

AMENDED IN ASSEMBLY MARCH 25, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1978

Introduced by Assembly Member Campbell

February 17, 1998

An act to amend ~~Section 113715 of Sections 113715, 113870, 114020, and 114065 of, and to add Section 113716 to~~, the Health and Safety Code, relating to environmental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, as amended, Campbell. Retail food facilities: *employees: certification and testing.*

Existing law, the California Uniform Retail Food Facilities Law, ~~provides for the regulation of health and sanitation standards for retail food facilities. Existing law further provides that nothing in the act shall prohibit a local governing body from adopting an evaluation or grading system for food facilities, from adopting an employee health certification or employee training program, from prohibiting any type of food facility, or from regulating the provision of patron toilet and handwashing facilities.~~

~~This bill would provide that nothing in the act shall prohibit a local governing body from adopting an employee testing program~~ *provides for the regulation of retail food facilities, including health and safety standards. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.*

Existing law requires employees of food facilities to comply with specified procedures with respect to the preparation, serving, and handling of food or utensils, and requires all new and replacement food-related and utensil-related equipment to meet approved applicable sanitation standards.

This bill would revise procedures with respect to the serving of ready-to-eat foods and sanitation standards for food-related and utensil-related equipment.

The bill, among other things, would also require specified food facilities, by no later than January 1, 2000, to employ full-time at least one person who has undergone a food safety training program and has successfully passed an approved and accredited food safety certification examination, and would specify the elements of knowledge required for such an examination. It would permit certain counties to continue to require food manager or food handler certification or training programs until a specified date, but would preempt all other regulation by local entities with respect to food manager or food handler certification or training programs.

Since a violation of the provisions applicable to retail food facilities is 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: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 113715 of the Health and Safety
- 2 Code is amended to read:
- 3 113715. Nothing in this chapter shall prohibit a local
- 4 governing body from adopting an evaluation or grading
- 5 system for food facilities, ~~from adopting an employee~~
- 6 ~~health certification or employee training or testing~~
- 7 ~~program~~, from prohibiting any type of food facility, or



1 from regulating the provision of patron toilet and
2 handwashing facilities.

3 *SEC. 2. Section 113716 is added to the Health and
4 Safety Code, to read:*

5 *113716. (a) No later than January 1, 2000, each food
6 facility shall employ on a full-time basis at least one person
7 who has undergone a food safety training program that
8 may include, but shall not be limited to, classroom
9 training, home study programs, or computer-assisted
10 training, and has successfully passed an approved and
11 accredited food safety certification examination. For
12 purposes of this section, food facilities that operated in the
13 same building or otherwise at the same location and
14 under the same management, ownership, or control are
15 deemed to be one food facility, notwithstanding the fact
16 that the food facilities may operate under separate
17 permits.*

18 *(b) On and after January 1, 2000, a food facility that
19 commences operation, changes ownership, or no longer
20 employs a certified person pursuant to this section shall
21 have 60 days to comply with subdivision (a).*

22 *(c) No person certified and employed at a food facility
23 for purposes of subdivision (a) shall serve at any other
24 food facility as the person required to be certified
25 pursuant to this section. The certified person need not be
26 present at the food facility during all hours of operation.*

27 *(d) The food facility's certified employee shall have, as
28 part of his or her responsibilities, the safety of food
29 preparation and service, including ensuring that all
30 employees who handle, or have responsibility for
31 handling, unpackaged foods of any kind have sufficient
32 knowledge to ensure the safe preparation or service of
33 the food, or both. The nature and extent of the knowledge
34 that each employee is required to have may be tailored
35 as appropriate to the employee's duties related to food
36 safety issues.*

37 *(e) The issuance date for each original certificate
38 issued pursuant to this section shall be the date when the
39 individual successfully completes the examination, and*

1 *the certificate shall expire three years from the date of the*
2 *original issuance.*

3 (f) *Any replacement or duplicate certificate shall have*
4 *as its expiration date the same expiration date that was on*
5 *the original certificate.*

6 (g) *Certified individuals shall be recertified every*
7 *three years. For purposes of certification or*
8 *recertification, an individual shall pass an approved and*
9 *accredited examination in accordance with subdivision*
10 *(h).*

11 (h) *The food service certification examination shall*
12 *include, but shall not be limited to, the following*
13 *elements of knowledge:*

14 (1) *Foodborne illness.*

15 (A) *Terms associated with foodborne illness.*

16 (i) *Foodborne illness.*

17 (ii) *Foodborne outbreak.*

18 (iii) *Diseases transmitted by food.*

19 (B) *Microorganisms and toxins that can contaminate*
20 *food and the illness that can be associated with*
21 *contamination by:*

22 (i) *Bacteria.*

23 (ii) *Viruses.*

24 (iii) *Parasites.*

25 (iv) *Fungi.*

26 (C) *Definition and recognition of potentially*
27 *hazardous foods.*

28 (D) *Chemical, biological, and physical contamination*
29 *of food and the illnesses that can be associated with*
30 *contamination.*

31 (E) *Major contributing factors for foodborne illness.*

32 (F) *How microorganisms cause foodborne illness.*

33 (2) *Time/temperature relationship with foodborne*
34 *illness.*

35 (A) *The relationship between time/temperature and*
36 *microorganisms (survival, growth, and toxin production)*
37 *during the following states:*

38 (i) *Receiving.*

39 (ii) *Storing (preproduction).*

40 (iii) *Thawing.*



- 1 (iv) *Cooking.*
- 2 (v) *Holding and displaying.*
- 3 (vi) *Serving.*
- 4 (vii) *Cooling.*
- 5 (viii) *Storing (postproduction).*
- 6 (ix) *Reheating.*
- 7 (x) *Transporting.*
- 8 (B) *The type and use of thermometers in monitoring*
- 9 *food temperatures, and how to calibrate them.*
- 10 (3) *The relationship between personal hygiene and*
- 11 *food safety.*
- 12 (A) *The association of hand contact and foodborne*
- 13 *illness:*
- 14 (i) *Hand washing technique and frequency.*
- 15 (ii) *Proper use of gloves, including replacement*
- 16 *frequency.*
- 17 (iii) *Minimal hand contact with food.*
- 18 (B) *The association of personal habits and behaviors*
- 19 *and foodborne illness:*
- 20 (i) *Smoking.*
- 21 (ii) *Eating and drinking.*
- 22 (iii) *Wearing clothing that may contaminate food.*
- 23 (iv) *Personal behaviors, including sneezing and*
- 24 *coughing, among other things.*
- 25 (C) *The association of food worker health to*
- 26 *foodborne illness:*
- 27 (i) *Symptoms of communicable disease.*
- 28 (ii) *How infections spread through food on contact.*
- 29 (iii) *Contact with open wounds.*
- 30 (D) *Recognition of how policies, procedures, and*
- 31 *management contribute to improved food safety*
- 32 *practices.*
- 33 (4) *Methods of preventing food contamination from*
- 34 *purchasing to serving.*
- 35 (A) *Terms associated with contamination:*
- 36 (i) *Contamination.*
- 37 (ii) *Adulteration.*
- 38 (iii) *Damage.*
- 39 (B) *Potential hazards prior to delivery and during*
- 40 *delivery:*



- 1 (i) *Approved source.*
- 2 (ii) *Safe condition.*
- 3 (C) *Potential hazards and methods to minimize or*
- 4 *eliminate hazards after delivery:*
- 5 (i) *Personal hygiene.*
- 6 (ii) *Cross-contamination:*
- 7 (I) *Food to food.*
- 8 (II) *Equipment and utensils.*
- 9 (iii) *Contamination:*
- 10 (I) *Chemical.*
- 11 (II) *Additives.*
- 12 (III) *Physical.*
- 13 (iv) *Service and display-customer contamination.*
- 14 (v) *Storage.*
- 15 (vi) *Reservice.*
- 16 (5) *Procedures for cleaning and sanitizing equipment*
- 17 *and utensils:*
- 18 (A) *Principles and terms associated with cleaning and*
- 19 *sanitizing.*
- 20 (B) *Materials: equipment, detergent, sanitizer.*
- 21 (C) *Methods of cleaning and sanitizing:*
- 22 (i) *Manual warewashing.*
- 23 (ii) *Mechanical warewashing.*
- 24 (iii) *Clean-in-place (CIP).*
- 25 (6) *Problems and potential solutions associated with*
- 26 *facility, equipment design, layout, and construction:*
- 27 (A) *Refrigeration.*
- 28 (B) *Heating and hot-holding.*
- 29 (C) *Floors, walls, and ceilings.*
- 30 (D) *Pest control.*
- 31 (E) *Lighting.*
- 32 (F) *Plumbing.*
- 33 (G) *Ventilation.*
- 34 (H) *Water supply.*
- 35 (I) *Wastewater disposal.*
- 36 (J) *Waste disposal.*
- 37 (7) *Problems and potential solutions associated with*
- 38 *temperature control, cross-contamination prevention,*
- 39 *housekeeping, and maintenance:*
- 40 (A) *Self-inspection program.*



1 (B) *Pest control program.*

2 (C) *Cleaning schedules and procedures.*

3 (D) *Equipment and facility maintenance.*

4 (i) (1) *The following food safety examinations are*
5 *hereby deemed to be approved and accredited for*
6 *purposes of this section:*

7 (A) *The ServSafe Serving Food Certification*
8 *Examination.*

9 (B) *The Chauncey Group International Food*
10 *Protection Certification Examination.*

11 (C) *The National Assessment Institute's Certified*
12 *Professional Food Manager Examination.*

13 (2) *Any food safety certification examination that is*
14 *approved and accredited by the Conference for Food*
15 *Protection or the National Commission for Certifying*
16 *Agencies shall be deemed to be an approved and*
17 *accredited examination for purposes of this section.*

18 (j) *This section shall apply only to food establishments,*
19 *as defined in Section 113780, that handle unpackaged*
20 *food of any kind, mobile food preparation units, as*
21 *defined in Section 113815, stationary mobile food*
22 *preparation units, as defined in Section 113890, and*
23 *commissaries, as defined in Section 113750.*

24 (k) *A food facility that complies with this section shall*
25 *not be required to comply with any local requirement*
26 *pertaining to food manager or food handler certification*
27 *or training.*

28 (l) *Notwithstanding subdivision (k), the Counties of*
29 *Riverside, San Bernardino, and San Diego may, until*
30 *January 1, 2004, continue to require the food manager or*
31 *food handler certification or training programs that those*
32 *counties had in effect on January 1, 1998. No food service*
33 *operation specified in subdivision (j) in the Counties of*
34 *Riverside, San Bernardino, and San Diego is required to*
35 *comply with this section until January 1, 2004, or until the*
36 *county in which that operation is located no longer*
37 *requires any food manager or food handler certification*
38 *or training program.*

39 (m) *The Legislature finds and declares that the state*
40 *is in need of uniform provisions relating to the*



1 *certification and training of persons in food facilities with*
2 *respect to food safety procedures. For this reason, the*
3 *Legislature finds that state preemption of the authority*
4 *of local entities, including charter cities, counties, and*
5 *cities and counties, to adopt food manager or food handler*
6 *certification or training programs is a matter of statewide*
7 *concern.*

8 *SEC. 3. Section 113870 of the Health and Safety Code*
9 *is amended to read:*

10 113870. (a) “Restricted food service transient
11 occupancy establishment” means an establishment of 20
12 guestrooms or less, that provides overnight transient
13 occupancy accommodations, that serves food only to its
14 registered guests, that serves only a breakfast or similar
15 early morning meal, *and no other meals*, and with respect
16 to which the price of ~~the~~ food is included in the price of
17 the overnight transient occupancy accommodation. ~~For~~

18 (b) *Notwithstanding subdivision (a), a restricted food*
19 *service transient occupancy establishment may serve*
20 *light foods or snacks presented to the guest for*
21 *self-service.*

22 (c) *For purposes of this section, “restricted food*
23 *service transient occupancy establishment” refers to an*
24 *establishment as to which the predominant relationship*
25 *between the occupants thereof and the owner or*
26 *operator of the establishment is that of innkeeper and*
27 *guest. For purposes of this section, the existence of some*
28 *other legal relationships as between some occupants and*
29 *the owner or operator shall be immaterial.*

30 *SEC. 4. Section 114020 of the Health and Safety Code*
31 *is amended to read:*

32 114020. (a) No employee shall commit any act that
33 may result in the contamination or adulteration of food,
34 food contact surfaces, or utensils.

35 (b) All employees preparing, serving, or handling food
36 or utensils shall wear clean, washable outer garments, or
37 other clean uniforms. All employees shall wear hairnets,
38 caps, or other suitable coverings to confine all hair when
39 required to prevent the contamination of food,
40 equipment, or utensils.



1 (c) All employees shall thoroughly wash their hands
2 and arms by vigorously rubbing them with cleanser and
3 warm water, paying particular attention to areas between
4 the fingers and around and under the nails, rinsing with
5 clean water. Employees shall wash their hands:

6 (1) Immediately before engaging in food preparation,
7 including working with unpackaged food, clean
8 equipment and utensils, and unwrapped single-service
9 food containers and utensils.

10 (2) Before dispensing or serving food or handling
11 clean tableware and serving utensils in the food service
12 area.

13 (3) As often as necessary, during food preparation, to
14 remove soil and contamination and to prevent
15 cross-contamination when changing tasks.

16 (4) When switching between working with raw foods
17 and working with ready-to-eat foods.

18 (5) After touching bare human body parts other than
19 clean hands and clean, exposed portions of arms.

20 (6) After using the toilet room.

21 (7) After caring for or handling any animal allowed in
22 a food facility pursuant to Section 114045.

23 (8) After coughing, sneezing, using a handkerchief or
24 disposable tissue, using tobacco, eating, or drinking.

25 (9) After handling soiled equipment or utensils.

26 (10) After engaging in any other activities that
27 contaminate the hands.

28 (d) No employee shall expectorate or use tobacco in
29 any form in any area where food is prepared, served, or
30 stored, or where utensils are cleaned or stored.

31 ~~Employees serving ready-to-eat foods shall use~~
32 ~~gloves, tongs, or other implements to place food on~~
33 ~~tableware or in other containers. Food employees shall~~
34 *use utensils, including scoops, forks, tongs, paper*
35 *wrappers, gloves, or other implements, to assemble*
36 *ready-to-eat food or to place ready-to-eat food on*
37 *tableware or in other containers. However, ready-to-eat*
38 *food may be assembled or placed on tableware or in other*
39 *containers in an approved food preparation area without*
40 *using utensils by employees who comply with the*



1 *handwashing requirements specified in subdivision (c).*
2 *Food that has been served to the customer and then*
3 *wrapped or packaged at the direction of the customer*
4 *shall be handled only with utensils. These utensils shall be*
5 *properly sanitized before reuse.*

6 (f) Gloves shall be worn when contacting food and
7 food contact surfaces if the employee has any cuts, sores,
8 rashes, artificial nails, nail polish, rings (other than a plain
9 ring, such as a wedding band), uncleanable orthopedic
10 support devices, or finger nails that are not clean, neatly
11 trimmed, and smooth.

12 (g) Whenever gloves are worn, they shall be changed,
13 replaced, or washed as often as handwashing is required
14 in subdivision (c). When single-use gloves are used, they
15 shall be replaced after removal.

16 SEC. 5. Section 114065 of the Health and Safety Code
17 is amended to read:

18 114065. All new and replacement food-related and
19 utensil-related equipment shall ~~meet or be equivalent to~~
20 ~~approved applicable sanitation standards be certified or~~
21 ~~classified for sanitation by an American National~~
22 ~~Standards Institute (ANSI) accredited certification~~
23 ~~program. In the absence of an applicable ANSI sanitation~~
24 ~~certification, food-related and utensil-related equipment~~
25 ~~shall be approved by the enforcement agency.~~

26 ~~The department, in consultation with the California~~
27 ~~Conference of Directors of Environmental Health, shall~~
28 ~~approve the sanitation standards, shall recognize which~~
29 ~~testing organizations are qualified to perform evaluations~~
30 ~~in accordance with those standards, and shall develop~~
31 ~~sanitation standards where necessary. In the absence of~~
32 ~~approved applicable sanitation standards, food-related~~
33 ~~and utensil-related equipment shall be approved by the~~
34 ~~enforcement agency.~~

35 ~~Nothing in this section shall preclude the department~~
36 ~~from approving nationally recognized sanitation~~
37 ~~standards. Until the department approves standards~~
38 ~~pursuant to this section, standards adopted by nationally~~
39 ~~recognized testing organizations, as of January 1, 1997,~~
40 ~~may be used.~~



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

11 *Notwithstanding Section 17580 of the Government*
12 *Code, unless otherwise specified, the provisions of this act*
13 *shall become operative on the same date that the act*
14 *takes effect pursuant to the California Constitution.*

