

AMENDED IN ASSEMBLY JUNE 19, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE APRIL 21, 2014

SENATE BILL

No. 1235

Introduced by Senator Knight

February 20, 2014

An act to amend ~~Section~~ *Sections 113789 and 114289* 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, 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 defines "potentially hazardous food" and "prepackaged food" for these purposes. 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.

This bill would additionally 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 food that is not potentially hazardous food. The bill would *limit the food display area in these facilities to 25 square feet and would make these facilities,* ~~if prepackaged food that is not potentially hazardous food is offered for~~

sale, facilities subject to specified provisions of the retail food code. By expanding the definition of a crime, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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 113789 of the Health and Safety Code
- 2 is 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) A place used in conjunction with the operations described
- 10 in this subdivision, including, but not limited to, storage facilities
- 11 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:

- 1 (1) A cooperative arrangement wherein no permanent facilities
2 are used for storing or handling food.
- 3 (2) A private home, including a cottage food operation that is
4 registered or has a permit pursuant to Section 114365.
- 5 (3) A church, private club, or other nonprofit association that
6 gives or sells food to its members and guests, and not to the general
7 public, at an event that occurs not more than three days in any
8 90-day period.
- 9 (4) A for-profit entity that gives or sells food at an event that
10 occurs not more than three days in a 90-day period for the benefit
11 of a nonprofit association, if the for-profit entity receives no
12 monetary benefit, other than that resulting from recognition from
13 participating in an event.
- 14 (5) Premises set aside for wine tasting, as that term is used in
15 Section 23356.1 of the Business and Professions Code and in the
16 regulations adopted pursuant to that section, that comply with
17 Section 118375, regardless of whether there is a charge for the
18 wine tasting, if no other beverage, except for bottles of wine and
19 prepackaged nonpotentially hazardous beverages, is offered for
20 sale for onsite consumption and no food, except for crackers, is
21 served.
- 22 (6) Premises operated by a producer, selling or offering for sale
23 only whole produce grown by the producer, or shell eggs, or both,
24 provided the sales are conducted on premises controlled by the
25 producer.
- 26 (7) A commercial food processing plant as defined in Section
27 111955.
- 28 (8) A child day care facility, as defined in Section 1596.750.
- 29 (9) A community care facility, as defined in Section 1502.
- 30 (10) A residential care facility for the elderly, as defined in
31 Section 1569.2.
- 32 (11) A residential care facility for the chronically ill, which has
33 the same meaning as a residential care facility, as defined in Section
34 1568.01.
- 35 (12) Premises set aside by a beer manufacturer, as defined in
36 Section 25000.2 of the Business and Professions Code, that comply
37 with Section 118375, for the purposes of beer tasting, regardless
38 of whether there is a charge for the beer tasting, if no other
39 beverage, except for beer and prepackaged nonpotentially
40 hazardous beverages, is offered for sale for onsite consumption,

1 and no food, except for crackers, pretzels, or prepackaged food
 2 that is not potentially hazardous food is offered for onsite
 3 consumption. ~~If prepackaged food that is not potentially hazardous~~
 4 ~~food is offered for sale, then these facilities shall comply with the~~
 5 ~~provisions of Section 114289.~~

6 (13) (A) An intermediate care facility for the developmentally
 7 disabled, as defined in subdivisions (e), (h), and (m) of Section
 8 1250, with a capacity of six beds or fewer.

9 (B) A facility described in subparagraph (A) shall report any
 10 foodborne illness or outbreak to the local health department and
 11 to the State Department of Public Health within 24 hours of the
 12 illness or outbreak.

13 *SEC. 2. Section 114289 of the Health and Safety Code is*
 14 *amended to read:*

15 114289. (a) Notwithstanding any ~~provision~~ of law to the
 16 contrary, a permanent food facility that has less than 300 square
 17 feet of display area and that sells only prepackaged food that is
 18 not potentially hazardous food shall be exempt from the
 19 requirements of this part except as set forth in subdivision ~~(b)~~ (c).

20 *(b) Notwithstanding any law to the contrary, a premises set*
 21 *aside by a beer manufacturer, as defined in Section 25000.2 of the*
 22 *Business and Professions Code, that complies with Section 118375,*
 23 *for the purposes of beer tasting, regardless of whether there is a*
 24 *charge for the beer tasting, if no other beverage, except for beer*
 25 *and prepackaged nonpotentially hazardous beverages, is offered*
 26 *for sale for onsite consumption, and no food, except for crackers,*
 27 *pretzels, or prepackaged food that is not potentially hazardous*
 28 *food is offered for onsite consumption shall be subject to the*
 29 *requirements set forth in paragraph (1) of subdivision (c). These*
 30 *facilities shall not have a food display area greater than 25 square*
 31 *feet.*

32 ~~(b)~~

33 (c) (1) A ~~permanent food~~ facility or premises with a food
 34 display area of 25 square feet or less shall comply with all of the
 35 following:

36 (A) Sections 113980, 114047, 114049, 114390, 114393, 114395,
 37 114397, and 114399.

38 (B) Chapter 1 (commencing with Section 113700).

39 (C) Chapter 2 (commencing with Section 113728).

1 (2) A ~~permanent food~~ facility *or premises* with a food display
2 area greater than 25 square feet, but less than 300 square feet, shall
3 comply with all of the following:

4 (A) Sections 113980, 114047, 114049, 114250, 114266, 114381,
5 114387, 114390, 114393, 114395, 114397, 114399, 114405,
6 114407, 114409, 114411, and 114413.

7 (B) Chapter 1 (commencing with Section 113700).

8 (C) Chapter 2 (commencing with Section 113728).

9 ~~SEC. 2.~~

10 *SEC. 3.* No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.

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