

AMENDED IN ASSEMBLY AUGUST 28, 2000

AMENDED IN ASSEMBLY JULY 5, 2000

AMENDED IN ASSEMBLY JUNE 21, 2000

AMENDED IN ASSEMBLY MAY 11, 2000

AMENDED IN SENATE APRIL 21, 1999

AMENDED IN SENATE MARCH 15, 1999

**SENATE BILL**

**No. 180**

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**Introduced by Senator Sher**

(Coauthors: Assembly Members Campbell and Zettel)

January 13, 1999

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An act to amend Section 114145 of, and to add Sections ~~113946~~ *113831*, *113946*, and 113947 to, the Health and Safety Code, relating to environmental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 180, as amended, Sher. Retail food facilities inspection information.

Existing law, the California Uniform Retail Food Facilities Law, provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Health Services. Violation of any of these provisions is a crime.

This bill would require the State Department of Health Services, in consultation with local environmental health officers, representatives of the retail food industry, and other interested parties, on or before January 1, 2002, to establish standardized procedures for local health agencies to report

information to the department regarding each food facility inspection, reinspection, date of last inspection, period of any closure, and the facility name and address. It would require the department, within 60 days after it has established the standardized procedures, to provide a written report disclosing these procedures to specified parties.

This bill would also require the department, on or before January 1, 2002, to establish a standardized food facility inspection format.

This bill would require each local health agency, commencing July 1, 2002, to submit food facility inspection information to the department in accordance with these procedures. The imposition of this new requirement on local agencies would create a state-mandated local program. Furthermore, since a violation of the provisions applicable to retail food facilities is a crime, this bill would impose a state-mandated local program.

Existing law requires each food establishment, except produce stands and swap meet prepackaged food stands, to be fully enclosed, in a building meeting specified criteria. Existing law excludes dining areas or open-air barbecue facilities, and outdoor displays that meet specified requirements.

This bill would additionally exclude outdoor *beverage* bars, *as defined*, contiguous with a fully enclosed food establishment, as defined, under the constant and complete control of the operator of the food establishment from the above enclosure requirements.

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: yes. State-mandated local program: yes.



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

1 SECTION 1. The Legislature hereby finds and  
2 declares all of the following:

3 (a) Food facility inspection information is currently  
4 developed by each local health agency. The form, scope,  
5 and content of food facility inspection information varies  
6 from agency to agency. These various methods of  
7 reporting food facility inspection information can be  
8 confusing to food facility owners, public agencies, and the  
9 public.

10 (b) In the event that food facility inspection  
11 information is made available in a standardized format, it  
12 will be easier for local health agencies to compare and  
13 evaluate inspection information, and the State  
14 Department of Health Services will be better able to  
15 evaluate local health agency inspection programs.

16 (c) The purposes of the California Uniform Retail  
17 Food Facilities Act will be advanced through  
18 standardized retail food facility inspection training,  
19 increased department oversight of local inspection  
20 programs, continuing review of the act and the federal  
21 model, and adequate funding of the department's  
22 oversight activities.

23 (d) Standardization of food facility inspection formats  
24 and reporting procedures should further reduce any  
25 existing confusion between jurisdictions, and contribute  
26 to increased compliance by food facility operators and  
27 thereby decrease the risk of food-borne illnesses.

28 SEC. 2. *Section 113831 is added to the Health and*  
29 *Safety Code, to read:*

30 *113831. "Outdoor beverage bar" means an*  
31 *unenclosed facility operated on the same premises as, or*  
32 *in conjunction with, a fully enclosed food establishment*  
33 *where any alcoholic and nonalcoholic beverages are*  
34 *prepared out of doors.*

35 SEC. 3. Section 113946 is added to the Health and  
36 Safety Code, to read:

37 113946. (a) On or before January 1, 2002, the  
38 department shall establish, and each local health agency



1 shall utilize, a standardized, food facility inspection  
2 format for food facility inspections that includes all of the  
3 following:

4 (1) The name and address of the food facility.

5 (2) Identification of the following inspection criteria,  
6 which shall be the basis of the inspection report:

7 (A) Improper holding temperatures.

8 (B) Inadequate cooking.

9 (C) Poor personal hygiene of food handlers.

10 (D) Contaminated equipment.

11 (E) Food from unsafe sources.

12 ~~(F) Any other violation of this chapter, which shall be~~  
13 ~~identified by reference to items and sections of this part,~~  
14 ~~or the regulations adopted pursuant to this part, relating~~  
15 ~~to those items.~~

16 (3) For each violation identified pursuant to  
17 paragraph (2), classification of the violation as a “minor  
18 violation” or “major violation.” Major violations are those  
19 violations that pose an imminent risk to public health and  
20 warrant immediate closure of the food establishment or  
21 immediate correction. Minor violations are those that do  
22 not pose an imminent public health risk, but do warrant  
23 correction.

24 (b) *A local health agency may modify the format to*  
25 *add criteria to the criteria specified pursuant to*  
26 *paragraph (2) of subdivision (a), provided both of the*  
27 *following conditions are met:*

28 (1) *The additional criteria are based on other*  
29 *provisions of this part.*

30 (2) *A violation is identified by reference to items and*  
31 *sections of this part, or the regulations adopted pursuant*  
32 *to this part relating to those items, if a food facility is cited*  
33 *for a violation of the additional criteria.*

34 (c) A copy of the most recent inspection report shall  
35 be maintained at the food facility. The food facility shall  
36 post a notice advising patrons that a copy of the most  
37 recent inspection report is available for review by  
38 interested parties.

39 ~~(e)~~



1 (d) The department and local health agencies shall  
2 conduct routine training on food facility inspection  
3 standardization to promote the uniform application of  
4 inspection procedures.

5 ~~(d)~~

6 (e) This section shall not restrict the ability of a local  
7 health agency to inspect and report on matters other than  
8 matters subject to regulation under this chapter.

9 ~~SEC. 3.~~

10 *SEC. 4.* Section 113947 is added to the Health and  
11 Safety Code, to read:

12 113947. (a) On or before January 1, 2002, the  
13 department, in consultation with local environmental  
14 health officers, representatives of the retail food industry,  
15 and other interested parties, shall establish standardized  
16 procedures for local health agencies to report the  
17 following food facility inspection information regarding  
18 each food facility:

19 (1) Name and address.

20 (2) Date of last inspection.

21 (3) Identification of any major violation identified in  
22 a food facility inspection.

23 (4) Reinspection date, if applicable.

24 (5) Period of closure, if applicable.

25 (b) The department, in consultation with local  
26 environmental health officers, representatives of the  
27 retail food industry, and other interested parties, may  
28 periodically review and revise the standardized  
29 procedures established pursuant to subdivision (a). In  
30 making any revisions, the department shall strive to  
31 ensure that the required information can be reported and  
32 made available in the most efficient, timely, and  
33 cost-effective manner.

34 (c) (1) The standardized procedures established  
35 pursuant to this section shall include a standardized  
36 electronic format and protocol for reporting the food  
37 facility inspection data in a timely manner, and shall  
38 strive to ensure that the information is readily accessible,  
39 can be rapidly reported, and, if necessary, corrected, for  
40 each food facility that has been inspected or reinspected.



1 If the local health agency determines that reported  
2 information is materially in error, that error shall be  
3 corrected within 48 hours after that determination.

4 (2) The department may also establish standardized  
5 procedures for reporting the information on magnetic  
6 media, including, but not limited to, floppy disks or  
7 magnetic tape.

8 (d) Within 60 days after the department has  
9 established the standardized procedures pursuant to this  
10 section, the department shall publish these procedures.

11 (e) (1) Commencing July 1, 2002, each local health  
12 agency that reports food facility inspection information  
13 on an Internet web site shall report the information in  
14 accordance with the standardized procedures established  
15 pursuant to this section.

16 (2) This section shall not restrict the ability of a local  
17 health agency to report on matters other than matters  
18 subject to regulation under this chapter.

19 (f) The department may establish a link to each  
20 Internet web site utilized by any local health agency  
21 containing the food facility inspection information  
22 pursuant to subdivision (e).

23 ~~SEC. 4.—~~

24 *SEC. 5.* Section 114145 of the Health and Safety Code  
25 is amended to read:

26 114145. (a) Each food establishment, except produce  
27 stands and swap meet prepackaged food stands, shall be  
28 fully enclosed in a building consisting of floors, walls, and  
29 an overhead structure that meet the minimum standards  
30 prescribed by this chapter. Food establishments that are  
31 not fully enclosed on all sides and that are in operation on  
32 January 1, 1985, shall not be required to meet the  
33 requirement for a fully enclosed structure pursuant to  
34 this section.

35 (b) This section shall not be construed to require the  
36 enclosure of any of the following:

- 37 (1) Dining areas.
- 38 (2) Open-air barbecue facilities.



1 (3) Outdoor wood-burning ovens that meet all of the  
2 food preparation and safety requirements applicable to  
3 open-air barbecue facilities.

4 (4) Outdoor *beverage* bars contiguous with a fully  
5 enclosed food establishment under the constant and  
6 complete control of the operator of the food  
7 establishment, provided that the following requirements  
8 are met:

9 (A) The food establishment is a bona fide public eating  
10 place, as defined by Sections 23038, 23038.1, and 23038.2  
11 of the Business and Professions Code.

12 (B) The operator of the food establishment is a  
13 licensee, as defined by Section 23009 of the Business and  
14 Professions Code, performing under authority of a license  
15 issued pursuant to the Alcoholic Beverage Control Act  
16 (Division 9 (commencing with Section 23000), Business  
17 and Professions Code) for the outdoor *beverage* bar.

18 (c) *The outdoor beverage bar is, at all times, operated*  
19 *pursuant to the requirements of this chapter, including,*  
20 *without limitation, Sections 114010 and 114080, and any*  
21 *conditions imposed by the local health agency to ensure*  
22 *compliance with the requirements of this chapter.*

23 (5) Outdoor displays that meet all of the following  
24 requirements:

25 (A) Only prepackaged nonpotentially hazardous food,  
26 uncut produce, or both is displayed or sold in the outdoor  
27 displays.

28 (B) Outdoor displays are contiguous with a fully  
29 enclosed food establishment that is in compliance with  
30 subdivision (a).

31 (C) Outdoor displays have overhead protection that  
32 extends over all food items.

33 (D) Food items from the outdoor display are stored  
34 inside a fully enclosed food establishment that is in  
35 compliance with subdivision (a) at all times other than  
36 during business hours. Any food items to be stored  
37 pursuant to this subdivision shall be stored in accordance  
38 with subdivision (a) of Section 114080.

39 (E) Outdoor displays comply with Section 114010 and  
40 have been approved by the enforcement agency.



1 (F) Outdoor displays are under the constant and  
2 complete control of the operator of the permitted food  
3 establishment.

4 ~~(e)~~

5 (d) This section shall not be construed to require the  
6 enclosure during operating hours of customer self-service  
7 nonpotentially hazardous bulk beverage dispensing  
8 operations that meet the following requirements:

9 (1) The dispensing operations are installed contiguous  
10 with a fully enclosed food establishment that is in  
11 compliance with subdivision (a) and operated by the food  
12 establishment.

13 (2) The beverages are dispensed from enclosed  
14 equipment that precludes exposure of the beverages  
15 until they are dispensed at the nozzles.

16 (3) Ice is dispensed only from an ice maker-dispenser.  
17 Ice is not scooped or manually loaded into an ice  
18 dispenser out-of-doors.

19 (4) Single-service utensils are protected from  
20 contamination and are individually wrapped or  
21 dispensed from approved sanitary dispensers.

22 (5) The dispensing operations have overhead  
23 protection that fully extends over all equipment  
24 associated with the facility.

25 (6) During nonoperating hours, the dispensing  
26 operations are fully enclosed so as to be protected from  
27 contamination by vermin and exposure to the elements.

28 (7) The owner or operator of the food establishment  
29 demonstrates to the enforcement agency that acceptable  
30 methods are in place to properly clean and sanitize the  
31 beverage dispensing equipment.

32 (8) Beverage dispensing operations are in compliance  
33 with Section 114010 and have been approved by the  
34 enforcement agency.

35 (9) Beverage dispensing operations are under the  
36 constant and complete control of the permitholder of the  
37 food establishments who is operating the dispensing  
38 facility.

39 (d) This section shall not be construed to allow outdoor  
40 displays in violation of local ordinances.



1 ~~SEC. 5.—~~

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

12 (b) No reimbursement is required by this act pursuant  
13 to Section 6 of Article XIII B of the California Constitution  
14 because a local agency or school district has the authority  
15 to levy service charges, fees, or assessments sufficient to  
16 pay for the program or level of service mandated by  
17 certain other provisions of this act, within the meaning of  
18 Section 17556 of the Government Code.

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