

California State Senate

STATE CAPITOL
ROOM 4085
SACRAMENTO, CA 95814
TEL (916) 651-4024
FAX (916) 445-0485

DISTRICT OFFICE
100 S. VINCENT AVENUE
SUITE 401
WEST COVINA, CA 91790
TEL (626) 430-2499
FAX (626) 445-2494

SENATOR
ED HERNANDEZ, O.D.
TWENTY-FOURTH SENATE DISTRICT



COMMITTEES
SENATE HEALTH COMMITTEE
CHAIR
BUSINESS, PROFESSIONS AND
ECONOMIC DEVELOPMENT
GOVERNANCE AND FINANCE
GOVERNMENTAL
ORGANIZATION

SB 359 (Hernandez) Food facilities: hand washing

Purpose

Senate Bill (SB) 359 would amend and add to the California Retail Food Code (CalCode) to ensure uniform health and sanitation standards for mobile and retail food facilities.

Summary

Current law establishes health and sanitation standards for food facilities, requires the Department of Public Health to adopt regulations to implement the standards, and delegates enforcement duties to local health agencies. SB 359 amends and adds to the Cal Code in order to clarify what is allowed and required in particular situations.

Currently, employees working with food are required to wash their hands and wear and replace gloves. SB 359 clarifies that hands must be washed before initially putting on gloves, when changing tasks, before working with ready-to-eat foods or raw foods, and when the gloves are damaged or soiled. The bill also clarifies the use of single-use gloves and the requirement that they not be re-used. SB 359 further specifies that an employee with a cut, sore, rash, lesion, or wound must apply an appropriate cover or not handle food.

The bill updates requirements on satellite and mobile food services by clarifying what is allowed when hot holding is part of limited food preparation, and by requiring adequate water heater capacity for mobile food facilities with warewashing sinks.

SB 359 additionally addresses a problem faced by restaurants and grocery stores during holidays, emergencies, remodels, and other high sales volume times. Current law does not specifically authorize the use of alternative food storage methods such as refrigerated food trailers. SB 359 would allow local enforcement agencies to approve of temporary alternative storage methods.

Support

California Retail Food Safety Coalition (sponsor)

Opposition

None on file

Contacts

Please contact Ben Rubin in the Senate Health Committee at (916) 651-4111

AMENDED IN SENATE JANUARY 10, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 359

Introduced by Senator Hernandez

February 15, 2011

An act to amend Sections ~~113953.3 and 113973~~ 113818, 113953.3, 113973, 114047, and 114325 of, and to add Section 113975 to, the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 359, as amended, Hernandez. Food facilities: hand washing.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for *mobile food facilities* and retail food facilities, as defined. The law requires the State Department of Public Health to adopt regulations to implement and administer those provisions, and delegates primary enforcement duties to local health agencies. A violation of any of these provisions is punishable as a misdemeanor.

The code requires food employees to report to the person in charge of a food facility when a food employee has a lesion or wound that is open or draining unless specified conditions to cover or protect the lesion are met. The code requires all employees to wash their hands in specified instances, including before donning gloves for working with food.

The code also requires gloves to be worn when contacting food and food-contact surfaces under specified conditions, including when the employee has any cuts, sores, or rashes. Gloves are required to be changed, replaced, or washed as often as hand washing is required.

This bill would revise requirements in connection with glove use and hand washing. This bill would revise the definition of "limited food preparation," and authorize a local enforcement agency to approve temporary alternative storage methods and locations. By imposing new duties upon local agencies, and expanding the definition of 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 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.

~~This bill would require hands to be washed before initially donning gloves and before donning gloves after specified instances where gloves were required to be changed or replaced. The bill would prohibit single-use gloves from being washed. The bill would also prohibit an employee who has a lesion or wound that is open or draining from handling food and would require a food employee who has any cuts, sores, rashes, lesions, or wounds to cover or protect the lesion, as specified. By imposing new duties upon local agencies and expanding the definition of 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 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 113818 of the Health and Safety Code is
2 amended to read:

3 113818. (a) "Limited food preparation" means food preparation
4 that is restricted to one or more of the following:

5 (1) Heating, frying, baking, roasting, popping, shaving of ice,
6 blending, steaming or boiling of hot dogs, or assembly of
7 nonprepackaged food.

8 (2) Dispensing and portioning of nonpotentially hazardous food.

9 (3) Holding, portioning, and dispensing of any foods that are
10 prepared for satellite food service by the onsite permanent food
11 facility or prepackaged by another approved source.

12 (4) Slicing and chopping of food on a heated cooking surface
13 during the cooking process.

14 (5) Cooking and seasoning to order.

15 (6) Preparing beverages that are for immediate service, in
16 response to an individual consumer order, that do not contain
17 frozen milk products.

18 (b) "Limited food preparation" does not include any of the
19 following:

20 (1) Slicing and chopping unless it is on the heated cooking
21 surface.

22 (2) Thawing.

23 (3) Cooling of cooked, potentially hazardous food.

24 (4) Grinding raw ingredients or potentially hazardous food.

25 (5) Reheating of potentially hazardous foods for hot holding,
26 except for steamed or boiled hot dogs and tamales in the original,
27 inedible wrapper.

28 (6) ~~Hot~~ Except as allowed in paragraph (3) of subdivision (a),
29 hot holding of nonprepackaged, potentially hazardous food, except
30 for roasting corn on the cob, steamed or
31 boiled hot dogs, and tamales in the original, inedible wrapper.

32 (7) Washing of foods.

33 (8) Cooking of potentially hazardous foods for later use.

34 SECTION 1.

35 SEC. 2. Section 113953.3 of the Health and Safety Code is
36 amended to read:

37 113953.3. (a) Except as specified in subdivision (b), all
38 employees shall thoroughly wash their hands and that portion, if

1 any, of their arms exposed to direct food contact with cleanser and
2 warm water by vigorously rubbing together the surfaces of their
3 lathered hands and arms for at least 10 to 15 seconds and
4 thoroughly rinsing with clean running water followed by drying
5 of cleaned hands and that portion, if any, of their arms exposed.
6 Employees shall pay particular attention to the areas underneath
7 the fingernails and between the fingers. Employees shall wash
8 their hands in all of the following instances:

9 (1) Immediately before engaging in food preparation, including
10 working with nonprepackaged food, clean equipment and utensils,
11 and unwrapped single-use food containers and utensils.

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

14 (3) After using the toilet room.

15 (4) After caring for or handling any animal allowed in a food
16 facility pursuant to this part.

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

19 (6) After handling soiled equipment or utensils.

20 (7) During food preparation, as often as necessary to remove
21 soil and contamination and to prevent cross-contamination when
22 changing tasks.

23 (8) When switching between working with raw food and
24 working with ready-to-eat food.

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

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

29 (11) Before initially donning gloves for working with food
30 ~~and before donning gloves to replace gloves that were changed or~~
31 ~~replaced due to the circumstances described in paragraphs (2) to~~
32 ~~(10), inclusive when changing gloves as required in Section~~
33 ~~113973. Handwashing is not required between glove changes when~~
34 ~~no contamination of the gloves or hands has occurred.~~

35 (b) If approved and capable of removing the types of soils
36 encountered in the food operations involved, an automatic
37 handwashing facility may be used by food employees to clean
38 their hands.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 113973 of the Health and Safety Code is
3 amended to read:

4 113973. (a) ~~Gloves~~—*Notwithstanding Section 113975,*
5 *single-use gloves* shall be worn when contacting food and
6 food-contact surfaces if the employee has any cuts, sores, rashes,
7 artificial nails, nail polish, rings (other than a plain ring, such as
8 a wedding band), uncleanable orthopedic support devices, or
9 fingernails that are not clean, smooth, or neatly trimmed.

10 (b) Whenever gloves, except single-use gloves, are worn, they
11 shall be changed, replaced, or washed as often as handwashing is
12 required by this part.

13 (c) If single-use gloves are used, single-use gloves shall be used
14 for only one task, such as working with ready-to-eat food or with
15 raw food of animal origin, used for no other purpose, and shall be
16 discarded when damaged or soiled, or when interruptions in the
17 food handling occur. Single-use gloves shall not be washed.

18 (d) Except as specified in subdivision (e), slash-resistant gloves
19 that are used to protect the hands during operations requiring
20 cutting shall be used only with food that is subsequently cooked
21 as specified in Section 114004, such as frozen food or a primal
22 cut of meat.

23 (e) Slash-resistant gloves may be used with ready-to-eat food
24 that will not be subsequently cooked if the slash-resistant gloves
25 have a smooth, durable, and nonabsorbent outer surface or if the
26 slash-resistant gloves are covered with a smooth, durable,
27 nonabsorbent glove, or a single-use glove.

28 (f) Cloth gloves may not be used in direct contact with food
29 unless the food is subsequently cooked.

30 ~~SEC. 3.~~

31 *SEC. 4.* Section 113975 is added to the Health and Safety Code,
32 to read:

33 113975. (a) Except as provided in subdivision (b), an employee
34 who has a lesion or wound that is open or draining shall not handle
35 food.

36 ~~(b) In addition to wearing gloves when contacting food and~~
37 ~~food-contact surfaces, a food employee who has a cut, sore, rash,~~
38 ~~lesion, or wound shall do all of the following: A food employee~~
39 ~~who has a cut, sore, rash, lesion, or wound is restricted from food~~
40 ~~handling unless the food employee complies with the following:~~

1 (1) If the lesion is located on the hand or wrist, an impermeable
2 cover, such as a finger cot or stall shall protect the lesion. A
3 single-use glove shall be worn over the impermeable cover.

4 (2) If the lesion is located on exposed portions of the arms, an
5 impermeable cover shall protect the lesion.

6 (3) If the lesion is located on other parts of the body, a dry,
7 durable, tight-fitting bandage shall cover the lesion.

8 *SEC. 5. Section 114047 of the Health and Safety Code is*
9 *amended to read:*

10 114047. (a) Adequate and suitable space shall be provided for
11 the storage of food.

12 (b) Except as specified in subdivisions (c) and (d), food shall
13 be protected from contamination by storing the food in a clean,
14 dry location, where it is not exposed to splash, dust, vermin, or
15 other forms of contamination or adulteration, and at least six inches
16 above the floor.

17 (c) Food in packages and working containers may be stored less
18 than six inches above the floor on case lot handling equipment as
19 specified under Section 114165.

20 (d) Pressurized beverage containers, cased food in waterproof
21 containers such as bottles or cans, and milk containers in plastic
22 crates may be stored on a floor that is clean and not exposed to
23 moisture.

24 (e) *Temporary alternative storage methods and locations may*
25 *be approved by the local enforcement agency.*

26 *SEC. 6. Section 114325 of the Health and Safety Code is*
27 *amended to read:*

28 114325. (a) Except on a mobile food facility that only utilizes
29 the water for handwashing purposes, a water heater or an
30 instantaneous heater capable of heating water to a minimum of
31 120°F, interconnected with a potable water supply, shall be
32 provided and shall operate independently of the vehicle engine.
33 On a mobile food facility that only utilizes the water for
34 handwashing purposes, a *minimum one-half-gallon capacity* water
35 heater or an instantaneous water heater capable of heating water
36 to a minimum of 100°F, interconnected with a potable water
37 supply, shall be provided and shall operate independently of the
38 vehicle engine.

1 (b) ~~(1) Except as specified in paragraph (2), a~~ A water heater
2 with a minimum capacity of ~~three~~ four gallons shall be provided
3 for mobile food facilities *with one or more warewashing sinks.*

4 (c) *A mobile food facility equipped with a three-gallon hot water*
5 *heater that was approved prior to adoption of this section need*
6 *not provide a four-gallon hot water heater.*

7 ~~(2) A minimum water heater capacity of one-half gallon shall~~
8 ~~be provided for mobile food facilities approved for limited food~~
9 ~~preparation.~~

10 SEC. 4.

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

20 However, if the Commission on State Mandates determines that
21 this act contains other costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.