



## Senate Bill (SB) 1067 Amendments/Revisions to Cal Code Effective January 1, 2017

### **SB 1067 Background**

SB 1067 (Huff. Food facilities) was a California Conference Directors of Environmental Health (CCDEH) and California Retail Food Safety Coalition (CRFSC) sponsored bill to update several sections of the California Retail Food Code (Cal Code) to align with the Food and Drug Administration (FDA) Food Code requirements on various issues that had been submitted through the CRFSC process. The main sections of the bill include changes to: Consumer Advisories, ROP processing, Allergen Awareness, and several other topics. This document was compiled through collaboration with the CRFSC and CCDEH.

The new law goes into effect January 1, 2017. To allow time for the new requirements to be adopted, the stakeholder group and CCDEH recommend that initial enforcement of the law (primarily consumer advisory and allergen training sections) be limited to education and notification of requirements for compliance. All local enforcement agencies are urged to adopt this approach to the new provisions in SB 1067.

To view SB 1067 visit:

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1067](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1067).

### **Consumer Advisory**

Amended sections: 113795, 113814, 113823, 113873, 114004, 114021

### **Summary of Changes:**

SB 1067 repealed and rewrote Section 114093 for consumer advisory to incorporate the FDA Food Code language that requires a food facility to inform consumers of the increased risk of consuming specified animal food that is served or sold raw, undercooked, or without otherwise processed to eliminate pathogens through a disclosure and a reminder at the time of ordering. The new requirements provide a more comprehensive consumer disclosure and reminder when the consumer makes a menu selection. Notification of risk must be achieved via a meaningful message and in a manner that is likely to affect behavior. To align the Consumer Advisory to language with the FDA Food Code language, changes to the cooking section were needed to address minimum cook temperature requirements for: ratites, baluts, mechanically-tenderized meats and game animals as specified in current in the 2013 FDA Food Code. Ratites such as ostrich, emu, and rhea are included in this list of raw animal foods because when cooked to a temperature greater than 68°F (155°F), ratites exhibit a (metallic) "off" taste.

SB 1067 also made minor changes to the minimum cooking temperatures for various raw animal proteins and foods that contain raw animal proteins to align the temperatures and revised those definitions and provisions regulating the obtaining and preparation of raw food. Additional language for raw or undercooked whole-muscle, intact beef steak allowing it to be served ready to eat if all external surfaces are cooked to 145 degrees Fahrenheit, the meat is labeled as "whole-muscle, intact beef," and the food facility does not serve a highly susceptible population. Whole-muscle, intact beef must be received packaged and labeled as such from the processing facility and must be prepared in the retail food facility in such a manner that it remains intact. Cal Code language

amendments include other minor technical changes to the defined terms “game animal,” “injected,” “meat,” and “poultry.”

Provisions under the new regulations:

If a retail food facility includes on their menu animal food, such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish, that will be served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the facility shall inform consumers of the increased risk of consuming those foods with a disclosure and reminder on the menu, menu board, a brochure, on the deli case menu, a label statement, table tent, placards, or other effective written means.

Disclosure statement:

The disclosure statement is a written statement on a menu, menu board, brochure, deli case or menu advisories, label statements, table tents, placards, or other effective written means that clearly includes either a description of the animal-derived foods, such as “oysters on the half shell (raw oysters),” “raw-egg Caesar salad,” and “hamburgers (can be cooked to order)” or, by identifying the food marked by an asterisk to a footnote that states that the items are served raw or undercooked, or contain or may contain raw or undercooked ingredients.

The disclosure statement must inform the consumer that the food will not receive adequate heat treatment and that consuming creates a risk because the food may contain bacteria or other disease causing organisms that have been known to cause foodborne disease. The notification of the risk must be achieved by using a meaningful message in a manner that is likely to affect behavior and must be communicated so the consumer can consider the risks based on their health status and the food being consumed.

Reminder statement:

The reminder is denoted by an asterisk next to a raw or under cooked animal-derived menu item, to a footnote that includes either of the following disclosure statements:

- (1) Written information regarding the safety of these food items is available upon request.
- (2) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

Exception to 114093:

114004 (c)

- (c) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if all of the following conditions are satisfied:
  - (1) The food facility serves a population that is not a highly susceptible population.
  - (2) The steak is labeled to indicate that it meets the definition of “whole-muscle, intact beef” as specified in subdivision (c) of Section 114021.
  - (3) The steak is cooked on both the top and bottom to a surface temperature of 145 degrees Fahrenheit or above and a cooked color change is achieved on all external surfaces

114004 (d)(2)

(d) A raw animal food such as raw egg, raw fish, raw marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in subdivision (c), may be served or offered for sale upon consumer request or selection in a ready-to-eat form if either of the following conditions are satisfied:

(2) The department grants a variance from subdivision (a) or (b) pursuant to Section 114417 based on a HACCP plan that satisfies all of the following conditions:

(A) It is submitted by the permit holder and approved pursuant to Sections 114417.1 and 114417.3.

(B) It documents scientific data or other information showing that a lesser time and temperature regimen results in safe food.

(C) It verifies that equipment and procedures for food prepared and training of food employees at the food facility meet the conditions of the variance.

114091 (e) Highly susceptible population

114091 In a licensed health care facility and a public or private school cafeteria, the following shall apply:

(e) The following foods may not be served or offered for sale in a ready-to-eat form:

(1) Raw foods of animal origin such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare.

(2) A partially cooked food of animal origin, such as lightly cooked fish, rare meat, soft-cooked eggs, that is made from raw shell eggs, and meringue.

(3) Raw seed sprouts.

### **ROP Hazard Analysis Critical Control Point Plan**

Amends sections *114057.1* and *114419*

#### **Summary of Changes**

Currently, Cal Code requires that the California Department of Public Health (CDPH) must approve a food facility HACCP plan for all potentially hazardous foods that are packaged using a ROP method.

SB 1067 amends Cal Code sections 114057.1 and 114419, to adopt Model Food Code language; exempting food facilities under specified criteria (ex. sous vide) from submitting a mandatory ROP HACCP Plan to CDPH for review and approval.

The 2013 federal Model Food Code, Section 3-502.12 (F) exempts refrigerated, Reduced Oxygen Packaging (ROP) foods that are always removed from the package within 48 hours of packaging from the requirements in section 3-502.12, requiring a Hazard Analysis Critical Control Point (HACCP) plan, because growth and toxin formation by anaerobic pathogens in that limited time frame is not considered a significant hazard in such foods.

While operators may not be required to obtain State approval, review of procedures may be required by the local enforcement agency to ensure compliance with Cal Code requirements. CCDEH will be working on a guidance document to help ensure consistency with review at the local level.

The updated provisions do allow some facilities previously subject to HACCP plan to now be exempt. Exemptions only apply to food facilities that use reduced-oxygen packaging method to package potentially hazardous food and comply with the following criteria:

- The food is labeled with the production time and date.
- The food is held at 41°F or lower during refrigerated storage
- The food is removed from its package in the food facility within 48 hours after packaging

Note: All other ROP method(s) that don't meet the standards outlined above will still need a HACCP Plan approval from CDPH. Written SOPs may assist regulators in validating facilities are exempt from HACCP requirements.

## **Food Allergen Education Requirements**

*Adds 113820.5 Amends 113947, 113947.2*

### Background and Summary of Changes

Food Allergy is an increasing food safety and public health issue, affecting approximately 4% of the U.S. population, or 12 million Americans. Restaurants and retail food service managers need to be aware of the serious nature of food allergies and how to handle consumers with food allergies in their facilities.

SB 1067, Section 113820.5 of the California Retail Food Code, updates PIC knowledge section to align with FDA Food Code requirements and now requires the person in charge of a food facility to have adequate knowledge of major food allergens, as defined, foods identified as major food allergens, and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction and to educate food facility employees regarding those matters.

The bill would also require the food safety certification examination to include describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.

### What are the Major Food Allergens?

In the U.S. the following are recognized as the major food allergens subject to ingredient labeling requirements.

1. Milk.
2. Eggs.
3. Fish, including, but not limited to, bass, flounder, and cod.
4. Crustacean shellfish, including, but not limited to, crab, lobster, and shrimp.
5. Tree nuts, including, but not limited to, almonds, pecans, and walnuts.
6. Wheat.
7. Peanuts.
8. Soybeans.
9. A food ingredient that contains protein derived from a food listed in paragraphs (1) to (8), inclusive.

A highly refined oil (ex. Peanut oil) derived from a food specified in the major food allergens above and any ingredient derived from that highly refined oil is *not* included in the definition of major food allergen as the refining process removes the allergen particles. More information can be found at the following

link to the Federal Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282) Guidance Document.

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Allergens/ucm106187.htm>

### Changes to the Food Manager Certification Course/Examination

Current Food Manager Certification Courses and ANSI accredited food manger certification examinations are based off current FDA Food Code requirements and include said training on allergen awareness. The authors of SB 1067 wanted to include reference to the allergen training to clarify allergens as an element of knowledge.

### Marking Guide for new section

This item will be marked “in” or “out of compliance”, under the Demonstration of Knowledge section. This item should be marked out of compliance if there is no proof of the correct food safety class taken and if the person in charge cannot demonstrate the knowledge through compliance aids.

The PIC does not need to be able to quote or pull allergen knowledge from memory. Compliance is achieved by providing a current ANSI accredited food manger certification and can answer questions with the use of job aids (posters, SOPs, cue cards, etc.).

Questions to PIC and employees (as it pertains to their assigned duties) can be regarding:

- the serious nature of food allergies, including allergic reactions, anaphylaxis and death;
- knowledge of the eight major food allergens
- understanding ingredient identities and labeling
- avoiding cross-contact during food preparation and service

There are many different resources to assist operators with training on allergens. There is no requirement to have a specific poster onsite.

### **Juicing allow under Limited Food Preparation**

*Amends Section 113818*

SB 1067 amends the definition of allowable activities under limited food preparation to include “juicing” and preparing beverages. Expanding the definition allows the juicing of fresh vegetables and fruit in preparation of beverages, served immediately, in response to an individual customer order by temporary food facilities that are authorized to engage in limited food preparation activities. This amendment allows limited food preparation facilities to provide for immediate service fresh fruit and vegetable juice.

### **Shared Warewashing Drainboards**

*Amends Section 114103*

Current regulations require food facilities to install a three compartment sink with two integral drainboards to provide for safe and adequate washing and sanitation of dishes and utensils. Mechanical warewashing can be more effective at warewashing (and with reduced water usage) than manual warewashing . SB 1067 has been amended to allow food facilities with limited

warewashing space to fulfill this requirement by using drainboards that are part of the manual warewashing sink if the sink is stationed adjacent to the warewashing machine.

**Mobile Food Facility Permit holder Signage Requirement**

*Amends Section 114299*

Under Cal Code, mobile food facilities were required to have name and address signage on the vehicle for consumer complaint trace back purposes including mobile food facility vehicle signage with specific information, such as having the name of the individual operating the mobile food vehicle be included on the vehicle if it is different than the name of the business. SB 1067 requires that if the permit holder name is included the lettering must be not less than one inch high and color of each letter and number must contrast with its background.