

Assembly Bill No. 1978

CHAPTER 720

An act to amend Sections 113715, 113870, 113895, 114020, 114065, and 114350 of, to add Sections 113716 and 113823 to, to add Chapter 13.5 (commencing with Section 114332) to, and to repeal and add Article 13 (commencing with Section 114310) of, Part 7 of Division 104 of, the Health and Safety Code, relating to environmental health, and making an appropriation therefor.

[Approved by Governor September 21, 1998. Filed
with Secretary of State September 22, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, Campbell. Retail food facilities.

Existing law, the California Uniform Retail Food Facilities Law, 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, on or before January 1, 2000, to have an owner or employee who has successfully passed an approved and accredited food safety certification examination, and would specify the elements of knowledge required for such an examination.

This bill would require enforcement agencies to notify all permitted food facilities, on or before March 1, 1999, of the new legal requirements imposed by this bill. The imposition of this new requirement on local enforcement agencies would create a state-mandated local program. It would also repeal and recast sanitation provisions governing temporary food facilities, and would, among other things, require that a person or organization that is in control of any community event, as defined, in which one or more temporary food facilities operates, obtain a permit for that event.

The bill would establish separate sanitation provisions for nonprofit charitable temporary food facilities, as defined, and would require each local enforcement agency to annually report to the State Department of Health Services regarding the adequacy of the

standards applied by these provisions to any nonprofit charitable temporary food facilities operating within its jurisdiction, and would require the department to review these reports and confer with the California Conference of Directors of Environmental Health and with affected industry groups. The imposition of this new requirement on local enforcement agencies would create a state-mandated local program.

The bill, in addition, would require the State Department of Health Services, in consultation with various organizations and interested parties, to develop regulations regarding food safety certification examinations, and would appropriate \$100,000 from the General Fund to the department for this purpose.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

Appropriation: yes.

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

SECTION 1. Section 113715 of the Health and Safety Code is amended to read:

113715. Nothing in this chapter shall prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, or from regulating the provision of patron toilet and hand washing facilities.

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

113716. (a) (1) On or before January 1, 2000, each food facility shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination. For purposes of this section, multiple contiguous food facilities permitted within the same site and under the same management, ownership, or control shall be deemed to be one food facility, notwithstanding the fact that the food facilities may operate under separate permits.



(2) The Legislature finds and declares that the certification required by this section may impose hardship on the owners and operators of smaller food facilities and, therefore, to the extent that a person who is seeking certification pursuant to this section requires training in order to successfully pass an approved and accredited food safety certification examination, this training shall be designed and provided in as flexible a manner as possible. To that end, the Legislature further finds and declares that this training may include, but need not be limited to, classroom training, home study programs, and computer-assisted training.

(b) On and after January 1, 2000, a food facility that commences operation, changes ownership, or no longer has a certified owner or employee pursuant to this section shall have 60 days to comply with subdivision (a).

(c) There shall be at least one certified owner or employee at each food facility. No certified person at a food facility for purposes of subdivision (a) may serve at any other food facility as the person required to be certified pursuant to this section. The certified owner or employee need not be present at the food facility during all hours of operation.

(d) The responsibilities of a certified owner or employee at a food facility shall include the safety of food preparation and service, including ensuring that all employees who handle, or have responsibility for handling, unpackaged foods of any kind, have sufficient knowledge to ensure the safe preparation or service of the food, or both. The nature and extent of the knowledge that each employee is required to have may be tailored, as appropriate, to the employee's duties related to food safety issues.

(e) The food safety certificate issued pursuant to this section shall be retained on file at the food facility at all times, and shall be made available for inspection by the health enforcement officer.

(f) The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. A certificate shall expire three years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate.

(g) Certified individuals shall be recertified every three years by passing an approved and accredited food safety certification examination.

(h) On or before March 1, 1999, enforcement agencies shall notify all permitted food facilities subject to this section of the new legal obligation imposed by this section and provide to them the names and contact addresses for all approved and accredited food safety certification examinations.

(i) The food safety certification examination shall include, but need not be limited to, the following elements of knowledge:



(1) Foodborne illness, including terms associated with foodborne illness, microorganisms, hepatitis A, and toxins that can contaminate food and the illness that can be associated with contamination, definition and recognition of potentially hazardous foods, chemical, biological, and physical contamination of food, and the illnesses that can be associated with food contamination, and major contributing factors for foodborne illness.

(2) The relationship between time and temperature with respect to foodborne illness, including the relationship between time and temperature and microorganisms during the various food handling, preparation, and serving states, and the type, calibration, and use of thermometers in monitoring food temperatures.

(3) The relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food worker health to foodborne illness, and the recognition of how policies, procedures, and management contribute to improved food safety practices.

(4) Methods of preventing food contamination in all stages of food handling, including terms associated with contamination and potential hazards prior to, during, and after delivery.

(5) Procedures for cleaning and sanitizing equipment and utensils.

(6) Problems and potential solutions associated with facility and equipment design, layout, and construction.

(7) Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance.

(j) (1) Except as otherwise provided in paragraph (2), the following food safety certification examinations shall be deemed to be approved and accredited for purposes of this section:

(A) The ServSafe Serving Safe Food Certification Examination.

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

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

(D) Professional Testing, Inc.

(E) Dietary Managers' Association.

(2) (A) On or before January 1, 2000, the department, in consultation with the California Conference of Directors of Environmental Health (CCDEH), the Conference for Food Protection, representatives of the retail food industry, and other interested parties, shall develop regulations to approve and accredit additional equivalent food safety certification examinations and to disapprove and eliminate accreditation of food safety certification examinations.

(B) Commencing January 1, 1999, at least one of the accredited statewide food safety certification examinations shall cost no more



than sixty dollars (\$60), including the certificate. However, commencing January 1, 2000, the department may adjust the cost of food safety certification examinations to reflect actual expenses incurred in producing and administering the food safety certification examinations required under this section. If a food safety certification examination is not available at the price established by the department, the certification and recertification requirements relative to food safety certification examinations imposed by this section shall not apply.

(k) (1) For purposes of this section, a food facility includes only the following:

(A) A food establishment, as defined in Section 113780, at which unpackaged foods are prepared, handled, or served.

(B) A mobile food preparation unit, as defined in Section 113815.

(C) A stationary mobile food preparation unit, as defined in Section 113890.

(D) A commissary, as defined in Section 113750.

(2) Notwithstanding paragraph (1), this section shall not apply to the premises of a licensed winegrower or brandy manufacturer utilized for winetastings conducted pursuant to Section 23356.1 of the Business and Professions Code of wine or brandy produced or bottled by, or produced and packaged for, that licensee.

(3) Notwithstanding paragraph (1), this section shall not apply to a food facility operated by a school district, county office of education, or community college district if the district or office elects to be regulated by the food safety program of the city, county, or city and county in which the school district, county office of education, or community college district is located.

(l) For purposes of this section, the following definitions apply:

(1) "Food safety program" means any city, county, or city and county program that requires, at a minimum, either of the following:

(A) The training of one or more individuals, whether denominated as "owners," "managers," "handlers," or otherwise, relating in any manner to food safety issues.

(B) Individuals to pass a food safety certification examination.

(2) "Food handler program" means any city, county, or city and county program that requires that all or a substantial portion of the employees of a food facility who are involved in the preparation, storage, service, or handling of food products, engage in food safety training or pass a food safety certification examination, or both.

(m) (1) Any provisions of a food safety program in effect prior to January 1, 1999, that require training or a certification examination, or both, shall be deemed to satisfy the requirements of this chapter until January 1, 2001, at which time these provisions shall fully conform with the requirements of this chapter. However, all provisions of a food safety program in effect prior to January 1, 1999,



that do not pertain to training or a certification program shall conform with the requirements of this chapter by January 1, 2000.

(2) On and after January 1, 1999, a food safety program that was not in effect prior to that date may not be enacted, adopted, implemented, or enforced, unless the program fully conforms with the requirements of this chapter.

(n) No city, county, or city and county may enact, adopt, implement, or enforce any requirement that any food facility or any person certified pursuant to this section do any of the following:

(1) Obtain any food safety certificate or other document in addition to the certificate required by this section.

(2) Post, place, maintain, or keep the certificate required by this section other than as specified in subdivision (e).

(3) Pay any fee or other sum as a condition for having a certificate verified, validated, or otherwise processed by the city, county, or city and county.

(o) Certification conferred pursuant to this chapter shall be recognized throughout the state. Nothing in this chapter shall be construed to prohibit any local enforcement agency from implementing or enforcing a food handler program, as defined in paragraph (2) of subdivision (l) that took effect prior to January 1, 1998, but only in the form in which the program existed prior to January 1, 1998.

(p) Notwithstanding Section 113935, a violation of this section shall not constitute a misdemeanor, but shall constitute grounds for permit suspension or revocation, in accordance with Article 5 (commencing with Section 113950).

SEC. 2.5. Section 113823 is added to the Health and Safety Code, to read:

113823. "Nonprofit charitable temporary food facilities" means a temporary food facility, as defined in Section 113895, that is conducted and operated by a corporation incorporated pursuant to the Nonprofit Corporation Law (Div. 2 (commencing with Section 5000), Title 1, Corp. C.), that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code.

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

113870. (a) "Restricted food service transient occupancy establishment" means an establishment of 20 guestrooms or less, that provides overnight transient occupancy accommodations, that serves food only to its registered guests, that serves only a breakfast or similar early morning meal, and no other meals, and with respect to which the price of food is included in the price of the overnight transient occupancy accommodation.



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

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

SEC. 4. Section 113895 of the Health and Safety Code is amended to read:

113895. (a) “Temporary food facility” means a food facility operating out of temporary facilities approved by the enforcement officer at a fixed location for a period of time not to exceed 25 consecutive or nonconsecutive days in any 90-day period in conjunction with a single, weekly, or monthly community event, as defined in subdivision (b).

(b) “Community event” means an event that is of a civic, political, public, or educational nature, including state and county fairs, city festivals, circuses, and other similar events as determined by the local enforcement agency. “Community event” shall not include a swap meet, flea market, swap mall, seasonal sporting event, grand opening celebration, anniversary celebration, or similar functions.

SEC. 5. Section 114020 of the Health and Safety Code is amended to read:

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

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

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

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

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

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



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

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

(6) After using the toilet room.

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

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

(9) After handling soiled equipment or utensils.

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

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

(e) Food employees shall use utensils, including scoops, forks, tongs, paper wrappers, gloves, or other implements, to assemble ready-to-eat food or to place ready-to-eat food on tableware or in other containers. However, ready-to-eat food may be assembled or placed on tableware or in other containers in an approved food preparation area without using utensils by employees who comply with the hand washing requirements specified in subdivision (c). Food that has been served to the customer and then wrapped or packaged at the direction of the customer shall be handled only with utensils. These utensils shall be properly sanitized before reuse.

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

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

SEC. 6. Section 114065 of the Health and Safety Code is amended to read:

114065. All new and replacement food-related and utensil-related equipment shall be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program. In the absence of an applicable ANSI sanitation certification, food-related and utensil-related equipment shall be approved by the enforcement agency.

SEC. 7. Article 13 (commencing with Section 114310) of Part 7 of Division 104 of the Health and Safety Code is repealed.

SEC. 8. Article 13 (commencing with Section 114310) is added to Part 7 of Division 104 of the Health and Safety Code, to read:



Article 13. Temporary Food Facilities

114310. This article governs sanitation requirements for temporary food facilities as defined in this chapter.

114311. Except as otherwise set forth in this article, temporary food facilities shall meet the applicable requirements in Article 6 (commencing with Section 113975) and Article 7 (commencing with Section 113990).

114312. All food that is sold, given away, or dispensed from a temporary food facility shall be from an approved source. No food prepared or stored in a private home may be used, stored, served, offered for sale, sold, or given away in a temporary food facility.

114313. The name, address, and telephone number of the owner, operator, permittee, or business shall be legible and clearly visible to patrons. The name shall be in letters at least 8 centimeters (3 inches) high and shall have strokes at least one centimeter ($\frac{3}{8}$ inches) wide, and shall be of a color contrasting with the temporary food facility. Letters and numbers for the address and telephone numbers may not be less than 2.5 centimeters (1 inch) in height.

114314. In addition to the permit issued to each complying temporary food facility, a permit shall be obtained by the person or organization that is in control of any community event at which one or more temporary food facilities operates. This permit shall specify all the areas and facilities at the event site to be utilized by the temporary food facilities and the responsibilities of the person or organization issued the permit, including ensuring compliance with this article by the temporary food facilities operating at the event. Effective January 1, 2000, the person or organization in control of the event shall submit a permit application and a site plan to the local enforcement agency at least two weeks prior to the event. The site plan shall show the proposed locations of the temporary food facilities, restrooms, and all shared utensil washing, hand washing, and janitorial facilities.

114315. (a) Notwithstanding Section 113995, during operating hours of the temporary food facility, potentially hazardous food may be held at a temperature not to exceed 7 degrees Celsius (45 degrees Fahrenheit) for up to 12 hours in any 24-hour period. At the end of the operating day, potentially hazardous food that has been held in accordance with this subdivision shall be placed in refrigeration units that maintain the food at or below 5 degrees Celsius (41 degrees Fahrenheit) or the food shall be destroyed in a manner approved by the local enforcement agency.

(b) At the end of the operating day potentially hazardous food that is held at or above 60 degrees Celsius (140 degrees Fahrenheit) shall be either destroyed in a manner approved by the local enforcement agency or donated in accordance with Article 19



(commencing with Section 114435), but may not be reserved in a food facility.

(c) Adequate cold food and hot food holding equipment shall be provided to insure proper temperature control during transportation and operation of the temporary food facility.

114316. In addition to complying with Section 114045, live animals, birds, and fowl may not be kept or allowed within 6 meters (20 feet) of any area where food is stored or held for sale. All reasonable efforts shall be taken to exclude wild animals, birds, and fowl from the temporary food facility. This subdivision shall not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

114317. Food-related and utensil-related equipment used in conjunction with a temporary food facility shall comply with Section 114065.

114318. Ice used for refrigeration purposes may not be used for consumption in food or beverages.

114319. (a) Adequate and suitable facilities shall be provided for the storage of food, utensils, and related items.

(b) All food-related and utensil-related items shall be stored at least 15 centimeters (6 inches) above the floor and in a manner that will protect these items from sources of contamination.

(c) During periods of inoperation, food shall be stored in one of the following methods:

(1) Within a fully enclosed temporary food facility that is in compliance with Sections 114030 and 114145.

(2) In lockable food storage compartments or containers meeting both of the following conditions:

(A) The food is adequately protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.

(B) The storage compartments or containers have been approved by the local enforcement agency.

(3) Within a permitted food facility or other facility approved by the local enforcement agency.

114320. During transportation to and from the temporary food facility and during operation of the temporary food facility, all food, food contact surfaces, and utensils shall be protected from contamination.

114321. At least one toilet facility for each 15 employees shall be provided within 60 meters (200 feet) of each temporary food facility. Each toilet facility shall be provided with hand washing facilities equipped with hot and cold running water. Hand washing cleanser and single-use sanitary towels shall be provided in permanently installed dispensers at each hand washing facility. Temporary food facilities that handle only prepackaged foods may provide cold water



with a germicidal soap in lieu of hot and cold running water at the hand washing facilities.

114322. Adequate janitorial facilities shall be provided for the cleaning of the temporary food facilities, restrooms, and all shared utensil washing and hand washing facilities. Janitorial facilities shall be provided with hot and cold running water from a mixing valve.

114323. An area separate from food preparation, utensil washing, and food storage areas shall be provided for the storage of employee clothing or other personal effects. Personal effects shall be stored in a manner that prevents the contamination of food-related and utensil-related items.

114324. Adequate lighting shall be provided.

114325. (a) An adequate supply of potable hot water, at least 48 degrees Celsius (120 degrees Fahrenheit) shall be provided for utensil washing, hand washing, and janitorial purposes. The water supply shall be from a source approved by the enforcement agency. The potable water supply shall be protected with a backflow or back siphonage protection device, as required by applicable plumbing codes.

(b) Adequate potable water shall be provided, commensurate with the food handling activities taking place in the temporary food facility. In addition to the water needed for food preparation and dispensing, at least 75.8 liters (20 gallons) of potable water shall be provided per temporary food facility per day of operation of utensil washing and hand washing.

(c) The inlet to a potable water tank shall be provided with a connection of a size and type that will prevent its use for any other service, and shall be constructed so that backflow and other contamination of the water supply is prevented. Hoses used to fill potable water tanks shall be made of food grade materials and handled in a sanitary manner.

114326. Adequate liquid waste holding facilities shall be provided and shall meet all of the following requirements:

(a) All liquid waste shall be disposed of in a manner approved by the enforcement agency.

(b) The liquid waste tanks shall have a minimum capacity that is 50 percent greater than the potable water tanks.

(c) When ice is utilized in the storage or display of foods or beverages, an additional minimum liquid waste holding tank capacity equal to one-third of the volume of the ice bins shall be provided for the drainage of ice melt.

(d) Additional liquid waste tank capacity may be required where liquid waste production or spillage is likely to occur.

(e) Any connection to a liquid waste holding tank shall preclude the possibility of contaminating any food, food contact surface, or utensils.



114327. Open-air barbecue facilities may be operated adjacent only to those temporary food facilities that are permitted to handle the types of foods to be prepared on the barbecue and with the approval of the local enforcement officer and subject to the requirements of Article 9 (commencing with Section 114185). All other cooking equipment shall be installed and operated in compliance with all applicable local building and fire codes.

114328. Based upon local environmental conditions, location, and other similar factors, the enforcement officer may establish additional structural or operational requirements, or both, as necessary to ensure that foods are of a safe and sanitary quality.

114329. In addition to complying with Sections 114310 to 114328, inclusive, temporary food facilities that handle only prepackaged foods shall also meet both of the following requirements:

(a) A durable and readily cleanable floor surface shall be provided within the temporary food facility.

(b) A temporary food facility shall be designed and operated so as to prevent contamination of food under normal operating conditions with regard to employee sanitation, and minimize exposure to airborne contaminants, birds, vermin, leaves, rain, condensation, and other forms of contamination. Overhead protection may be required by the enforcement agency in order to protect food products from contamination.

114330. In addition to complying with Sections 114310 to 114328, inclusive, temporary food facilities that handle nonprepackaged foods shall also meet all of the following requirements:

(a) Temporary food facilities shall be fully enclosed, meeting the requirements of Sections 114030 and 114145, except that temporary food facilities that handle only nonprepackaged nonpotentially hazardous food shall be fully enclosed, or, if approved by the local enforcement agency, all food handling activities shall take place within food compartments meeting the requirements of subdivision (o) of Section 114265.

(b) A durable and readily cleanable floor surface shall be provided within the temporary food facility.

(c) Walls shall be smooth, durable, and readily cleanable. Screening that is at least 16 mesh shall be considered an acceptable wall material for enclosing a temporary food facility.

(d) Ceilings shall be smooth, durable, and readily cleanable. Screening shall only be acceptable as a ceiling material above cooking equipment when necessary for ventilation purposes.

(e) Food condiments shall be protected from contamination and, where available for customer self-service, be prepackaged or available only from approved dispensing devices.

(f) A stainless steel utensil washing sink with at least three compartments with two integrally installed stainless steel drainboards shall be provided. The sink compartments and



drainboards shall be large enough to accommodate the largest utensil or piece of equipment to be cleaned in the sink. The sink shall be provided with hot and cold running water from a mixing valve. The sink shall be located within each temporary food facility, except that one sink may be shared by no more than four temporary food facilities that handle only nonprepackaged nonpotentially hazardous food, if the sink is centrally located and is adjacent to the sharing facilities. The local enforcement agency may allow utensil washing facilities other than those required by this section when it deems that utensils can still be handled in a safe and sanitary manner.

(g) Hand washing facilities, separate from the utensil washing sink, shall be provided. The hand washing facilities shall be located within each temporary food facility, except that the facilities may be shared by no more than four temporary food facilities that handle only nonprepackaged nonpotentially hazardous food, if the facilities are centrally located and are adjacent to the sharing facilities. Each hand washing facility shall be equipped with hot and cold running water. Hand washing cleanser and single-use sanitary towels shall be provided in permanently installed dispensers at each hand washing facility. The local enforcement agency may allow hand washing facilities other than those required by this section when it deems that the alternate facilities are adequate.

SEC. 9. Chapter 13.5 (commencing with Section 114332) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 13.5 NONPROFIT CHARITABLE TEMPORARY FOOD FACILITIES

114332. This article governs sanitation requirements for nonprofit charitable temporary food facilities.

114332.1. Nonprofit charitable temporary food facilities may operate once annually for a period of time not to exceed 72 hours.

114332.2. (a) Floors shall be smooth and cleanable. The use of sawdust or similar materials is prohibited.

(b) Walls and ceilings shall be constructed of either wood, canvas, plastic, or similar material and fine mesh fly screening and shall completely enclose the facility. Facilities in which all food and beverage is prepackaged at a facility approved by the local enforcement officer shall not be required to be fully enclosed with fly screening. Food service openings shall be equipped with tightfitting closures to minimize the entrance of insects.

(c) Except where all food and beverage is prepackaged, handwashing, and utensil washing facilities approved by the enforcement officer shall be provided within nonprofit charitable temporary food facilities.

(d) Facilities for the sanitary disposal of all liquid waste shall be subject to the approval of the enforcement officer.



(e) At least one toilet facility for each 15 employees shall be provided within 60 meters (200 feet) of each nonprofit charitable temporary food facility.

(f) Food contact surfaces shall be smooth, easily cleanable, and nonabsorbent.

114332.3. (a) All food shall be prepared in a food establishment or on the premises of a nonprofit charitable temporary food facility. No food or beverage stored or prepared in a private home may be offered for sale, sold, or given away from a nonprofit charitable temporary food facility.

(b) All food and beverage shall be protected at all times from unnecessary handling and shall be stored, displayed, and served so as to be protected from contamination.

(c) Potentially hazardous food and beverage shall be maintained at or below 7 degrees Celsius (45 degrees Fahrenheit) or at or above 60 degrees Celsius (140 degrees Fahrenheit) at all times.

(d) Ice used in beverages shall be protected from contamination and shall be maintained separate from ice used for refrigeration purposes.

(e) All food and food containers shall be stored off the floor on shelving or pallets located within the facility.

(f) Smoking is prohibited in nonprofit charitable temporary food facilities.

(g) (1) Except as provided in paragraph (2), live animals, birds, or fowl shall not be kept or allowed in nonprofit charitable temporary food facilities.

(2) Paragraph (1) does not prohibit the presence, in any room where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while these employees are acting within the course and scope of their employment as private patrol persons.

(4) The persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(5) The dogs described in paragraphs (2) and (3) shall be excluded from food preparation and utensil wash areas. Aquariums



and aviaries shall be allowed if enclosed so as not to create a public health problem.

(h) All garbage shall be disposed of in a manner approved by the enforcement officer.

(i) Employees preparing or handling food shall wear clean clothing and shall keep their hands clean at all times.

114332.4. The enforcement officer may establish additional structural or operational requirements as necessary to ensure that food is of a safe and sanitary quality.

114332.5. Open-air barbecue facilities may be operated adjacent to nonprofit charitable temporary food facilities with the approval of the enforcement officer and subject to the requirements of Article 9 (commencing with Section 114185).

114332.6. Each local enforcement agency shall annually report to the State Department of Health Services regarding the adequacy of the standards applied by this article to any nonprofit charitable temporary food facilities operating within its jurisdiction, and the department shall review these reports and confer with the California Conference of Directors of Environmental Health and with affected industry groups.

SEC. 10. Section 114350 of the Health and Safety Code is amended to read:

114350. Certified farmers' markets shall meet the provisions of Article 6 (commencing with Section 113975) and, in addition, shall meet all of the following requirements:

(a) All food shall be stored at least 15 centimeters (6 inches) off the floor or ground or under any other conditions that are approved.

(b) Food preparation is prohibited at certified farmers' markets with the exception of the food samples. Distribution of food samples is allowed provided that the following sanitary conditions exist:

(1) Samples shall be kept in approved, clean, covered containers.

(2) All food samples shall be distributed by the producer in a sanitary manner.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Food intended for sampling shall be washed, or cleaned in another manner, of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Potable water shall be available for hand washing and sanitizing as approved by the local enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45 degrees Fahrenheit. All other food samples shall be disposed of within two hours after cutting.

(7) Utensil and hand washing water shall be disposed of in a facility connected to the public sewer system or in a manner approved by the local enforcement agency.



(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleaned or disposed of as approved by the local environmental health agency.

(c) Approved toilet and hand washing facilities shall be available within 60 meters (200 feet) of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 6 meters (20 feet) of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and rubbish shall be stored, and disposed of, in a manner approved by the enforcement officer.

(f) Notwithstanding Article 11 (commencing with Section 114250), vendors selling food adjacent to, and under the jurisdiction and management of, a certified farmers' market may store, display, and sell from a table or display fixture apart from the vehicle, in a manner approved by the local enforcement agency.

(g) Notwithstanding Section 113895, temporary food facilities may be operated as a separate event adjacent to, and in conjunction with, certified farmers' markets that are operated as a community event by a nonprofit organization or a local government agency. The organization in control of the event at which one or more temporary food facilities operate shall comply with Section 114314.

SEC. 11. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the General Fund to the State Department of Health Services for purposes of implementing paragraph (2) of subdivision (j) of Section 113716 of the Health and Safety Code, and for carrying out any other duties associated with the implementation of a statewide food safety program.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



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

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