

AMENDED IN SENATE APRIL 21, 2014

**SENATE BILL**

**No. 1235**

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**Introduced by Senator Knight**

February 20, 2014

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An act to amend Section ~~113876~~ 113789 of the Health and Safety Code, relating to food.

LEGISLATIVE COUNSEL'S DIGEST

SB 1235, as amended, Knight. Prepackaged food.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities, ~~including mobile food facilities and temporary food facilities as defined. Existing law exempts from the definition of food facility a premises set aside by a beer manufacturer for the purposes of beer tasting, if no other beverage except for beer and prepackaged nonpotentially hazardous beverages is offered for sale for onsite consumption and no food, except crackers or pretzels, is served.~~ 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. ~~Existing law defines prepackaged food for purposes of these provisions.~~

~~This bill would make technical, nonsubstantive changes to these provisions: exclude from the definition of food facility a premises set aside by a beer manufacturer for the purposes of beer tasting that offers for onsite consumption prepackaged chips, pretzels, crackers, nuts, jerky, dried fruit, and energy bars.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

1     **SECTION 1.** *Section 113789 of the Health and Safety Code is*  
2 *amended to read:*

3     113789. (a) “Food facility” means an operation that stores,  
4 prepares, packages, serves, vends, or otherwise provides food for  
5 human consumption at the retail level, including, but not limited  
6 to, the following:

7     (1) An operation where food is consumed on or off the premises,  
8 regardless of whether there is a charge for the food.

9     (2) ~~Any~~—A place used in conjunction with the operations  
10 described in this subdivision, including, but not limited to, storage  
11 facilities for food-related utensils, equipment, and materials.

12     (b) “Food facility” includes permanent and nonpermanent food  
13 facilities, including, but not limited to, the following:

14     (1) Public and private school cafeterias.

15     (2) Restricted food service facilities.

16     (3) Licensed health care facilities, except as provided in  
17 paragraph (13) of subdivision (c).

18     (4) Commissaries.

19     (5) Mobile food facilities.

20     (6) Mobile support units.

21     (7) Temporary food facilities.

22     (8) Vending machines.

23     (9) Certified farmers’ markets, for purposes of permitting and  
24 enforcement pursuant to Section 114370.

25     (10) Farm stands, for purposes of permitting and enforcement  
26 pursuant to Section 114375.

27     (c) “Food facility” does not include any of the following:

28     (1) A cooperative arrangement wherein no permanent facilities  
29 are used for storing or handling food.

30     (2) A private home, including a cottage food operation that is  
31 registered or has a permit pursuant to Section 114365.

32     (3) A church, private club, or other nonprofit association that  
33 gives or sells food to its members and guests, and not to the general  
34 public, at an event that occurs not more than three days in any  
35 90-day period.

36     (4) A for-profit entity that gives or sells food at an event that  
37 occurs not more than three days in a 90-day period for the benefit  
38 of a nonprofit association, if the for-profit entity receives no

1 monetary benefit, other than that resulting from recognition from  
2 participating in an event.

3 (5) Premises set aside for wine tasting, as that term is used in  
4 Section 23356.1 of the Business and Professions Code and in the  
5 regulations adopted pursuant to that section, that comply with  
6 Section 118375, regardless of whether there is a charge for the  
7 wine tasting, if no other beverage, except for bottles of wine and  
8 prepackaged nonpotentially hazardous beverages, is offered for  
9 sale for onsite consumption and no food, except for crackers, is  
10 served.

11 (6) Premises operated by a producer, selling or offering for sale  
12 only whole produce grown by the producer, or shell eggs, or both,  
13 provided the sales are conducted on premises controlled by the  
14 producer.

15 (7) A commercial food processing plant as defined in Section  
16 111955.

17 (8) A child day care facility, as defined in Section 1596.750.

18 (9) A community care facility, as defined in Section 1502.

19 (10) A residential care facility for the elderly, as defined in  
20 Section 1569.2.

21 (11) A residential care facility for the chronically ill, which has  
22 the same meaning as a residential care facility, as defined in Section  
23 1568.01.

24 (12) Premises set aside by a beer manufacturer, as defined in  
25 Section 25000.2 of the Business and Professions Code, that comply  
26 with Section 118375, for the purposes of beer tasting, regardless  
27 of whether there is a charge for the beer tasting, if no other  
28 beverage, except for beer and prepackaged nonpotentially  
29 hazardous beverages, is offered for sale for onsite consumption,  
30 and no food, except for ~~crackers or pretzels, is served~~ *prepackaged*  
31 *chips, pretzels, crackers, nuts, jerky, dried fruit, and energy bars*  
32 *is offered for onsite consumption.*

33 (13) (A) An intermediate care facility for the developmentally  
34 disabled, as defined in subdivisions (e), (h), and (m) of Section  
35 1250, with a capacity of six beds or fewer.

36 (B) A facility described in subparagraph (A) shall report any  
37 foodborne illness or outbreak to the local health department and  
38 to the State Department of Public Health within 24 hours of the  
39 illness or outbreak.

1 SECTION 1. ~~Section 113876 of the Health and Safety Code is~~  
2 ~~amended to read:~~  
3 ~~113876. “Prepackaged food” means a properly labeled~~  
4 ~~processed food, prepackaged to prevent direct human contact with~~  
5 ~~the food product upon distribution from the manufacturer, a food~~  
6 ~~facility, or other approved source.~~

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