

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 635

Introduced by Assembly Member Campbell

February 23, 1999

An act to amend ~~Section 113997~~ of Sections 113823, 113997, 114332.2, 114332.3, and 114332.4 of, and to repeal Section 114332.6 of, the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 635, as amended, Campbell. Food facilities: ~~raw eggs~~.

Existing law imposes certain sanitation requirements on food facilities. ~~These requirements~~ that are administered by the State Department of Health Services and enforced by local health officers, among others. ~~Under existing law, raw eggs are required~~ *Under existing law, a violation of any of these provisions is punishable as a misdemeanor.*

Existing law requires raw eggs to be stored under specified conditions commencing January 1, 1998, and until January 1, 2000.

This bill would delete those dates thereby continuing the applicability of the requirements for egg storage. By extending the enforcement duties performed by local health officers, 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.~~

Existing law imposes various requirements on nonprofit charitable temporary food facilities including that all food be prepared in a food establishment or on the premises of a nonprofit charitable temporary food facility. Existing law also prohibits any food or beverage stored or prepared in a private home from being offered for sale, sold, or given away from a nonprofit charitable temporary food facility.

This bill would revise these provisions to prohibit any potentially hazardous food or beverage stored or prepared in a private home from being offered for sale, sold, or given away from a nonprofit charitable temporary food facility, and would require this food to be prepared in a food establishment or on the premises of a nonprofit charitable temporary food facility.

Existing law imposes various requirements on nonprofit charitable temporary food facilities with regard to the condition of the floors, walls, and ceilings of the facility. Existing law also requires each local enforcement agency to annually report to the department regarding the adequacy of the standards applied by specified sanitation provisions to any nonprofit charitable temporary food facilities operating within its jurisdiction, and requires the department to review these reports and confer with the California Conference of Directors of Environmental Health and with affected industry groups.

This bill would repeal the above requirements.

By changing the definition of, and eliminating, certain existing crimes relating to retail food facilities, 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.

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. *Section 113823 of the Health and Safety*
2 *Code is amended to read:*

3 113823. “Nonprofit charitable temporary food
4 facilities” means a temporary food facility, as defined in
5 Section 113895, that is conducted and operated by a
6 corporation incorporated pursuant to the Nonprofit
7 Corporation Law (Div. 2 (commencing with Section
8 5000), Title 1, Corp. C.), that is exempt from taxation
9 pursuant to ~~Section 501(e)(3)~~ paragraphs (1) to (10),
10 inclusive, and paragraph (19) of Section 501(c) of the
11 Internal Revenue Code and Section 23701d of the
12 Revenue and Taxation Code.

13 SEC. 2. Section 113997 of the Health and Safety Code
14 is amended to read:

15 113997. (a) Raw shell eggs shall be stored and
16 displayed at an ambient temperature of 7 degrees Celsius
17 (45 degrees Fahrenheit) or below.

18 (b) Notwithstanding subdivision (a), raw shell eggs
19 may be stored and displayed unrefrigerated if all of the
20 following conditions are met:

21 (1) Not more than four days have elapsed from the
22 date of ~~pack~~ packing.

23 (2) The eggs were not previously refrigerated.

24 (3) The eggs are not stored or displayed at an ambient
25 temperature above 32 degrees Celsius (90 degrees
26 Fahrenheit).



1 (4) Retail egg containers are prominently labeled
2 “REFRIGERATE AFTER PURCHASE” or a conspicuous
3 sign is posted advising consumers that these eggs are to
4 be refrigerated as soon as practical after purchase.

5 (5) Retail egg containers are conspicuously identified
6 with the date of the *pack packing*.

7 (6) Any eggs that are unsold after four days from the
8 date of the *pack packing* shall be stored and displayed
9 pursuant to subdivision (a), diverted to pasteurization, or
10 destroyed in a manner approved by the enforcement
11 agency.

12 ~~SEC. 2. No reimbursement is required by this act~~
13 ~~pursuant to Section 6 of Article XIII B of the California~~
14 ~~Constitution because the only costs that may be incurred~~
15 ~~by a local agency or school district will be incurred~~
16 ~~because this act creates a new crime or infraction,~~
17 ~~eliminates a crime or infraction, or changes the penalty~~
18 ~~for a crime or infraction, within the meaning of Section~~
19 ~~17556 of the Government Code, or changes the definition~~
20 ~~of a crime within the meaning of Section 6 of Article~~
21 ~~XIII B of the California Constitution.~~

22 *SEC. 3. Section 114332.2 of the Health and Safety*
23 *Code is amended to read:*

24 114332.2. (a) ~~Floors shall be smooth and cleanable.~~
25 ~~The use of sawdust or similar materials is prohibited.~~

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

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

38 ~~(d)~~



1 (b) Facilities for the sanitary disposal of all liquid waste
2 shall be subject to the approval of the enforcement
3 officer.

4 ~~(e)~~

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

8 ~~(f)~~

9 (d) Food contact surfaces shall be smooth, easily
10 cleanable, and nonabsorbent.

11 *SEC. 4. Section 114332.3 of the Health and Safety*
12 *Code is amended to read:*

13 114332.3. (a) ~~All food shall be prepared in a food~~
14 ~~establishment or on the premises of a nonprofit charitable~~
15 ~~temporary food facility. No food or beverage stored or~~
16 ~~prepared in a private home may be offered for sale, sold,~~
17 ~~or given away from a nonprofit charitable temporary food~~
18 ~~facility. No potentially hazardous food or beverage stored~~
19 ~~or prepared in a private home may be offered for sale,~~
20 ~~sold, or given away from a nonprofit charitable~~
21 ~~temporary food facility. Potentially hazardous food shall~~
22 ~~be prepared in a food establishment or on the premises~~
23 ~~of a nonprofit charitable temporary food facility.~~

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

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

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

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

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



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

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

14 (3) Paragraph (1) does not apply to dogs under the
15 control of uniformed law enforcement officers or of
16 uniformed employees of private patrol operators and
17 operators of a private patrol service who are licensed
18 pursuant to Chapter 11.5 (commencing with Section
19 7580) of Division 3 of the Business and Professions Code,
20 while these employees are acting within the course and
21 scope of their employment as private patrol persons.

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

25 (5) The dogs described in paragraphs (2) and (3) shall
26 be excluded from food preparation and utensil wash
27 areas. Aquariums and aviaries shall be allowed if enclosed
28 so as not to create a public health problem.

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

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

34 *SEC. 5. Section 114332.4 of the Health and Safety*
35 *Code is amended to read:*

36 114332.4. ~~The~~ *Based on local environmental*
37 *conditions, location, and other similar factors, the*
38 *enforcement officer may establish additional structural*
39 *or operational requirements as necessary to ensure that*
40 *food is of a safe and sanitary quality.*



1 *SEC. 6. Section 114332.6 of the Health and Safety*
2 *Code is repealed.*

3 ~~114332.6. Each local enforcement agency shall~~
4 ~~annually report to the State Department of Health~~
5 ~~Services regarding the adequacy of the standards applied~~
6 ~~by this article to any nonprofit charitable temporary food~~
7 ~~facilities operating within its jurisdiction, and the~~
8 ~~department shall review these reports and confer with~~
9 ~~the California Conference of Directors of Environmental~~
10 ~~Health and with affected industry groups.~~

11 *SEC. 7. No reimbursement is required by this act*
12 *pursuant to Section 6 of Article XIII B of the California*
13 *Constitution for certain costs that may be incurred by a*
14 *local agency or school district because in that regard this*
15 *act creates a new crime or infraction, eliminates a crime*
16 *or infraction, or changes the penalty for a crime or*
17 *infraction, within the meaning of Section 17556 of the*
18 *Government Code, or changes the definition of a crime*
19 *within the meaning of Section 6 of Article XIII B of the*
20 *California Constitution.*

21 *However, notwithstanding Section 17610 of the*
22 *Government Code, if the Commission on State Mandates*
23 *determines that this act contains other costs mandated by*
24 *the state, reimbursement to local agencies and school*
25 *districts for those costs shall be made pursuant to Part 7*
26 *(commencing with Section 17500) of Division 4 of Title*
27 *2 of the Government Code. If the statewide cost of the*
28 *claim for reimbursement does not exceed one million*
29 *dollars (\$1,000,000), reimbursement shall be made from*
30 *the State Mandates Claims Fund.*

