

AMENDED IN ASSEMBLY JANUARY 5, 2016

SENATE BILL

No. 746

Introduced by Senator Wolk
(Principal coauthor: Assembly Member Dodd)

February 27, 2015

~~An act to amend Sections 110480 and 113789 of the Health and Safety Code, relating to food safety. An act to amend Sections 79831 and 79835 of the Food and Agricultural Code, relating to olive oil.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as amended, Wolk. ~~Food safety: grist mills. Olive Oil Commission of California: chair of advisory committee.~~

Existing law provides for the establishment of an advisory committee to advise the board of directors of the Olive Oil Commission of California, as specified, and provides that the chair of the advisory committee shall be an ex officio member of the commission board of directors.

This bill would instead require the chair of the advisory committee to be a member, rather than an ex officio member, of the commission board of directors. The bill would also require the chair of the advisory committee to designate an alternate advisory committee member to serve in the chair's absence.

~~Existing law prohibits, with some exceptions, the manufacture, packing, or holding of processed food without a valid registration from the State Department of Public Health. A violation of these provisions is a crime.~~

~~This bill would, beginning January 1, 2018, exempt from the registration requirements the milling, packaging, and selling of grain produced and sold at a water-driven grist mill on the National Register~~

of Historic Places, provided best management practices suitable for a historic water-driven grist mill are followed for the processing and handling of the product, the flour is identified as being produced in a historic mill using traditional methods, and the product meets applicable federal food adulteration purity standards.

Existing law, the California Retail Food Code, provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the department and is primarily enforced by local health agencies. A violation of any provision of the code is a misdemeanor.

This bill would, beginning January 1, 2018, exclude from the definition of a retail food facility a water-driven grist mill that is on the National Register of Historic Places and that has onsite sales of grain that is milled at the facility. The bill would make related findings, declarations, and statements of legislative intent.

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 79831 of the Food and Agricultural Code
2 is amended to read:

3 79831. (a) There is in the state government the Olive Oil
4 Commission of California. Except as provided in subdivision (d),
5 the commission board of directors shall be composed of the
6 following:

7 (1) Six producers, two from each district.

8 (2) Three handlers, one from each district.

9 (3) One public member who shall be appointed to the
10 commission board of directors by the secretary from nominees
11 recommended by the commission board of directors.

12 (b) The chair of the advisory committee *described in subdivision*
13 *(e)* shall be ~~an ex officio~~ a member of the commission board of
14 directors.

15 (c) The secretary and other appropriate persons as determined
16 by the commission board of directors shall be ex officio members.

17 (d) The commission board of directors may modify the number
18 of producers and handlers who serve on the commission board of
19 directors by a two-thirds vote that is concurred in by the secretary,
20 if proper notice is provided to all persons subject to this chapter
21 ~~prior to~~ *before* the action.

1 (e) An advisory committee shall meet periodically to review
2 issues affecting the purposes of this chapter and shall advise the
3 commission board of directors. The *advisory* committee shall
4 consist of seven members who shall each serve three-year terms.
5 The chair of the *advisory* committee shall be selected by the
6 members.

7 *SEC. 2. Section 79835 of the Food and Agricultural Code is*
8 *amended to read:*

9 79835. (a) Except for the ex officio members of the
10 commission board of directors, each member of the commission
11 board of directors shall have an alternate member elected in the
12 same manner as the member. An alternate member, in the absence
13 of the member for whom he or she is an alternate, shall serve in
14 place of the member. An alternate member may also serve in place
15 of any other absent member of the same classification, producer
16 or handler, if the member's alternate is also absent. However, an
17 alternate member may not serve in place of more than one absent
18 member at a meeting. An alternate member serving in place of a
19 member shall have and be able to exercise all rights, privileges,
20 and powers of the member when serving. In the event of death,
21 removal, resignation, or the disqualification of a member, the
22 alternate for the member, or another alternate of the same
23 classification if the alternate member for the member is absent,
24 shall act as the member until a qualified successor is elected.

25 (b) *The chair of the advisory committee shall designate a*
26 *member of the advisory committee to serve as an alternate in place*
27 *of the chair in the chair's absence. An alternate advisory committee*
28 *member serving in the place of the chair shall have and be able*
29 *to exercise all rights, privileges, and powers of the chair when*
30 *servng.*

31 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
32 ~~following:~~

33 ~~(1) Recent legislation that established a moratorium on closure~~
34 ~~of state parks and a matching funds program to help keep state~~
35 ~~parks open have increased outreach to the public through the use~~
36 ~~of creative partnerships and other innovative tools, and other~~
37 ~~provisions have helped stabilize the Department of Parks and~~
38 ~~Recreation and broaden its financial base.~~

39 ~~(2) Ongoing efforts by the Parks Forward Commission, the State~~
40 ~~Park and Recreation Commission, and the Department of Parks~~

1 and Recreation to develop a more secure financial base for the
2 department through the increased use of pilot projects, the sale of
3 specialized or regional passes, and other internal reforms are
4 providing early signs of success that should be strengthened.

5 (3) A stable funding structure must be established for the state
6 parks, including a more entrepreneurial and robust
7 revenue-generation strategy with increased efficiency and
8 accountability, and a dedicated, reliable source of public funding
9 that will meet ongoing operating needs and continually reduce the
10 backlog of unmet maintenance needed to protect valuable park
11 assets.

12 (b) It is the intent of the Legislature in enacting this act to
13 encourage the Department of Parks and Recreation and the State
14 Department of Public Health to consult with each other to develop
15 and implement additional, reasonable improvements designed to
16 increase public health security at the Bale Grist Mill State Historic
17 Park, without impairing or adversely affecting historical, cultural,
18 or natural resources.

19 SEC. 2. Section 110480 of the Health and Safety Code is
20 amended to read:

21 110480. (a) The registration provisions of this article shall not
22 apply to any person whose manufacturing, packing, or holding of
23 processed food is limited solely to temporarily holding processed
24 foods for up to seven days for further transport if the foods are not
25 potentially hazardous foods, as defined in Section 110005, or to
26 any person whose manufacturing, packing, or holding of processed
27 food is limited solely to activities authorized pursuant to any of
28 the following:

29 (1) A valid bottled water or water vending machine license
30 issued pursuant to Article 12 (commencing with Section 111070).

31 (2) A valid pet food license issued pursuant to Chapter 10
32 (commencing with Section 113025) of Part 6.

33 (3) A valid permit issued pursuant to Chapter 4 (commencing
34 with Section 113700) of Part 7 to a food facility including a food
35 facility that manufactures, packs, or holds processed food for sale
36 at wholesale, provided the food facility that manufactures, packs,
37 or holds processed food for sale at wholesale does not meet any
38 of the following conditions:

39 (A) Has gross annual wholesale sales of processed foods of
40 more than 25 percent of total food sales.

- 1 ~~(B) Sells processed foods outside the jurisdiction of the local~~
2 ~~health department.~~
- 3 ~~(C) Sells processed foods that require labeling pursuant to this~~
4 ~~part.~~
- 5 ~~(D) Processes or handles fresh seafood, frozen seafood held in~~
6 ~~bulk for further processing, or fresh or frozen raw shellfish.~~
- 7 ~~(E) Salvages processed foods for sale other than at the retail~~
8 ~~food facility.~~
- 9 ~~(4) A valid cold storage license issued pursuant to Chapter 6~~
10 ~~(commencing with Section 112350) of Part 6.~~
- 11 ~~(5) A valid cannery license issued pursuant to Chapter 8~~
12 ~~(commencing with Section 112650) of Part 6.~~
- 13 ~~(6) A valid shellfish certificate issued pursuant to Chapter 5~~
14 ~~(commencing with Section 112150) of Part 6.~~
- 15 ~~(7) A valid frozen food locker plant license issued pursuant to~~
16 ~~Chapter 7 (commencing with Section 112500) of Part 6.~~
- 17 ~~(8) A valid winegrower's license or wine blender's license~~
18 ~~pursuant to Division 9 (commencing with Section 23000) of the~~
19 ~~Business and Professions Code.~~
- 20 ~~(9) A valid milk products plant, margarine, imitation ice cream,~~
21 ~~imitation ice milk, or a products resembling milk products plant~~
22 ~~license, issued pursuant to Division 15 (commencing with Section~~
23 ~~32501) of the Food and Agricultural Code.~~
- 24 ~~(10) A valid permit issued by a local health department to~~
25 ~~operate a processing establishment, as defined in Section 111955,~~
26 ~~that only holds or warehouses processed food, pursuant to Article~~
27 ~~1 (commencing with Section 111950) of Chapter 4 of Part 6,~~
28 ~~provided that all of the following conditions are met:~~
 - 29 ~~(A) The warehouse does not manufacture or pack processed~~
30 ~~food.~~
 - 31 ~~(B) The warehouse does not hold fresh seafood, frozen seafood~~
32 ~~held in bulk for further processing, or fresh or frozen raw shellfish.~~
 - 33 ~~(C) The warehouse is not operated as an integral part of a food~~
34 ~~processing facility required to be registered pursuant to Section~~
35 ~~110460.~~
 - 36 ~~(D) The warehouse facilities are located entirely within the area~~
37 ~~under the jurisdiction of the local health department.~~
 - 38 ~~(E) The warehouse does not salvage food as the primary~~
39 ~~business.~~

1 ~~(11) Beginning January 1, 2018, the milling, packaging, and~~
2 ~~selling of grain produced and sold at a water-driven grist mill on~~
3 ~~the National Register of Historic Places, provided best management~~
4 ~~practices suitable for a historic water-driven grist mill are followed~~
5 ~~for the processing and handling of the product, the flour is~~
6 ~~identified as being produced in a historic mill using traditional~~
7 ~~methods, and the product meets applicable federal food adulteration~~
8 ~~purity standards.~~

9 ~~(b) This section shall not be construed to limit the authority of~~
10 ~~Los Angeles, San Bernardino, and Orange Counties, or of the City~~
11 ~~of Vernon, to conduct any inspections otherwise authorized by~~
12 ~~Chapter 4 (commencing with Section 111950) of Part 6.~~

13 ~~SEC. 3. Section 113789 of the Health and Safety Code is~~
14 ~~amended to read:~~

15 ~~113789. (a) “Food facility” means an operation that stores,~~
16 ~~prepares, packages, serves, vends, or otherwise provides food for~~
17 ~~human consumption at the retail level, including, but not limited~~
18 ~~to, the following:~~

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

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

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

26 ~~(1) Public and private school cafeterias.~~

27 ~~(2) Restricted food service facilities.~~

28 ~~(3) Licensed health care facilities, except as provided in~~
29 ~~paragraph (13) of subdivision (c).~~

30 ~~(4) Commissaries.~~

31 ~~(5) Mobile food facilities.~~

32 ~~(6) Mobile support units.~~

33 ~~(7) Temporary food facilities.~~

34 ~~(8) Vending machines.~~

35 ~~(9) Certified farmers’ markets, for purposes of permitting and~~
36 ~~enforcement pursuant to Section 114370.~~

37 ~~(10) Farm stands, for purposes of permitting and enforcement~~
38 ~~pursuant to Section 114375.~~

39 ~~(e) “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 establishment as defined in~~
27 ~~Section 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.

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

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

11 (14) A community food producer, as defined in Section 113752.

12 (15) Beginning January 1, 2018, a water-driven grist mill that
13 is on the National Register of Historic Places and that has onsite
14 sales of grain that is milled at the facility.