

Senate Bill No. 303

CHAPTER 233

An act to amend Sections 113790, 113947.3, and 113948 of the Health and Safety Code, relating to food safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 2011. Filed with
Secretary of State September 6, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 303, Padilla. Food safety: food handlers.

The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Local health agencies are primarily responsible for enforcing this law. Violation of these provisions is a misdemeanor.

This law generally requires food facilities, except temporary food facilities, to have an owner or employee who has successfully passed an approved and accredited food safety certification examination from an accredited food protection manager certification organization, except as specified. Existing law generally defines a food facility to mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level.

Existing law also requires, with specified exceptions, a food handler, as defined, who is hired prior to June 1, 2011, to obtain a food handler card from a food protection manager certification organization, as described. A food handler hired after June 1, 2011, is required to obtain a food handler card within 30 days of his or her date of hire. A food handler must maintain a valid food handler card for the duration of his or her employment as a food handler.

This bill would, for purposes of the above-described food handler requirements, define a food facility to mean a food facility that sells food for human consumption to the general public, with certain exceptions. The bill would, instead, until January 1, 2012, require a food handler to obtain a food handler card from either a food protection manager certification organization or a specified training provider, and would require, commencing January 1, 2012, the card to be obtained only from a specified training provider.

By changing 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 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 113790 of the Health and Safety Code is amended to read:

113790. (a) "Food handler" means an individual who is involved in the preparation, storage, or service of food in a food facility, as defined in subdivision (b), other than an individual holding a valid food safety certificate issued pursuant to Section 113947.3 or an individual involved in the preparation, storage, or service of food in a temporary food facility, as defined in Section 113930.

(b) For purposes of the definition of a "food facility" in subdivision (a) and in Section 113948, a food facility means a food facility, as defined in Section 113789, that sells food for human consumption to the general public.

SEC. 2. Section 113947.3 of the Health and Safety Code is amended to read:

113947.3. (a) Food safety certification required pursuant to Section 113947.1 shall be achieved by successfully passing an examination from an accredited food protection manager certification organization. The certification organization shall be accredited by the American National Standards Institute as meeting the requirements of the Conference for Food Protection's "Standards for Accreditation of Food Protection Manager Certification Programs." Those food employees who successfully pass an approved certification examination shall be issued a certificate by the certifying organization. The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. Certificates shall be valid for five years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate.

(b) (1) By July 20, 2008, the department, in consultation with the California Conference of Directors of Environmental Health, representatives of the retail food industry, and other interested parties, shall develop and implement a program for the purposes of demonstrating adequate knowledge for operators of temporary food facilities.

(2) At least one of the accredited food safety certification examinations shall cost no more than sixty dollars (\$60), including the certificate. However, the department may adjust the cost of food safety certification examinations to reflect actual expenses incurred in producing and administering the food safety certification examinations required under this section. If a food safety certification examination is not available at the price established by the department, the certification and recertification

requirements relative to food safety certification examinations imposed by this section shall not apply.

(3) At least one of the accredited food safety certification examinations shall be offered online.

(4) An accredited food safety certification examination that is provided with an in-person trainer-led class or is offered online shall be proctored under secure conditions to protect the validity of the food protection manager certification examination.

SEC. 3. Section 113948 of the Health and Safety Code is amended to read:

113948. (a) (1) Subject to the exceptions described in subdivision (d), a food handler who is hired prior to June 1, 2011, shall obtain a food handler card on or before July 1, 2011. Subject to the exceptions described in subdivision (d), a food handler who is hired on or after June 1, 2011, shall obtain a food handler card within 30 days after the date of hire. Each food handler shall maintain a valid food handler card for the duration of his or her employment as a food handler.

(2) Food handler cards shall be valid for three years from the date of issuance, regardless of whether the food handler changes employers during that period.

(3) A food handler card shall be recognized throughout the state, except in jurisdictions described in subdivision (e).

(b) (1) Prior to January 1, 2012, a food handler may obtain a food handler card from either one of the following:

(A) An American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs.

(B) A food protection manager certification organization described in Section 113947.3.

(2) Commencing January 1, 2012, a food handler shall obtain a food handler card only from an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs.

(3) A food handler card shall be issued only upon successful completion of a food handler training course and examination that meets at least all of the following requirements:

(A) The course provides basic, introductory instruction on the elements of knowledge described in subdivisions (a), (b), (c), (d), (e), and (g) of Section 113947.2.

(B) The course and examination is designed to be completed within approximately two and one-half hours.

(C) The examination consists of at least 40 questions regarding the required subject matter.

(D) A minimum score of 70 percent on the examination is required to successfully complete the examination.

(c) The food handler training course and examination may be offered through a trainer-led class and examination, through the use of a computer

program or the Internet, or through a combination of trainer-led class and the use of a computer program or the Internet. The use of the computer program or Internet shall have sufficient security channels and procedures to guard against fraudulent activity. However, this subdivision shall not be construed to require the presence or participation of a proctor during a food handler training course examination that is provided through a computer program or the Internet.

(d) This section shall not apply to a food handler who is employed by any of the following:

- (1) Certified farmer's markets.
- (2) Commissaries.
- (3) Grocery stores, except for separately owned food facilities to which this section otherwise applies that are located in the grocery store. For purposes of this paragraph, "grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood counter. "Grocery store" includes convenience stores.
- (4) Licensed health care facilities.
- (5) Mobile support units.
- (6) Public and private school cafeterias.
- (7) Restricted food service facilities.
- (8) Retail stores in which a majority of sales are from a pharmacy, as defined in Section 4037 of the Business and Professions Code, and venues with snack bar service in which the majority of sales are from admission tickets, but excluding any area in which restaurant-style sit-down service is provided.
- (9) A food facility that provides in-house food safety training to all employees involved in the preparation, storage, or service of food if all of the following conditions are met:
 - (A) The food facility uses a training course that has been approved for use by the food facility in another state that has adopted the requirements described in Subpart 2-103.11 of the 2001 edition of the model Food Code, not including the April 2004 update, published by the federal Food and Drug Administration.
 - (B) Upon request, the food facility provides evidence satisfactory to the local enforcement officer demonstrating that the food facility training program has been approved for use in another state pursuant to subparagraph (A).
 - (C) The training is provided during normal work hours, and at no cost to the employee.
- (10) A food facility that is subject to a collective bargaining agreement with its food handlers.
- (11) Any city, county, city and county, state, or regional facility used for the confinement of adults or minors, including, but not limited to, a county jail, juvenile hall, camp, ranch, or residential facility.

(12) An elderly nutrition program, administered by the California Department of Aging, pursuant to the Older Americans Act of 1965 (42 U.S.C. Sec. 3001 et seq.), as amended.

(e) The requirements of this section shall not apply to a food handler subject to an existing local food handler program that took effect prior to January 1, 2009.

(f) Each food facility that employs a food handler subject to the requirements of this section shall maintain records documenting that each food handler employed by the food facility possesses a valid food handler card, and shall provide those records to the local enforcement officer upon request.

(g) At least one food handler training course and examination shall cost no more than fifteen dollars (\$15), including a food handler card. If a food handler training course and examination is not available at that cost, the requirement to obtain a food handler card imposed by this section shall not apply.

SEC. 4. 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. 5. 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 to enable food handlers to have more options toward improving food safety, it is necessary that this act take effect immediately as an urgency statute.

Senate Bill No. 602

CHAPTER 309

An act to amend Sections 113947.2 and 113947.3 of, and to add Sections 113790 and 113948 to, the Health and Safety Code, relating to food safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 602, Padilla. Food safety.

The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Under existing law, a violation of these provisions is a misdemeanor. Local health agencies are primarily responsible for enforcing this law.

This law generally requires food facilities, except temporary food facilities, to have an owner or employee who has successfully passed an approved and accredited food safety certification examination from an accredited food protection manager certification organization, except as specified.

This bill would require at least one of the accredited food safety certification examinations to be offered online.

This bill would also require, with specified exceptions, a food handler, as defined, who is hired prior to June 1, 2011, to obtain a food handler card on or before July 1, 2011. The bill would require food handlers hired after June 1, 2011, to obtain a food handler card within 30 days of his or her date of hire. It would require each food handler to maintain a valid food handler card for the duration of his or her employment as a food handler.

This bill would exempt from compliance any food handler subject to an existing local food handler program that took effect prior to January 1, 2009, and would also require a food facility that employs food handlers to maintain records documenting that each food handler employed by the facility possesses a food handler card. The bill would require at least one food handler training course to cost no more than \$15 and, if a training course is not available at that cost, would remove the requirement to obtain a food handler card.

By creating a new crime and expanding the duties of local enforcement officials, 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 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 113790 is added to the Health and Safety Code, to read:

113790. "Food handler" means an individual who is involved in the preparation, storage, or service of food in a food facility, other than an individual holding a valid food safety certificate issued pursuant to Section 113947.3 or an individual involved in the preparation, storage, or service of food in a temporary food facility.

SEC. 2. Section 113947.2 of the Health and Safety Code is amended to read:

113947.2. The food safety certification examination for purposes of Section 113947.1 shall include, but need not be limited to, all of the following elements of knowledge:

(a) Foodborne illness, including terms associated with foodborne illness, micro-organisms, hepatitis A, and toxins that can contaminate food and the illness that can be associated with contamination, definition and recognition of potentially hazardous foods, chemical, biological, and physical contamination of food, and the illnesses that can be associated with food contamination, and major contributing factors for foodborne illness.

(b) The relationship between time and temperature with respect to foodborne illness, including the relationship between time and temperature and micro-organisms during the various food handling, preparation, and serving states, and the type, calibration, and use of thermometers in monitoring food temperatures.

(c) The relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness, and the recognition of how policies, procedures, and management contribute to improved food safety practices.

(d) Methods of preventing food contamination in all stages of food handling, including terms associated with contamination and potential hazards prior to, during, and after delivery.

(e) Procedures for cleaning and sanitizing equipment and utensils.

(f) Problems and potential solutions associated with facility and equipment design, layout, and construction.

(g) Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance.

SEC. 3. Section 113947.3 of the Health and Safety Code is amended to read:

113947.3. (a) Food safety certification required pursuant to Section 113947.1 shall be achieved by successfully passing an examination from an accredited food protection manager certification organization. The certification organization shall be accredited by the American National Standards Institute as meeting the requirements of the Conference for Food Protection's "Standards for Accreditation of Food Protection Manager Certification Programs." Those food employees who successfully pass an approved certification examination shall be issued a certificate by the certifying organization. The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. Certificates shall be valid for five years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate.

(b) (1) By July 20, 2008, the department, in consultation with the California Conference of Directors of Environmental Health, representatives of the retail food industry, and other interested parties, shall develop and implement a program for the purposes of demonstrating adequate knowledge for operators of temporary food facilities.

(2) At least one of the accredited food safety certification examinations shall cost no more than sixty dollars (\$60), including the certificate. However, the department may adjust the cost of food safety certification examinations to reflect actual expenses incurred in producing and administering the food safety certification examinations required under this section. If a food safety certification examination is not available at the price established by the department, the certification and recertification requirements relative to food safety certification examinations imposed by this section shall not apply.

(3) At least one of the accredited food safety certification examinations shall be offered online.

SEC. 4. Section 113948 is added to the Health and Safety Code, to read:

113948. (a) (1) Subject to the exceptions described in subdivision (d), a food handler who is hired prior to June 1, 2011, shall obtain a food handler card from a food protection manager certification organization described in Section 113947.3 on or before July 1, 2011. Food handlers hired on or after June 1, 2011, shall obtain a food handler card within 30 days after the date of hire. Each food handler shall maintain a valid food handler card for the duration of his or her employment as a food handler.

(2) Food handler cards shall be valid for three years from the date of issuance, regardless of whether the food handler changes employers during that period.

(3) A food handler card shall be recognized throughout the state, except in jurisdictions described in subdivision (e).

(b) A food handler card shall be issued only upon successful completion of an approved food handler training course and assessment that meets at least all of the following requirements:

(1) The course provides basic, introductory instruction on the elements of knowledge described in subdivisions (a), (b), (c), (d), (e), and (g) of Section 113947.2.

(2) The course and assessment is designed to be completed within approximately two and one-half hours.

(3) The assessment consists of at least 40 questions regarding the required subject matter.

(4) A minimum score of 70 percent on the assessment is required to successfully complete the assessment.

(c) The food handler training course and assessment may be offered through a trainer-led class and assessment or self-training and assessment. For purposes of this section, “self-training and assessment” means a process where the individual trains, and takes an assessment, without the presence or intervention of a trainer or instructor, and includes, but is not limited to, training and assessment through the use of a computer program or the Internet.

(d) This section shall not apply to a food handler who is employed by any of the following:

(1) Certified farmer’s markets.

(2) Commissaries.

(3) Grocery stores, except for separately owned food facilities to which this section otherwise applies that are located in the grocery store. For purposes of this paragraph, “grocery store” means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood counter. “Grocery store” includes convenience stores.

(4) Licensed health care facilities.

(5) Mobile support units.

(6) Public and private school cafeterias.

(7) Restricted food service facilities.

(8) Retail stores in which a majority of sales are from a pharmacy, as defined in Section 4037 of the Business and Professions Code.

(9) A food facility that provides in-house food safety training to all employees involved in the preparation, storage, or service of food if all of the following conditions are met:

(A) The food facility uses a training course that has been approved for use by the food facility in another state that has adopted the requirements described in Subpart 2-103.11 of the 2001 edition of the model Food Code, not including the April 2004 update, published by the federal Food and Drug Administration.

(B) Upon request, the food facility provides evidence satisfactory to the local enforcement officer demonstrating that the food facility training program has been approved for use in another state pursuant to subparagraph (A).

(C) The training is provided during normal work hours, and at no cost to the employee.

(10) A food facility that is subject to a collective bargaining agreement with its food handlers.

(e) The requirements of this section shall not apply to a food handler subject to an existing local food handler program that took effect prior to January 1, 2009.

(f) Each food facility that employs a food handler subject to the requirements of this section shall maintain records documenting that each food handler employed by the food facility possesses a valid food handler card, and shall provide those records to the local enforcement officer upon request.

(g) At least one food handler training course and assessment shall cost no more than fifteen dollars (\$15), including a food handler card. If a food handler training course and assessment is not available at that cost, the requirement to obtain a food handler card imposed by this section shall not apply.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

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

SEC. 6. 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 to ensure a safer food supply by instituting the food handler card program at the earliest possible time, it is necessary for this act to take effect immediately.