

Assembly Bill No. 1252

Passed the Assembly September 9, 2013

Chief Clerk of the Assembly

Passed the Senate September 6, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 an individual with a disability. The definition would specifically exclude other species of animals, as specified.

The bill would also define “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.

The people of the State of California do enact as follows:

SECTION 1. Section 113758 of the Health and Safety Code is amended to read:

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

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

(2) A “Class B” cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

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

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

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

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

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

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

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

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

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

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

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

(b) The group obtains food at a facility, including, but not limited to, a kidney dialysis center, hospital, nursing home, or

senior center, that provides services, such as custodial care, health care, assisted living, or socialization services.

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

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

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

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

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

(2) Dispensing and portioning of nonpotentially hazardous food.

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

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

(5) Cooking and seasoning to order.

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

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

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

(2) Thawing.

(3) Cooling of cooked, potentially hazardous food.

(4) Grinding raw ingredients or potentially hazardous food.

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

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

(7) Washing of foods.

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

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

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

(b) The work or tasks performed by a service animal shall include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, or helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this subdivision.

SEC. 6. Section 113949.2 of the Health and Safety Code is amended to read:

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

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

- (1) *Salmonella typhi*.
- (2) *Salmonella spp.*
- (3) *Shigella spp.*
- (4) *Entamoeba histolytica*.

(5) Enterohemorrhagic or shiga toxin producing Escherichia coli.

(6) Hepatitis A virus.

(7) Norovirus.

(b) If a food employee has a wound that is one of the following:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the wound and a single-use glove is worn over the impermeable cover.

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

(3) On other parts of the body, unless the wound is covered by a dry, durable, tight-fitting bandage.

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

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

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

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

(3) After using the toilet room.

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

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

(6) After handling soiled equipment or utensils.

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

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

(9) Before initially donning gloves for working with food.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The permit holder obtains prior approval from the regulatory authority.

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

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

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

(3) A written employee health policy that details the manner in which the food facility complies with Sections 113949, 113949.1, 113949.2, 113949.3, 113949.4, 113949.5, 113950, and 113950.5, including all of the following:

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

(B) Documentation that food employees acknowledge their responsibilities as specified in Section 113949.4.

(C) Documentation that the person in charge acknowledges the responsibilities specified in Section 113949.5, subdivision (b) of Section 113950, and Section 113950.5.

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

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

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

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

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

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

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

(5) Documentation that hands are washed before food preparation and as necessary to prevent cross-contamination by

food employees, as specified in Sections 113952, 113953.1, and 113953.3 during all hours of operation when the specific ready-to-eat foods are prepared.

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

(A) Double handwashing.

(B) Nail brushes.

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

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

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

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

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

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

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

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

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

(e) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface or if the

slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

114268. (a) Except in sales areas and as otherwise specified in subdivision (d), the floor surfaces in all areas in which food is prepared, prepackaged, or stored, where any utensil is washed, where refuse or garbage is stored, where janitorial facilities are located in all toilet and handwashing areas, except with respect to areas relating to guestroom accommodations and the private accommodations of owners and operators in restricted food service

facilities, shall be smooth and of durable construction and nonabsorbent material that is easily cleanable.

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

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

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

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

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

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

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

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

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

(3) Dining and sales areas.

(4) Offices.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 19. Section 114325 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

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

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

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

(b) Temporary food facilities that operate at a community event shall meet the applicable requirements in Chapter 1 (commencing

with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course approved by the department and posted on the department's Internet Web site to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. The department shall work with the local

enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

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

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

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

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

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

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

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

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

Approved _____, 2013

Governor