

Senate Bill No. 979

CHAPTER 290

An act to amend Section 114145 of the Health and Safety Code, relating to food facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1999. Filed with Secretary of State September 1, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 979, McPherson. Outdoor wood-burning ovens.

Existing law, the California Uniform Retail Food Facilities Law, establishes sanitation standards for retail food facilities and requires the State Department of Health Services and primarily local agencies to enforce its provisions. Existing law makes violation of these provisions a crime.

Existing law, with certain exceptions, requires each food establishment to be fully enclosed, with one of these exceptions being for open-air barbecue facilities that meet specified requirements.

This bill would also exempt from the enclosure requirement outdoor wood-burning ovens that meet food preparation and safety requirements applicable to open-air barbecue facilities.

By increasing the enforcement duties of local health agencies, 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.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 114145 of the Health and Safety Code is amended to read:

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



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

- (1) Dining areas.
- (2) Open-air barbecue facilities.
- (3) Outdoor wood-burning ovens that meet all of the food preparation and safety requirements applicable to open-air barbecue facilities.
- (4) Outdoor displays that meet all of the following requirements:
 - (A) Only prepackaged nonpotentially hazardous food, uncut produce, or both is displayed or sold in the outdoor displays.
 - (B) Outdoor displays are contiguous with a fully enclosed food establishment that is in compliance with subdivision (a).
 - (C) Outdoor displays have overhead protection that extends over all food items.
 - (D) Food items from the outdoor display are stored inside a fully enclosed food establishment that is in compliance with subdivision (a) at all times other than during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.
 - (E) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.
 - (F) Outdoor displays are under the constant and complete control of the operator of the permitted food establishment.

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

- (1) The dispensing operations are installed contiguous with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.
- (2) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles.
- (3) Ice is dispensed only from an ice maker-dispenser. Ice is not scooped or manually loaded into an ice dispenser out-of-doors.
- (4) Single-service utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.
- (5) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.
- (6) During nonoperating hours the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.
- (7) The owner or operator of the food establishment demonstrates to the enforcement agency that acceptable methods are in place to properly clean and sanitize the beverage dispensing equipment.



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

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

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because 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.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that restaurants in California may lawfully operate outdoor wood-burning ovens at the earliest possible time, it is necessary that this act take effect immediately.

