

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 15, 2016

SENATE BILL

No. 969

Introduced by Senator Nguyen

(Coauthors: Senators Beall and Huff)

(Coauthors: Assembly Members Travis Allen, Campos, Chang, Chu, Daly, Harper, Kim, McCarty, Wagner, and Williams)

February 8, 2016

An act to amend 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, except as provided, a manufacturer of Vietnamese rice cakes, as defined, to place a label, ~~issued~~ *designed* by the Vietnamese Rice Cake Association, Inc., on the Vietnamese rice cake that indicates the date and time the cooking process was completed, and would require the label to include a statement that the rice cake

must be consumed within 24 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 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 no more than 70 degrees Fahrenheit for no more than 24 hours and would require Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit but have been stored for more than 24 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:

1 Article 14. Asian Rice Noodles, Korean Rice Cakes, and
2 Vietnamese Rice Cakes
3

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

6 111222. For purposes of this article the following definitions
7 shall apply:

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

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

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

37 SEC. 3. Section 111223 of the Health and Safety Code is
38 amended to read:

39 111223. (a) (1) All manufacturers of Asian rice-based noodles
40 shall place a label on the packaging of Asian rice-based noodles

1 that indicates the date and time that the product first came out of
2 hot holding at temperatures above 135 degrees Fahrenheit and
3 includes a statement that the Asian rice-based noodles are
4 perishable.

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

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

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

17 (c) (1) All manufacturers of Vietnamese rice cakes shall place
18 a label, ~~issued~~ *designed* by the Vietnamese Rice Cake Association,
19 Inc., on the Vietnamese rice cake that indicates the date and time
20 the cooking process was completed. The Vietnamese rice cakes
21 label shall include a statement that the rice cake must be consumed
22 within 24 hours of the date and time printed on the label.

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

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

30 114429.3. (a) Notwithstanding Sections 113996 and 114343
31 and if permitted by federal law, a food facility may sell Vietnamese
32 rice cakes that have been at no more than 70 degrees Fahrenheit
33 for no more than 24 hours.

34 (b) Vietnamese rice cakes that have been at no more than 70
35 degrees Fahrenheit but have been stored for more than 24 hours
36 shall be destroyed in a manner approved by the enforcement
37 agency.

38 (c) All Vietnamese rice cakes shall bear a label meeting the
39 requirements of Section 111223.

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

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