

CONCURRENCE IN SENATE AMENDMENTS

AB 831 (Committee on Health)

As Amended July 7, 2021

Majority vote

SUMMARY

Makes various technical and clarifying changes to the California Retail Food Code (CRFC).

COMMENTS

- 1) *Limited food preparation/Section 113818*. A limited food preparation is food preparation that is limited to specific activities, including heating, roasting, dispensing, on nonprepackaged foods, nonpotentially hazardous foods, or food prepared by a catering operation for a host facility. According to the sponsor, the current definition is only permissible for a satellite operation or a catering operation that works in conjunction with a permitted host facility. Existing law defines a host facility as facility located in a brewery, winery, commercial building, or another location that supports a catering operation that provides food for a limited period of time, up to four hours, as specified. The changes to this section would clarify that limited food preparation would be allowed at all catered events, including traditional caterers.
- 2) *Limited service charitable feeding operation/Section 113819*. In 2018, AB 2178 (Limón), Chapter 489, Statutes of 2018, expanded the definition of a food facility to include a limited service charitable feeding operation whose purpose is to feed food-insecure individuals and requires limited service charitable feeding operations to register with the local enforcement agency. AB 2178 allowed these organizations to obtain a registration instead of a health permit and did not require compliance with plan review or the need to meet full commercial kitchen requirements. This bill would clarify what type of food processing would be allowed at a limited service charitable feeding operation to decrease ambiguity. Food banks and other operations have requested this clarification to allow them to serve specific food items.
- 3) *Outdoor wood burning oven/Section 113846*. Existing law defines an outdoor wood burning oven as an oven located out of the doors that utilizes wood as primary fuel for cooking (ex. pizza ovens). These outdoor wood ovens are widely used in food preparation and are currently only allowed to operate on the same premises as, and in conjunction with, a permanent food facility or a catering operation. This bill allows mobile food facilities or temporary food facilities to use wood burning oven when operating as part of a community event. According to the sponsor, the CRFC is not sufficiently clear on what local enforcement agencies can allow and these provisions will attempt to provide more consistency amongst jurisdictions. It should be noted that these changes would not approve wood-burning ovens that may be prohibited or restricted by air quality control agencies.
- 4) *Satellite food service/Section 113899*. Existing law defines satellite food service as a remotely located food service operation that is conducted on the same property with a fully enclosed permanent food facility. This definition excludes remote food service operations within a fully enclosed permanent food facility. This bill allows satellite operations that are temporary in nature (such as guacamole stations that are common practice throughout the state) to have a food service operation inside food facilities, like grocery stores. According to the sponsor, the existing definition of satellite food service would require these temporary

operations (such as seasonal, weekends only, special menu item features) to be permanently plumbed and built into the food facilities and this interpretation did not align with industry's need to have these temporary operations constructed to be easily broken down and moved.

- 5) *Glove use requirements/Section 113953.3.* Existing law establishes requirements for handwashing and glove use requirements but does not allow the use of more than one pair of gloves or double glove. Generally, to use double glove, a variance must be obtained and approved by DPH. According to the sponsor, the practice of double glove use has become widely used within California and the procedures followed are almost always approved and variance granted. The variance process is time consuming and expensive for both industry and local regulators. This bill authorizes the use of double glove and eliminates the need for industry to obtain a variance for this widely used practice by adding it into the description of approved hand washing and glove use procedures in the CRFC.
- 6) *HACCP/Section 114057.1.* Existing law establishes requirements for the Hazard Analysis and Critical Control Point (HACCP) which is a systematic approach for the identification, evaluation, and control of food safety hazards. Under California law, a food facility that packages food using reduced oxygen packing, among other requirements, the HACCP plan must describe packaging label requirements and include instructions on maintaining food temperature and to discard food within 14 calendar days if food is not served or consumed and limits refrigeration shelf life to no more than 14 calendar days. This bill proposes to replace the 14 calendar days with 30 calendar days to be consistent with the FDA Food Code standards.

Additionally, this bill requires a food facility that packages potentially hazardous foods using a cook-chill or sous vide process to meet the requirements of the FDA Food Code. To control the toxin formation of *Clostridium botulinum* (bacteria that produces foodborne botulism), the FDA Food Code requires reduced oxygen packaging, which includes cook chill packaging (in which cooked food is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed). The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens; or sous vide packaging (in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens).

- 7) *Mobile food facilities/Section 114309.* Mobile food facilities are vehicles used to sell or distribute food at retail. Existing law requires mobile food facilities to be licensed as food facilities, and are exempt from certain requirements including toilet facilities, dressing room and lockers and curbed cleaning facilities (janitorial sink). This bill proposes to allow local enforcement agencies to exempt push carts from the ventilation requirements of CRFC since push carts are primarily outdoors and venting is the same as the ambient air.
- 8) *Multiuse utensils/Section 114353.* The CRFC requires a temporary food facility to provide only single-use utensils for use by the consumer. In 2019, AB 619 (Chiu), Chapter 93, Statutes of 2019, permitted a temporary food facility to use multiuse utensils that are clean, rinsed, and sanitized, as an alternative to single-use utensils. This bill proposes to allow the use of multiuse utensils at an approved facility.

- 9) *Cottage food operation/Section 114365.2.* Current law defines cottage food operation (home based food operation) and require these operations to obtain a registration or permit. This bill proposes that for purposes of advertising to the public (through website, social media platform, newspaper, newsletter, or other public announcement), a cottage food operator must include the following on the advertisement: the county of approval, permit or registration number and a statements that the food prepared is "Made in a Home Kitchen" or "Repackaged in a Home Kitchen." These changes are necessary to verify that the operation has been permitted and to trace-back any unsafe product.
- 10) *Fish sold in a fisherman's market/Section 114378.1.* Existing law requires fish sold in a fisherman's market to be raw and may be displayed whole or eviscerated. This bill clarifies that fishermen can process and sell packaged fish from their booth, subject to prescribed safe handling requirements.
- 11) *Structural requirements Section 114380.* Existing law establishes structural requirements for the building or remodeling (including submission of plans) of retail food facilities, except for schools and churches. This bill proposes to give local enforcement agencies flexibility for plan check requirements for limited service charitable feeding organizations. This flexibility is necessary since most of these charitable organizations are run out of facilities like schools or churches that are not necessarily designed primarily to be food facilities. Since these charitable organizations are only permitted to prepare limited food preparation, local enforcement agencies would be able to allow some structural requirements necessary in a full-service food facility to be waived without compromising food safety of charitable operations that do not engage in full food preparation. This exemption is necessary to keep these charitable feeding organizations open and continue feeding those in need.

According to the Author

There are no regulations adopted to implement the CRFC so a bill is necessary to codify clean-up or technical changes to the CRFC. This bill is sponsored by the California Retail Food Safety Coalition and is a consensus among retail food stakeholders, including federal, state and local regulators, other state agencies, the restaurant and grocery industry and other stakeholders in the retail food arena.

Arguments in Support

According to the sponsor, the California Retail Food Safety Coalition, this bill makes a series of updates and improvements to CRFC that seek to clarify the interpretation of the existing law or to make the CRFC more consistent with the federal Model Food Code. It states that as representatives of the local retail food inspectors that conduct over 350,000 of retail food inspections in California each year, they believe that this measure will enhance food safety and improve compliance with the CRFC.

Arguments in Opposition

There is no known opposition.

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:**ASM HEALTH: 15-0-0**

YES: Wood, Mayes, Aguiar-Curry, Bigelow, Bonta, Burke, Carrillo, Flora, Maienschein, McCarty, Nazarian, Luz Rivas, Rodriguez, Santiago, Waldron

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, McCarty, Reyes

ASSEMBLY FLOOR: 77-0-2

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

ABS, ABST OR NV: Holden, Reyes

SENATE FLOOR: 39-0-1

YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wilk

ABS, ABST OR NV: Wiener

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CONSULTANT: Rosielyn Pulmano / HEALTH / (916) 319-2097

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