.2 of, to add Sections 113806, *113807*, and 113975 to, and to repeal and add Section 113961 of, 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 a cottage food operation, as defined, to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales. Existing law requires a "Class A" cottage food operation to register with the local enforcement agency

in accordance with specified provisions. Existing law defines a “direct sale” with respect to cottage food operations as a transaction between a cottage food operation operator and a consumer, as specified.

This bill would redefine a “direct sale” for these purposes as a transaction within the state between a cottage food operation operator and a consumer, as specified. The bill would require a “Class A” cottage food operation to renew its registration annually.

The bill would require a cottage food operator to retain a registration or permit or an accurate copy thereof onsite at the time of either direct or indirect cottage food sale.

The bill would also make other related changes with respect to cottage food operations.

(3) 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.

This bill would require food employees to wash their hands in accordance with specified provisions, and would prohibit food employees from contacting exposed, ready-to-eat food with their bare hands, except under specified circumstances.

(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 that handwashing and utensil washing facilities approved by the enforcement officer be provided within nonprofit charitable temporary food facilities, except where food and beverage is prepackaged.

This bill would authorize the local enforcement agency to allow a nonprofit charitable temporary food facility to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved facility, under specified circumstances.

(6) The code authorizes a warewashing sink to be shared by no more than 4 temporary food facilities that handle nonprepackaged food if the sink is centrally located and is adjacent to the sharing facilities.

This bill would authorize the local enforcement agency to authorize up to 8 temporary food facilities to share a warewashing sink under specified circumstances, and would authorize the local enforcement agency to instead allow a temporary food facility to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved facility, under specified circumstances.

(7) 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 “*highly susceptible population*” and “hot dog” for purposes of the code and would make a clarifying change to the definition of “limited food preparation.”

(8) 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.

(9) 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 113758 of the Health and Safety Code
2 is amended to read:

3 113758. (a) “Cottage food operation” means an enterprise that
4 has not more than the amount in gross annual sales that is specified
5 in this subdivision, is operated by a cottage food operator, and has
6 not more than one full-time equivalent cottage food employee, not
7 including a family member or household member of the cottage
8 food operator, within the registered or permitted area of a private
9 home where the cottage food operator resides and where cottage
10 food products are prepared or packaged for direct, indirect, or
11 direct and indirect sale to consumers pursuant to this part. In 2013,
12 the enterprise shall not have more than thirty-five thousand dollar
13 (\$35,000) in gross annual sales in the calendar year. In 2014, the
14 enterprise shall not have more than forty-five thousand dollars
15 (\$45,000) in gross annual sales in the calendar year. Commencing
16 in 2015, and each subsequent year thereafter, the enterprise shall
17 not have more than fifty thousand dollars (\$50,000) in gross annual
18 sales in the calendar year. A cottage food operation includes both
19 of the following:

20 (1) A “Class A” cottage food operation, which is a cottage food
21 operation that may engage only in direct sales of cottage food
22 products from the cottage food operation or other direct sales
23 venues described in paragraph (4) of subdivision (b).

24 (2) A “Class B” cottage food operation, which is a cottage food
25 operation that may engage in both direct sales and indirect sales
26 of cottage food products from the cottage food operation, from

1 direct sales venues described in paragraph (4) of subdivision (b),
2 from offsite events, or from a third-party retail food facility
3 described in paragraph (5) of subdivision (b).

4 (b) For purposes of this section, the following definitions shall
5 apply:

6 (1) “Cottage food employee” means an individual, paid or
7 volunteer, who is involved in the preparation, packaging, handling,
8 and storage of a cottage food product, or otherwise works for the
9 cottage food operation. An employee does not include an
10 immediate family member or household member of the cottage
11 food operator.

12 (2) “Cottage food operator” means an individual who operates
13 a cottage food operation in his or her private home and is the owner
14 of the cottage food operation.

15 (3) “Cottage food products” means nonpotentially hazardous
16 foods, including foods that are described in Section 114365.5 and
17 that are prepared for sale in the kitchen of a cottage food operation.

18 (4) “Direct sale” means a transaction within the state between
19 a cottage food operation operator and a consumer, where the
20 consumer purchases the cottage food product directly from the
21 cottage food operation. Direct sales include, but are not limited
22 to, transactions at holiday bazaars or other temporary events, such
23 as bake sales or food swaps, transactions at farm stands, certified
24 farmers’ markets, or through community-supported agriculture
25 subscriptions, and transactions occurring in person in the cottage
26 food operation.

27 (5) “Indirect sale” means an interaction between a cottage food
28 operation, a third-party retailer, and a consumer, where the
29 consumer purchases cottage food products made by the cottage
30 food operation from a third-party retailer that holds a valid permit
31 issued pursuant to Section 114381. Indirect sales include, but are
32 not limited to, sales made to retail shops or to retail food facilities
33 where food may be immediately consumed on the premises.

34 (6) “Private home” means a dwelling, including an apartment
35 or other leased space, where individuals reside.

36 (7) “Registered or permitted area” means the portion of a private
37 home that contains the private home’s kitchen used for the
38 preparation, packaging, storage, or handling of cottage food
39 products and related ingredients or equipment, or both, and attached
40 rooms within the home that are used exclusively for storage.

1 SEC. 2. Section 113806 is added to the Health and Safety Code,
2 to read:

3 113806. “Highly susceptible population” means a group of
4 persons who are more likely than other people in the general
5 population to experience foodborne disease because both of the
6 following conditions exist:

7 (a) The group is comprised of immunocompromised persons,
8 preschool age children, or older adults.

9 (b) The group obtains food at a facility, including, but not
10 limited to, a child or adult day care center, kidney dialysis center,
11 hospital, nursing home, or senior center, that provides services,
12 such as custodial care, health care, assisted living, or socialization
13 services.

14 ~~SEC. 2.~~

15 ~~SEC. 3.~~ Section ~~113806~~ 113807 is added to the Health and
16 Safety Code, to read:

17 ~~113806.~~

18 113807. “Hot dog” means a whole, cured, cooked sausage that
19 is skinless or stuffed in a casing, that may be known as a
20 frankfurter, frank, furter, wiener, red hot, vienna, bologna, garlic
21 bologna, or knockwurst, and that may be served in a bun or roll.

22 ~~SEC. 3.~~

23 SEC. 4. Section 113818 of the Health and Safety Code is
24 amended to read:

25 113818. (a) “Limited food preparation” means food preparation
26 that is restricted to one or more of the following:

27 (1) Heating, frying, baking, roasting, popping, shaving of ice,
28 blending, steaming or boiling of hot dogs, or assembly of
29 nonprepackaged food.

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

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

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

36 (5) Cooking and seasoning to order.

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

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

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

5 (2) Thawing.

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

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

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

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

15 (7) Washing of foods.

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

17 ~~SEC. 4.~~

18 *SEC. 5.* Section 113903 of the Health and Safety Code is
19 amended to read:

20 113903. (a) “Service animal” means 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 animal”
24 does not include any other species of animals, whether wild or
25 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
28 or tasks include, but are not limited to, assisting individuals who
29 are blind or have low vision with navigation and other tasks,
30 alerting individuals who are deaf or hard of hearing to the presence
31 of people or sounds, providing nonviolent protection or rescue
32 work, 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 and
39 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. 5.~~

4 *SEC. 6.* 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. 6.~~

33 *SEC. 7.* Section 113953.3 of the Health and Safety Code is
34 amended to read:

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

1 of cleaned hands and that portion, if any, of their arms exposed.
2 Employees shall pay particular attention to the areas underneath
3 the fingernails and between the fingers. Employees shall wash
4 their hands in all of the following instances:

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

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

10 (3) After using the toilet room.

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

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

15 (6) After handling soiled equipment or utensils.

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

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

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

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

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

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

33 ~~SEC. 7.~~

34 *SEC. 8.* Section 113961 of the Health and Safety Code is
35 repealed.

36 ~~SEC. 8.~~

37 *SEC. 9.* Section 113961 is added to the Health and Safety Code,
38 to read:

39 113961. (a) Food employees shall wash their hands in
40 accordance with the provisions established in Section 113953.3.

1 (b) Except when washing fruits and vegetables, as specified in
2 Section 113992 or as specified in subdivisions (e) and (f), food
3 employees shall not contact exposed, ready-to-eat food with their
4 bare hands and shall use suitable utensils such as deli tissue,
5 spatulas, tongs, single-use gloves, or dispensing equipment.

6 (c) Food employees shall minimize bare hand and arm contact
7 with exposed food that is not in a ready-to-eat form.

8 (d) Food that has been served to a consumer and then wrapped
9 or prepackaged at the direction of the consumer, such as food
10 placed in a take-home container, shall be handled only with
11 utensils. These utensils shall be properly sanitized before reuse.

12 (e) Subdivision (b) does not apply to a food employee who
13 contacts exposed, ready-to-eat food with bare hands at the time
14 the ready-to-eat food is being added as an ingredient to a food that
15 meets either of the following:

16 (1) Food that contains a raw animal food and is to be cooked in
17 the food establishment to heat all parts of the food to the minimum
18 temperatures specified in subdivisions (a) and (b) of Section
19 114004 or in Section 114008.

20 (2) Food that does not contain a raw animal food but is to be
21 cooked in the food establishment to heat all parts of the food to a
22 temperature of at least 165 degrees Fahrenheit.

23 (f) Food employees not serving a highly susceptible population
24 may contact exposed, ready-to-eat food with their bare hands if
25 all of the following occur:

26 (1) The permitholder obtains prior approval from the regulatory
27 authority.

28 (2) Written procedures are maintained in the food facility and
29 made available to the regulatory authority upon request, that
30 include all of the following:

31 (A) For each bare hand contact procedure, a listing of the
32 specific ready-to-eat foods that are touched by bare hands.

33 (B) Diagrams and other information showing that handwashing
34 facilities that are installed, located, and maintained in accordance
35 with Sections 113953, 113953.1, and 113953.2, are in an easily
36 accessible location and in close proximity to the work station where
37 the bare hand contact procedure is conducted.

38 (3) A written employee health policy that details the manner in
39 which the food facility complies with Sections 113949, 113949.1,

1 113949.2, 113949.3, 113949.4, 113949.5, 113950, and 113950.5,
2 including all of the following:

3 (A) Documentation that food employees and conditional
4 employees acknowledge that they are informed to report
5 information about their health and activities as they relate to
6 gastrointestinal symptoms and diseases that are transmittable
7 through food as specified in Section 113949.1.

8 (B) Documentation that food employees and conditional
9 employees acknowledge their responsibilities as specified in
10 Section 113949.4.

11 (C) Documentation that the person in charge acknowledges the
12 responsibilities specified in Sections 113949.5, 113950, and
13 113950.5.

14 (4) Documentation that food employees acknowledge that they
15 have received training in all of the following:

16 (A) The risks of contacting the specific ready-to-eat foods with
17 bare hands.

18 (B) Proper handwashing techniques and requirements, pursuant
19 to subdivision (a) of Section 113953.3.

20 (C) Where to wash their hands, as specified in Section 113953.1.

21 (D) Proper fingernail maintenance, as specified in Section
22 113968.

23 (E) Prohibition of jewelry, as specified in subdivision (a) of
24 Section 113973.

25 (F) Good hygienic practices, as specified in Sections 113974
26 and 113977.

27 (5) Documentation that hands are washed before food
28 preparation and as necessary to prevent cross-contamination by
29 food employees, as specified in Sections 113952, 113953.1, and
30 113953.3 during all hours of operation when the specific
31 ready-to-eat foods are prepared.

32 (6) Documentation that food employees contacting ready-to-eat
33 foods with bare hands use two or more of the following control
34 measures to provide additional safeguards to hazards associated
35 with bare hand contact:

36 (A) Double handwashing.

37 (B) Nail brushes.

38 (C) A hand antiseptic after handwashing, as specified in Section
39 113953.4.

1 (D) Incentive programs such as paid sick leave that assist or
2 encourage food employees not to report to work if they are ill.

3 (E) Other control measures approved by the regulatory authority.

4 (7) Documentation that corrective action is taken when the
5 requirements specified in paragraphs (1) to (6), inclusive, are not
6 followed.

7 ~~SEC. 9.~~

8 *SEC. 10.* Section 113973 of the Health and Safety Code is
9 amended to read:

10 113973. (a) Single-use gloves shall be worn when contacting
11 food and food-contact surfaces if the employee has any cuts, sores,
12 rashes, artificial nails, nail polish, rings (other than a plain ring,
13 such as a wedding band), uncleanable orthopedic support devices,
14 or fingernails that are not clean, smooth, or neatly trimmed.

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

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

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

28 (e) Slash-resistant gloves may be used with ready-to-eat food
29 that will not be subsequently cooked if the slash-resistant gloves
30 have a smooth, durable, and nonabsorbent outer surface or if the
31 slash-resistant gloves are covered with a smooth, durable,
32 nonabsorbent glove, or a single-use glove.

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

35 ~~SEC. 10.~~

36 *SEC. 11.* Section 113975 is added to the Health and Safety
37 Code, to read:

38 113975. (a) Except as provided in subdivision (b), an employee
39 who has a wound that is open or draining shall not handle food.

1 (b) A food employee who has a wound is restricted from food
2 handling unless the food employee complies with all of the
3 following:

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

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

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

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

13 ~~SEC. 11.~~

14 *SEC. 12.* Section 114047 of the Health and Safety Code is
15 amended to read:

16 114047. (a) Adequate and suitable space shall be provided for
17 the storage of food.

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

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

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

30 (e) Temporary alternate food storage methods and locations
31 may be approved by the local enforcement agency.

32 ~~SEC. 12.~~

33 *SEC. 13.* Section 114099.7 of the Health and Safety Code is
34 amended to read:

35 114099.7. Mechanical sanitization shall be accomplished in
36 the final sanitizing rinse by one of the following:

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

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

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

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

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

10 (A) The sanitizer manufacturer’s use directions as specified on
11 the product label.

12 (B) The machine manufacturer’s specifications as provided in
13 the manufacturer’s operating instructions.

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

16 (1) The rinse is applied directly from a potable water supply by
17 a warewashing machine that meets the requirements of subdivision
18 (b) of Section 114130 and is maintained and operated in accordance
19 with the manufacturer’s specifications.

20 (2) The rinse is applied only after the equipment and utensils
21 have been sanitized by the application of hot water or by the
22 application of a chemical sanitizer solution whose United States
23 Environmental Protection Agency-registered, label use instructions
24 require rinsing off the sanitizer after it is applied in an approved
25 commercial warewashing machine.

26 ~~SEC. 13.~~

27 *SEC. 14.* Section 114268 of the Health and Safety Code is
28 amended to read:

29 114268. (a) Except in sales areas and as otherwise specified
30 in subdivision (d), the floor surfaces in all areas in which food is
31 prepared, prepackaged, or stored, where any utensil is washed,
32 where refuse or garbage is stored, where janitorial facilities are
33 located in all toilet and handwashing areas, except with respect to
34 areas relating to guestroom accommodations and the private
35 accommodations of owners and operators in restricted food service
36 facilities, shall be smooth and of durable construction and
37 nonabsorbent material that is easily cleanable.

38 (b) Floor surfaces shall be coved at the juncture of the floor and
39 wall with a 3/8 inch minimum radius coving and shall extend up
40 the wall at least 4 inches, except in areas where food is stored only

1 in unopened bottles, cans, cartons, sacks, or other original shipping
2 containers.

3 (c) Public or private schools constructed or remodeled after the
4 effective date of this part shall comply with subdivision (b). Public
5 and private schools constructed before the effective date of this
6 part need not comply with subdivision (b), provided that the
7 existing floor surfaces are maintained in good repair and in a
8 sanitary condition.

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

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

15 ~~SEC. 14.~~

16 *SEC. 15.* Section 114271 of the Health and Safety Code is
17 amended to read:

18 114271. (a) Except as provided in subdivision (b), the walls
19 and ceilings of all rooms shall be of a durable, smooth,
20 nonabsorbent, and easily cleanable surface.

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

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

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

27 (3) Dining and sales areas.

28 (4) Offices.

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

32 (6) Dressing rooms, dressing areas, or locker areas.

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

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

39 (e) Attachments to walls and ceilings, such as light fixtures,
40 mechanical room ventilation system components, vent covers, wall

1 mounted fans, decorative items, and other attachments, shall be
2 easily cleanable.

3 ~~SEC. 15.~~

4 *SEC. 16.* Section 114294 of the Health and Safety Code is
5 amended to read:

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

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

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

25 ~~SEC. 16.~~

26 *SEC. 17.* Section 114295 of the Health and Safety Code is
27 amended to read:

28 114295. (a) Except as specified in subdivision (b), all mobile
29 food facilities shall operate in conjunction with a commissary,
30 mobile support unit, or other facility approved by the enforcement
31 agency.

32 (b) This section does not apply to mobile food facilities that
33 operate at community events as defined in Section 113755 and
34 that remain in a fixed position during food preparation and its
35 hours of operation, if potable water and liquid waste disposal
36 facilities are available to mobile food facilities requiring potable
37 water.

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

1 (d) Mobile support units shall be operated from and stored at a
2 designated commissary and shall be subject to permitting and plan
3 review.

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

8 ~~SEC. 17.~~

9 *SEC. 18.* Section 114299 of the Health and Safety Code is
10 amended to read:

11 114299. (a) Except as specified in subdivision (c), the business
12 name or name of the operator, city, state, ZIP Code, and name of
13 the permittee, if different from the name of the food facility, shall
14 be legible, clearly visible to consumers, and permanently affixed
15 on the consumer side of the mobile food facility and on a mobile
16 support unit.

17 (b) The business name shall be in letters at least 3 inches high.
18 Letters and numbers for the city, state, and ZIP Code shall not be
19 less than one inch high. The color of each letter and number shall
20 contrast with its background.

21 (c) Notwithstanding subdivision (a), motorized mobile food
22 facilities and mobile support units shall have the required
23 identification on two sides.

24 ~~SEC. 18.~~

25 *SEC. 19.* 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 that have a warewashing
40 sink.

1 (c) A mobile food facility equipped with a three-gallon-capacity
2 water heater that is in compliance with this section on January 1,
3 2014, is in compliance with this section after that date.

4 ~~SEC. 19.~~

5 *SEC. 20.* Section 114332.2 of the Health and Safety Code is
6 amended to read:

7 114332.2. (a) Except where all food and beverage is
8 prepackaged, handwashing and utensil washing facilities approved
9 by the enforcement officer shall be provided for nonprofit
10 charitable temporary food facilities. Based on local environmental
11 conditions, location, and similar factors, the local enforcement
12 agency may, in lieu of a warewashing sink, allow a nonprofit
13 charitable temporary food facility operating no more than four
14 hours per day at a single event to provide an adequate supply of
15 utensils and spare utensils when they have been properly washed
16 and sanitized at an approved food facility and are stored and kept
17 free of becoming soiled or contaminated.

18 (b) Facilities for the sanitary disposal of all liquid waste shall
19 be subject to the approval of the enforcement officer.

20 (c) At least one toilet facility for each 15 employees shall be
21 provided within 60 meters (200 feet) of each nonprofit charitable
22 temporary food facility.

23 (d) Food contact surfaces shall be smooth, easily cleanable, and
24 nonabsorbent.

25 ~~SEC. 20.~~

26 *SEC. 21.* Section 114335 of the Health and Safety Code is
27 amended to read:

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

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

1 114377), and Chapter 13 (commencing with Section 114380),
2 unless specifically exempted from any of these provisions.

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

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

13 ~~SEC. 21.~~

14 *SEC. 22.* Section 114351 of the Health and Safety Code is
15 amended to read:

16 114351. (a) Notwithstanding Section 114095, a warewashing
17 sink may be shared by no more than four temporary food facilities
18 that handle nonprepackaged food if the sink is centrally located
19 and is adjacent to the sharing facilities.

20 (b) Notwithstanding subdivision (a), based on the number and
21 types of utensils used, the local enforcement agency may allow
22 up to eight temporary food facilities to share a warewashing sink
23 when easily accessible and located within 100 feet of each
24 temporary food facility.

25 (c) Based on local environmental conditions, location, and
26 similar factors, the local enforcement agency may, in lieu of a
27 warewashing sink, allow a temporary food facility operating no
28 more than four hours per day at a single event to provide an
29 adequate supply of utensils and spare utensils when they have been
30 properly washed and sanitized at an approved food facility and are
31 stored and kept free of becoming soiled or contaminated.

32 ~~SEC. 22.~~

33 *SEC. 23.* Section 114365 of the Health and Safety Code is
34 amended to read:

35 114365. (a) (1) (A) A “Class A” cottage food operation shall
36 not be open for business unless it is registered with the local
37 enforcement agency and has submitted a completed,
38 self-certification checklist approved by the local enforcement
39 agency. The self-certification checklist shall verify that the cottage

1 food operation conforms to this chapter, including the following
2 requirements:

3 (i) No cottage food preparation, packaging, or handling may
4 occur in the home kitchen concurrent with any other domestic
5 activities, such as family meal preparation, dishwashing, clothes
6 washing or ironing, kitchen cleaning, or guest entertainment.

7 (ii) No infants, small children, or pets may be in the home
8 kitchen during the preparation, packaging, or handling of any
9 cottage food products.

10 (iii) Kitchen equipment and utensils used to produce cottage
11 food products shall be clean and maintained in a good state of
12 repair.

13 (iv) All food contact surfaces, equipment, and utensils used for
14 the preparation, packaging, or handling of any cottage food
15 products shall be washed, rinsed, and sanitized before each use.

16 (v) All food preparation and food and equipment storage areas
17 shall be maintained free of rodents and insects.

18 (vi) Smoking shall be prohibited in the portion of a private home
19 used for the preparation, packaging, storage, or handling of cottage
20 food products and related ingredients or equipment, or both, while
21 cottage food products are being prepared, packaged, stored, or
22 handled.

23 (B) (i) The department shall post the requirements described
24 in subparagraph (A) on its Internet Web site.

25 (ii) The local enforcement agency shall issue a registration
26 number to a “Class A” cottage food operation that meets the
27 requirements of subparagraph (A).

28 (C) (i) Except as provided in (ii), a “Class A” cottage food
29 operation shall not be subject to initial or routine inspections.

30 (ii) For purposes of determining compliance with this chapter,
31 a representative of a local enforcement agency may access, for
32 inspection purposes, the registered area of a private home where
33 a cottage food operation is located only if the representative has,
34 on the basis of a consumer complaint, reason to suspect that
35 adulterated or otherwise unsafe food has been produced by the
36 cottage food operation or that the cottage food operation has
37 violated this chapter.

38 (iii) Access under this subparagraph is limited to the registered
39 area and solely for the purpose of enforcing or administering this
40 chapter.

1 (iv) A local enforcement agency may seek recovery from a
2 “Class A” cottage food operation of an amount that does not exceed
3 the local enforcement agency’s reasonable costs of inspecting the
4 “Class A” cottage food operation for compliance with this chapter,
5 if the “Class A” cottage food operation is found to be in violation
6 of this chapter.

7 (2) (A) A “Class B” cottage food operation shall not be open
8 for business unless it obtains a permit from the local enforcement
9 agency in a manner approved by the local enforcement agency to
10 engage in the direct and indirect sale of cottage food products.

11 (B) (i) A “Class B” cottage food operation shall comply with
12 the requirements described in clauses (i) to (vi), inclusive, of
13 subparagraph (A) of paragraph (1) in addition to the other
14 requirements of this chapter.

15 (ii) The local enforcement agency shall issue a permit number
16 after an initial inspection has determined that the proposed “Class
17 B” cottage food operation and its method of operation conform to
18 this chapter.

19 (C) Except as provided in this subparagraph, a “Class B” cottage
20 food operation shall not be subject to more than one inspection
21 per year by the local enforcement agency.

22 (D) A “Class A” cottage food operation shall renew its
23 registration annually.

24 (i) For purposes of determining compliance with this chapter,
25 a representative of a local enforcement agency, for inspection
26 purposes, may access the permitted area of a private home where
27 a cottage food operation is located only if the representative has,
28 on the basis of a consumer complaint, reason to suspect that
29 adulterated or otherwise unsafe food has been produced by the
30 cottage food operation, or that the cottage food operation has
31 violated this chapter.

32 (ii) Access under this subparagraph is limited to the permitted
33 area and solely for the purpose of enforcing or administering this
34 chapter.

35 (E) (i) A “Class B” cottage food operation shall be authorized
36 to engage in the indirect sales of cottage food products within the
37 county in which the “Class B” cottage food operation is permitted.

38 (ii) A county may agree to allow a “Class B” cottage food
39 operation permitted in another county to engage in the indirect
40 sales of cottage food products in the county.

1 (b) (1) A registration or permit, once issued, is nontransferable.
 2 A registration or permit shall be valid only for the person, location,
 3 type of food sales, and distribution activity specified by that
 4 registration or permit, and, unless suspended or revoked for cause,
 5 for the time period indicated.

6 (2) The registration or permit or an accurate copy thereof shall
 7 be retained by the operator onsite at the time of either direct or
 8 indirect cottage food sale.

9 ~~SEC. 23.~~

10 *SEC. 24.* Section 114365.2 of the Health and Safety Code is
 11 amended to read:

12 114365.2. A cottage food operation that is registered or has a
 13 permit issued pursuant to Section 114365 shall be considered a
 14 restricted food service facility for purposes of, and subject to,
 15 Sections 113953.3, 114259.5, 114285, and 114286. A cottage food
 16 operation that is registered or has a permit also shall be subject to
 17 Sections 113967, 113973, 113980, 114259.5, 114405, 114407,
 18 114409, 114411, and 114413, and to all of the following
 19 requirements:

20 (a) A person with a contagious illness shall refrain from work
 21 in the registered or permitted area of the cottage food operation.

22 (b) A person involved in the preparation or packaging of cottage
 23 food products shall keep his or her hands and exposed portions of
 24 his or her arms clean and shall wash his or her hands before any
 25 food preparation or packaging activity in a cottage food operation.

26 (c) Water used during the preparation of cottage food products
 27 shall meet the potable drinking water standards described in Section
 28 113869, or in accordance with the local regulatory authority. A
 29 cottage food operation shall not be required to have an indirect
 30 sewer connection. Water used during the preparation of cottage
 31 food products includes all of the following:

32 (1) The washing, sanitizing, and drying of any equipment used
 33 in the preparation of a cottage food product.

34 (2) The washing, sanitizing, and drying of hands and arms.

35 (3) Water used as an ingredient.

36 (d) A person who prepares or packages cottage food products
 37 shall complete a food processor course approved by the department
 38 and posted on the department’s Internet Web site to protect the
 39 public health within three months of becoming registered and every
 40 three years during operation. The course shall not exceed four

1 hours in length. The department shall work with the local
2 enforcement agency to ensure that cottage food operators are
3 properly notified of the location, date, and time of the classes
4 offered.

5 (e) A cottage food operation shall properly label all cottage food
6 products in compliance with the Federal Food, Drug, and Cosmetic
7 Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent
8 permitted by federal law, the label shall include, but is not limited
9 to, all of the following:

10 (1) The words “Made in a Home Kitchen” or “Repackaged in
11 a Home Kitchen,” as applicable, with a description of any
12 purchased whole ready-to-eat product not used as an ingredient in
13 12-point type on the cottage food product’s primary display panel.

14 (2) The name commonly used for the food product or an
15 adequately descriptive name.

16 (3) The name of the cottage food operation which produced the
17 cottage food product.

18 (4) The registration or permit number of the “Class A” or “Class
19 B” cottage food operation, respectively, which produced the cottage
20 food product and the name of the county of the local enforcement
21 agency that issued the permit or registration number.

22 (5) The ingredients of the cottage food product, in descending
23 order of predominance by weight, if the product contains two or
24 more ingredients.

25 ~~SEC. 24.~~

26 *SEC. 25.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution for certain
28 costs that may be incurred by a local agency or school district
29 because, in that regard, this act creates a new crime or infraction,
30 eliminates a crime or infraction, or changes the penalty for a crime
31 or infraction, within the meaning of Section 17556 of the
32 Government Code, or changes the definition of a crime within the
33 meaning of Section 6 of Article XIII B of the California
34 Constitution.

35 However, if the Commission on State Mandates determines that
36 this act contains other costs mandated by the state, reimbursement
37 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O