

AMENDED IN SENATE MARCH 15, 2016

SENATE BILL

No. 969

**Introduced by Senator Nguyen
(Coauthor: Senator Huff)**

(Coauthors: Assembly Members *Campos*, Chang, Kim, McCarty, and Williams)

February 8, 2016

An act to amend ~~Section~~ *Sections 111222 and 111223* of, to amend the heading of Article 14 (commencing with Section 111222) of Chapter 5 of Part 5 of Division 104 of, and to add Section 114429.3 to, the Health and Safety Code, relating to food.

LEGISLATIVE COUNSEL'S DIGEST

SB 969, as amended, Nguyen. Vietnamese rice cakes.

Existing law, the Sherman Food, Drug, and Cosmetic Law, requires all manufacturers of Korean rice cakes, as defined, to place a label issued by the Korean Rice Cake Association Corporation on the Korean rice cake that indicates the date of manufacture, and requires the label to include a statement that the rice cake must be consumed within one day of manufacture. A violation of these provisions is a crime.

This bill would ~~require~~ *require, except as provided*, a manufacturer of Vietnamese rice ~~cakes~~ *cakes, as defined*, to place a label on the Vietnamese rice cake that indicates the date ~~of manufacture~~, *and time the cooking process was completed*, and would require the label to include a statement that the rice cake must be consumed within ~~3 days of manufacture~~. *48 hours of the date and time printed on the label*. By creating a new crime, this bill would impose a state-mandated local program.

Existing law, the California Retail Food Code, provides for the regulation of health and sanitation standards for food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. A violation of any of these provisions is a crime. Existing law authorizes a food facility to sell Korean rice cakes, as defined, that have been at room temperature for no more than 24 hours, and requires, at the end of the operating day, Korean rice cakes that have been at room temperature for no more than 24 hours to be destroyed in a manner approved by the enforcement agency.

This bill would also authorize a food facility to sell Vietnamese rice cakes that have been at ~~room temperature no more than 70 degrees Fahrenheit~~ for no more than ~~72~~ 48 hours, and would ~~require, at the end of the operating day,~~ require Vietnamese rice cakes that have been at room temperature for no more than ~~72~~ 48 hours to be destroyed in a manner approved by the enforcement agency. By imposing new enforcement requirements on local health agencies, and by creating a new 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 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. The heading of Article 14 (commencing with
2 Section 111222) of Chapter 5 of Part 5 of Division 104 of the
3 Health and Safety Code is amended to read:

4
5 Article 14. Asian Rice Noodles, Korean Rice Cakes, and
6 Vietnamese Rice Cakes
7

1 *SEC. 2. Section 111222 of the Health and Safety Code is*
2 *amended to read:*

3 111222. For purposes of this article the following definitions
4 shall apply:

5 (a) “Asian rice-based noodle” is defined as a rice-based pasta
6 that contains rice powder, water, wheat starch, vegetable cooking
7 oil, and optional ingredients to modify the pH or water activity,
8 or to provide a preservative effect. The ingredients shall not include
9 any animal fats or any other products derived from animals. An
10 Asian rice-based noodle is prepared by using a traditional method
11 that includes cooking by steaming at not less than 130 degrees
12 Fahrenheit, for not less than four minutes.

13 (b) “Korean rice cake” is defined as a confection that contains
14 rice powder, salt, sugar, various edible seeds, oil, dried beans, nuts,
15 dried fruits, and dried pumpkin. The ingredients may not include
16 any animal fats or any other products derived from animals. A
17 Korean rice cake is prepared by using a traditional Korean method
18 that includes cooking by steaming at not less than 275 degrees
19 Fahrenheit, for not less than five minutes, nor more than 15
20 minutes.

21 (c) “Vietnamese rice cake,” also known as *Bánh Tét* or *Bánh*
22 *Chung*, is defined as a confection that contains a combination of
23 rice, beans, and meat or fruit wrapped tightly in banana leaves
24 for cooking. *Bánh Tét* is a rice cake in a cylindrical shape, and
25 *Bánh Chung* is a rice cake in a square shape. A Vietnamese rice
26 cake is prepared using a traditional Vietnamese method that
27 includes cooking by boiling in water for not less than 10 hours.
28 Vietnamese rice cakes are required to be handled, prepared, and
29 stored under sanitary conditions both when they are kept at no
30 more than 70 degrees Fahrenheit upon completion of cooking and
31 after the rice cakes have been cooled to below 70 degrees
32 Fahrenheit. Any Vietnamese rice cakes that are unwrapped from
33 the banana leaves after cooking shall be refrigerated.

34 ~~SEC. 2.~~

35 *SEC. 3. Section 111223 of the Health and Safety Code is*
36 *amended to read:*

37 111223. (a) (1) All manufacturers of Asian rice-based noodles
38 shall place a label on the packaging of Asian rice-based noodles
39 that indicates the date and time that the product first came out of
40 hot holding at temperatures above 135 degrees Fahrenheit and

1 includes a statement that the Asian rice-based noodles are
2 perishable.

3 (2) The product packaging shall only be labeled once.

4 (3) Notwithstanding paragraphs (1) and (2), this section shall
5 not apply to Asian rice-based noodles that have a pH of 4.6 or
6 below, have a water activity of 0.85 or below, or have been
7 determined by the department to be nonpotentially hazardous foods
8 based on formulation and supporting laboratory documentation
9 submitted to the department by the manufacturer.

10 (b) All manufacturers of Korean rice cakes shall place a label
11 issued by the Korean Rice Cake Association Corporation on the
12 Korean rice cake that indicates the date of manufacture. The Korean
13 rice cakes label shall include a statement that the rice cake must
14 be consumed within one day of manufacture.

15 (c) (1) All manufacturers of Vietnamese rice cakes shall place
16 a label on the Vietnamese rice cake that indicates the date of
17 ~~manufacture~~ and time the cooking process was completed. The
18 Vietnamese rice cakes label shall include a statement that the rice
19 cake must be consumed within ~~three days of manufacture~~ 48 hours
20 of the date and time printed on the label.

21 (2) Notwithstanding paragraph (1), this section does not apply
22 to Vietnamese rice cakes that have been determined by the
23 department to be nonpotentially hazardous foods based on
24 formulation and supporting laboratory documentation submitted
25 to the department by the manufacturer.

26 ~~SEC. 3.~~

27 *SEC. 4.* Section 114429.3 is added to the Health and Safety
28 Code, to read:

29 114429.3. (a) Notwithstanding Sections 113996 and 114343
30 and if permitted by federal law, a food facility may sell Vietnamese
31 rice cakes that have been at ~~room temperature~~ no more than 70
32 degrees Fahrenheit for no more than ~~72~~ 48 hours.

33 (b) ~~At the end of the operating day,~~ Vietnamese rice cakes that
34 have been at ~~room temperature~~ no more than 70 degrees Fahrenheit
35 for no more than ~~72~~ 48 hours shall be destroyed in a manner
36 approved by the enforcement agency.

37 (c) ~~All manufacturers of Vietnamese rice cakes shall place a~~
38 ~~label on the Vietnamese rice cake as prescribed by~~ bear a label
39 meeting the requirements of Section 111223.

1 ~~SEC. 4.~~

2 *SEC. 5.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution for certain
4 costs that may be incurred by a local agency or school district
5 because, in that regard, this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty for a crime
7 or infraction, within the meaning of Section 17556 of the
8 Government Code, or changes the definition of a crime within the
9 meaning of Section 6 of Article XIII B of the California
10 Constitution.

11 However, if the Commission on State Mandates determines that
12 this act contains other costs mandated by the state, reimbursement
13 to local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.

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