

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON HEALTH  
Mia Bonta, Chair  
SB 68 (Menjivar) – As Amended May 23, 2025

**SENATE VOTE:** 32-0

**SUBJECT:** Major food allergens.

**SUMMARY:** Adds sesame to the list of major food allergens in California Retail Food Code. Requires, commencing July 1, 2026, a food facility that serves or sells restaurant-type food to the consumer to include on all of its menus written notification of the major food allergens contained as an ingredient in each menu item. Specifically, **this bill**:

- 1) Requires the food facility to provide major food allergen information in either of the following manners:
  - a) Directly on the food facility's menu. Requires, if the food facility elects to provide major food allergen information directly on its menu, the menu item to be followed by a written statement below or immediately adjacent to the menu item indicating the major food allergens contained in the menu item.
  - b) In a digital format, including, but not limited to, using a quick response (QR) code that links directly to the food facility's digital menu.
- 2) Requires, if the food facility elects to provide the major food allergen information in a digital format, the food facility to also use an alternative method to provide the information to customers who are not able to access the information in the digital format.
- 3) Provides that the alternative method described in 2) includes, but is not limited to, any of the following:
  - a) A separate allergen-specific menu;
  - b) An allergen chart;
  - c) An allergen grid;
  - d) An allergen booklet; or,
  - e) Other written materials.
- 4) Requires the written statements required by 1) above to use either of the following when providing the information:
  - a) Common or usual names of the major food allergens.
  - b) Standardized pictograms to communicate the presence of major food allergens.

- 5) Exempts prepackaged foods that are subject to federal labeling requirements for major food allergens pursuant to 10) in existing law below.
- 6) Exempts compact mobile food operations, as defined in existing law.
- 7) Defines, for purposes of this bill:
  - a) “Major food allergen” to have the same meaning as defined in 4) in existing law below, with the inclusion of sesame.
  - b) “Menu” to have the same meaning as “menu or menu board,” as defined in 12) in existing law below.
  - c) “Restaurant-type food” to have the same meaning as defined in 13) in existing law below.

**EXISTING LAW:**

State Law:

- 1) Establishes the California Retail Food Code (CalCode) to provide for the regulation of retail food facilities. Establishes health and sanitation standards at the state level through the CalCode, while enforcement is charged to local agencies, carried out by the 58 county environmental health departments, and four city environmental health departments (Berkeley, Long Beach, Pasadena, and Vernon). [Health and Safety Code (HSC) §113700, *et seq.*]
- 2) Establishes misdemeanor penalties for violations of the CalCode, with a fine of up to \$1,000, or up to six months in the county jail, or both, unless otherwise specified. Allows a permit to be suspended or revoked by a local enforcement officer for violations, under a specified process that includes the ability for a permit holder to request a hearing. [HSC § 114395 and § 114405]
- 3) Defines a “food facility” as an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level. Excludes various entities from the definition of a “food facility,” including a cottage food operation, a church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs no more than three days in any 90-day period. [HSC § 113789]
- 4) Defines “major food allergen” as all of the following: milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, soybeans, or a food ingredient that contains protein derived from one of these foods. [HSC § 113820.5]
- 5) Requires a food facility to designate a “person in charge” and requires a person in charge to be present at the food facility during all hours of operation. Among other responsibilities, the person in charge is required to have adequate knowledge of major food allergens, 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. Requires the person in charge to educate the employees at the food facility regarding food allergens, which the person in

charge is permitted to accomplish by using a poster or job aid to which the employee can refer. [HSC § 113947]

- 6) Defines “food handler” as an individual who is involved in the preparation, storage, or service of food in a food facility. [HSC § 113790]
- 7) Requires all food handlers to obtain a “food handler card” within 30 days from the date of hire, and to maintain a valid food handler card for the duration of employment. Requires the food handler course to provide basic, introductory instructions on specified elements of knowledge, including foodborne illness, the relationship between personal hygiene and food safety, methods of preventing food contamination, and procedures for cleaning and sanitizing equipment. Requires the course to contain elements of knowledge regarding major food allergens and the symptoms they could cause in an individual who has an allergic reaction, and safe handling practices for major food allergens, including training on the avoidance of cross-contamination. [HSC § 113948]
- 8) Requires food facilities to have at least one person who has successfully passed an approved and accredited food safety certification examination, but does not require this person to be present at the food facility during all hours of operation. Specifies the requirements for the food safety certification examination, which, in addition to a more detailed version of all of the elements of knowledge for the food handler card specified in 6) above, is required to include problems and potential solutions associated with facility and equipment design, and describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual. [HSC § 113947.1 and § 113947.2]
- 9) Requires a food facility, as defined in federal law as a chain restaurant with 20 or more locations, to comply with federal menu labeling requirements that provide calorie and other nutritional information. Provides for local enforcement of the menu labeling requirement, and provides for a fine of between \$50 and \$500 for a first violation, between \$100 and \$1,000 for a second violation in a five-year period, and a fine of between \$250 and \$2,500 for subsequent violations. [HSC § 114094]
- 10) Defines “restaurant” as a retail food establishment that prepares, serves, and vends food directly to the consumer. [HSC § 114094 (c)]
- 11) Defines “nonpermanent food facilities” as a food facility that operates from a mobile unit or at a nonpermanent location, including, but not limited to, a certified farmers’ market, a fishermen’s market, a mobile food facility, a mobile support unit, a temporary food facility, or a vending machine. [HSC § 113839]

Federal Law:

- 12) Requires in federal law the label of packaged food that contains a major food allergen to include the word “Contains” followed by the name of the food source from which the major allergen is derived, printed immediately after or is adjacent to the list of ingredients, in a type size no smaller than the type size used in the list of ingredients. [21 United States Code (USC) § 343]
- 13) Defines “major food allergen,” for purposes of federal packaged food labeling requirements, as meaning milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, soybeans, and

sesame; and, a food ingredient that contains protein derived from one of the these listed foods, except for any highly refined oil derived from one of these listed foods. [21 USC § 321(qq)]

- 14) Defines “menu or menu board,” for purposes of federal requirements regarding nutrition labeling of standard menu items in chain restaurants, as the primary writing of the restaurant from which a customer makes an order selection, including, but not limited to, breakfast, lunch, and dinner menus; dessert menus; beverage menus; children's menus; other specialty menus; electronic menus; and menus on the Internet. Determining whether a writing is or is part of the primary writing of the restaurant from which a customer makes an order selection depends on a number of factors, including whether the writing lists the name of a standard menu item, and whether the writing can be used by a customer to make an order selection at the time the customer is viewing the writing. The menus may be in different forms, *e.g.*, booklets, pamphlets, or single sheets of paper. Menu boards include those inside a restaurant as well as drive-through menu boards at covered establishments. [21 Code of Federal Regulations (CFR) § 101.11(a)]
- 15) Defines “restaurant type food,” for purposes of federal requirements regarding nutrition labeling of standard menu items in chain restaurants, as food that is usually eaten on the premises, while walking away, or soon after arriving at another location; and, that is either a) served in restaurants or other establishments in which food is served for immediate human consumption, or b) processed and prepared primarily in a retail establishment, ready for human consumption, and offered for sale to consumers but not for immediate human consumption and which is not offered for sale outside of such establishment. [21 CFR § 101.11(a)]

**FISCAL EFFECT:** According to the Senate Committee on Appropriations analysis, minor and absorbable costs for the California Department of Public Health (DPH) for state operations (Food Safety Fund). Unknown, potential ongoing General Fund costs to reimburse local environmental health agencies for increased enforcement workload. Cost to local agencies for administration would be potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

**COMMENTS:**

- 1) **PURPOSE OF THIS BILL.** According to the author, even though eating at restaurants poses a risk of allergic reactions for people with food allergies, there exists an inadequate and/or inconsistent labeling of allergens in foods. The author continues that restaurants are not required to label significant food allergens on their menus, even though they do need to be aware of the symptoms that a significant food allergen could cause in a sensitive individual who has an allergic reaction and to educate food facility employees regarding those matters. The author contends that current practice is not enough, considering that the Centers for Disease Control and Prevention (CDC) has found that half of all fatal allergic reactions occur from restaurant food, and 75% of allergic reactions occur at restaurants. The author states that as someone who is allergic to several food groups, the author has been sent to the emergency room twice after eating food at a restaurant that was not properly labeled. The author notes that in 2014, the European Union (EU) mandated that all restaurants would be required to label 14 allergens in restaurants. The author contends that California can follow suit and create a win-win solution for the food allergy community and restaurants by

making it safer to consume meals. The author states this bill would mandate universal allergen disclosures for the nine federally recognized allergens such as milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, sesame, and soybeans on all restaurant menus. The author concludes that this bill will ensure that all adults and children are able to enjoy a meal comfortably without the fear that consuming this meal would lead to a severe or tragic experience.

## 2) BACKGROUND.

- a) **Prevalence of Food Allergies.** According to the American Academy of Allergy, Asthma and Immunology, when someone has a food allergy, their immune system overreacts to a particular protein found in that food. Many food allergies are first diagnosed in young children, though they may also appear in older children and adults.

According to DPH, allergic reactions associated with the consumption of specific foods are a growing public health concern. DPH indicates that an estimated 15 million people in the United States (US), including 4% to 6% of children, are affected by food allergies. Symptoms can range from a minor rash, hives, and swelling of the facial area to anaphylaxis, a life-threatening condition. Anaphylaxis can lead to constricted airways and a severe lowering of blood pressure and is estimated to result in 30,000 emergency room visits and 150 deaths in the US annually. DPH notes that while scientific advances in the treatment of food allergies continue to be made, no cure has been developed. In order to prevent serious health outcomes, consumers must avoid consumption of foods containing the allergen and seek medical attention for the symptoms as soon as they start to develop.

There are many types of foods that cause allergic reactions. However, 90% of the reactions are caused by nine foods: Cow's milk; Eggs; Fish; Peanuts; Shellfish; Soy; Tree nuts; Wheat; and, Sesame. Sesame is not currently on the list of major food allergens in the CalCode. This bill adds sesame to the list.

- b) **Food Allergies in Restaurants.** A 2014 report published on the CDC Morbidity and Mortality Weekly report, examined 13 years of data and found that nearly half of reported fatal food allergy reactions were from food from a restaurant or food establishment. According to a 2020 report in the Allergy Clinical Immunology Practice Journal titled "*Characteristics of Food Allergic Reactions in United States Restaurants*", these common occurrences that could end up being deadly were cut in half when allergens were declared on menus and even more so when patrons had a conversation in addition to labeling. Of the allergic reactions, 53.9% occurred despite the conveyance of food allergy to restaurant staff, and 26.6% occurred when allergens were declared on the menu. However, when restaurant staff was informed of a food allergy and the allergens were declared on the menu that percentage dropped to 13.7%.
- c) **Other countries.** The EU enacted a regulation that has been in effect since 2014 that, among other provisions, requires mandatory allergen information for non-prepackaged food, including in restaurants. The regulation lists 14 allergens that are required to be disclosed in Europe, and include the following ingredients, which are not among the major allergens required to be disclosed on packaged food labels in the US: celery, mustard, sesame seeds, and sulphur dioxide. While the EU regulations require the 14 allergens to be disclosed at restaurants, the regulations permit member countries to adopt national measures concerning the means through which the allergen information is to be

made available and their form of expression and presentation. In the absence of national measures, the regulations require the information about allergens to be easily visible, clearly legible, and, where appropriate, provided in written form. The regulations do not permit restaurants to comply with this requirement simply by providing allergen information only upon the request of the consumer.

The United Kingdom has adopted best practices for restaurants and other food businesses that serve non-prepackaged food to comply with the EU requirements. These best practices specify that food businesses should make allergen information easily available in writing for consumers and ensure staff are able to support this with a conversation. Written allergen information should be readily available, if possible, without consumers having to ask for it, such as on the main menu (paper or digital), allergen booklet on a counter, or matrix displayed on a wall in a consumer accessible area. If the information is not on the main menu, food businesses should let consumers know where allergen information can be found with a clear message on the menu. Food businesses who do not use a menu should display this message where they display their food options such as on a board or next to food in a counter.

- d) Efforts related allergens at the federal level.** The Food and Drug Administration (FDA) maintains a model Food Code, which does not have the force of law or regulation and is not preemptive. The FDA's purpose in maintaining an updated model food code is to assist food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail segment of the food industry. The retail segment includes those establishments or locations in the food distribution chain where the consumer takes possession of the food.

Rather, it represents FDA's best advice for a uniform system of regulation to ensure that food at retail is safe and properly protected and presented. The provisions are designed to be consistent with federal food laws and regulations, and are written for ease of legal adoption at all levels of government.

The model Food code was last updated in 2022. Some of the significant changes to the 2022 Food Code include: Adding sesame as the ninth major food allergen and requiring written notification to consumers of major food allergens as ingredients in unpackaged food and labeling of major food allergens in bulk food that is available for consumer self-dispensing. Written notification of food allergens in unpackaged foods includes allergen labeling for restaurant meals, as well as food sold in grocery stores' delis and bakeries, sandwich shops, ice cream parlors, and by caterers and food trucks. The FDA defines these and more as "food establishments." The 2022 model Food Code says that "written notification" of top allergens can be provided in many forms such as physical or electronic means, but not limited to, brochures, deli case or menu notifications, label statements, table tents, placards, or other effective written means.

The FDA provided further guidance that the written notification could be provided in physical or electronic form, including but not limited to: brochures, deli case or menu notifications, label statements, table tents, placards, or "other effective written means."

- e) Federal Food Traceability Rule.** The FDA final rule on Requirements for Additional Traceability Records for Certain Foods (Food Traceability Final Rule) establishes traceability recordkeeping requirements, beyond those in existing regulations, for persons

who manufacture, process, pack, or hold foods included on the Food Traceability List (FTL). The final rule is a key component of FDA's New Era of Smarter Food Safety Blueprint and implements Section 204(d) of the FDA Food Safety Modernization Act (FSMA). The new requirements identified in the final rule will allow for faster identification and rapid removal of potentially contaminated food from the market, resulting in fewer foodborne illnesses and/or deaths. Several foods containing major food allergens are on the list including but not limited to certain types of cheeses, shell eggs, nut butters, certain types of fish and crustaceans.

- 3) **SUPPORT.** This bill is co-sponsored by Robyn Huey Lao and Addie Lao and the Asthma and Allergy Foundation (AAF). AAF writes in support, an estimated 2.5 million California residents live with food allergies. AAF continues that exposure to allergens can lead to severe reactions, including anaphylaxis and, in some cases, death. AAF continues that because food allergies have no treatment beyond strict avoidance, access to clear allergen information is critical. AAF continues that while federal laws have made it easier for individuals to avoid allergens in packaged foods, the labeling of restaurant food remains a significant gap in consumer safety. AAF notes that dining in restaurants represents the highest risk setting for food allergy reactions. AAF continues that nearly 50% of reported fatal food allergy reactions are a result of food consumed from a restaurant or food establishment, and 75% of all food allergy reactions occur in a restaurant setting. AAF continues that without menu disclosures and food-allergy trained staff, individuals with allergies must rely on verbal assurances from staff and spend significant amounts of time researching safe places to dine. AAF contends that allergen disclosures take up minimal space on a menu and serve a vital public health function by helping consumers avoid potentially fatal allergic reactions. AAF concludes by urging the legislature to pass this bill into law and take an important step toward preventing needless allergic reactions and deaths.
- 4) **OPPOSITION.** The Golden Gate Restaurant Association (GGRA) writes in opposition, stating that restaurants never want their guests to be in a situation where they are surprised by a potentially problematic ingredient in a dish. GGRA continues that the current practice at most restaurants is for servers to discuss allergies with diners as part of the ordering process, allowing for a detailed discussion of all ingredients in menu items and is crucial to the safety of guests. GGRA is concerned that menus cannot capture completely the allergen risks introduced through sourcing, manufacturing, or cross-contact during prep in kitchens and that this could lead to liability issues for businesses. GGRA also has significant concerns that this law would require menu redesign and reprinting and/or reproduction costs for all California restaurants during this challenging time for the industry. GGRA concludes that as written, this bill is also unclear as to requirements and states that the short timeline for implementation may create imperfect fixes rather than making dining safer for all Californians.
- 5) **OPPOSE UNLESS AMENDED.** The California Restaurant Association (CRA) opposes this bill unless it is amended and states, by mandating a static, one-size-fits-all menu labeling system, this bill could inadvertently create a false sense of security for food allergy guests, suggesting that menu labels alone provide full protection when they often cannot capture the complexity of restaurant operations, cross-contact risks, or frequent ingredient changes. CRA fears this bill's burdensome compliance model could lead some restaurants to stop serving food allergy guests altogether, out of fear of liability or difficulty maintaining up-to-date disclosures. To address this threat, CRA asks for amendments that clarify that the bill does

not alter any duty that a food facility may have under common law to reasonably ensure the safety of its patrons or consumers. CRA concludes that this bill should require allergen disclosure from all entities selling and serving food to the general public and ensure that those covered by this bill are not subject to any new legal liabilities for good faith compliance efforts.

- 6) **RELATED LEGISLATION.** SB 764 (Weber Pierson) would require a chain restaurant that sells a children's meal to offer at least one children's meal that meets specified nutritional requirements. SB 764 is pending in the Assembly Health Committee.

7) **PREVIOUS LEGISLATION.**

- a) AB 1532 (Bauer-Kahan), Chapter 131, Statutes of 2019 enacts the Natalie Giorgi Sunshine Act to require the food handler training course to include instructions on safe handling food practices for major food allergens.
  - b) SB 1192 (Monning), Chapter 608, Statutes of 2018 requires restaurants that sell children's meals to make either water, milk, or a nondairy milk alternative the default beverage that is offered with the children's meal.
  - c) SB 1067 (Huff), Chapter 195, Statutes of 2016, among other provisions, requires the food safety certification examination, which must be completed by at least one person at every retail food facility, to include major food allergens and the symptoms that these allergens could cause in individuals who have allergic reactions.
  - d) SB 1420 (Padilla and Migden), Chapter 600, Statutes of 2008 requires every food facility in the state that operates under common ownership or control or operates as a franchised outlet of a parent company, with at least 19 other food facilities or franchises with the same name that sell substantially the same menu items, to disclose to consumers specified nutritional information for all standard menu items. SB 1420 excludes specified facilities, such as grocery stores, convenience stores, public and private school cafeterias, and vending machines from these requirements. SB 1420 also provides definitions for calorie content information, drive-through, menu board, and others, for the purpose of the bill, and describes nutritional information to include total number of calories, grams of carbohydrates, grams of saturated fat; and milligrams of sodium.
- 8) **POLICY COMMENT.** CRA raises concerns regarding liability for restaurants due to the nature of potential vulnerabilities associated with the supply chain as it relates to ingredient specificity. In an effort to address these concerns, the author has agreed to amend the bill to focus the notification requirement on allergens that the restaurant knows or reasonably should know. Additionally, the author has agreed to amendments providing that this bill does not alter any duty a restaurant may have under existing law to reasonably ensure the safety of its patrons. According to the Assembly Committee on Judiciary, there are many cases that discuss the duties of businesses, including restaurants, to ensure the safety of patrons on their premises. The duty applies to everything from clear aisles and dry floors, to safe food because of the "special relationship" between the business and its customers. Some such cases are highlighted below:

"It is established that business proprietors such as . . . restaurants . . . owe a duty to their patrons to maintain their premises in a reasonably safe condition, and that this duty includes



an obligation to undertake 'reasonable steps to secure common areas against foreseeable criminal acts of third parties that are likely to occur in the absence of such precautionary measures.'" [Delgado v. Trax Bar & Grill (2005) 36 Cal.4th 224, 229.]

Businesses in particular have a common law duty of ordinary care to their customers that extends to the floors or walking surfaces of the business that they are likely to pass over, including passageways outside the premises over which they have control. (See Hassaine, at pp. 847, 852 [store owner or possessor "has the duty 'to exercise ordinary care and prudence to keep the aisles and passageways of the premises in and through which, by their location and arrangement, a customer in making purchases is induced to go, in a reasonably safe condition so as not unnecessarily to expose the customer to danger or accident'"; the "duty extends to all parts of the premises over which the proprietor has control"].

Additionally, as this bill is placed in CalCode and its provisions are subject to enforcement by local enforcement agencies, the author may wish to consider continuing to work with local enforcement agencies regarding enforcement.

## **9) AMENDMENTS.**

- a) **APPLICATION.** As currently drafted, this bill applies to food facilities that serve or sell restaurant-type food. The term "food facility" in CalCode is broad. To reduce confusion regarding this bill's application, the Committee may wish to strike the reference to food facility and instead use the term restaurant. To add further clarity, the Committee may wish to exempt nonpermanent food facilities from the provisions of this bill.
- b) **LIABILITY.** To address concerns from the restaurant industry regarding liability associated with supply chain vulnerabilities, the Committee may wish to amend the bill to focus the requirement to provide written notification of major food allergens to those which the restaurant knows or reasonably should know. Additionally, the Committee may wish to amend this bill to expressly provide that this bill does not alter any duty that a restaurant may have under existing law to reasonably ensure the safety of its patrons.
- c) **TIERED SYSTEM OF COMPLIANCE.** To address concerns as it relates to the impact of neighborhood restaurants, the Committee may wish to amend this bill to require large and medium restaurant chains to comply with the broader provisions, and include flexibility for small restaurant chains to provide a written notification of major food allergens that it knows or reasonably should know in a manner that is readily available and accessible, which may include a digital format such as a QR code, separate allergen-specific menu, allergen chart, allergen grid, allergen booklet, or other written materials and in doing so utilize either common or usual names of the major food allergens or standardized pictograms to communicate the presence of major food allergens. The Committee may wish to define a large chain restaurant (20 or more locations in the state), a medium chain restaurant (6 to 19 locations in the state), and a small chain restaurant (five or fewer locations in the state).

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Asthma and Allergy Foundation of America (sponsor)  
A Voice for Choice Advocacy  
Advocacy Council of the American College of Allergy, Asthma and Immunology  
Allergy & Asthma Network  
American Academy of Pediatrics, California  
American Nurses Association/California  
Ben's Allergy and Restaurant Reviews  
California Association for Nurse Practitioners  
California Medical Association (CMA)  
California Society for Allergy, Asthma and Immunology (CSAAI)  
California State PTA  
Center for Science in the Public Interest  
CertiStar  
Cured  
Elijah-Alavi Foundation  
Food Allergy & Anaphylaxis Connection Team (FAACT)  
Food Allergy Nurses Association  
Food Allergy Psychologist, Don't Feed the Fear Podcast  
Food Allergy Support Team of the East Bay  
Food Is Good, Inc.  
Foodini  
Green Policy Initiative  
Lauren's Hope Medical ID Jewelry  
Menutrinfo, LLC  
Napnap California  
Natalie Giorgi Sunshine Foundation  
National Association of Pediatric Nurse Practitioners (NAPNAP)  
National Association of Social Workers, California Chapter  
No Nut Traveler Inc.  
Rady Children's Hospital  
Red Sneakers for Oakley  
Sierra Sacramento Valley Medical Society  
Snack Safely  
Stanford Medicine Children's Health  
Thrive! Meetings & Events  
Translational Pulmonary and Immunology Research Center  
Several individuals

**Opposition**

Events Management  
Golden Gate Restaurant Association (GGRA)  
Mei Hua Collective Inc.  
The Boardroom  
Tiger and Crane LLC

**Analysis Prepared by:** Eliza Brooks / HEALTH / (916) 319-2097