

SENATE THIRD READING
SB 68 (Menjivar)
As Amended September 4, 2025
Majority vote

SUMMARY

Adds sesame to the list of major food allergens in California Retail Food Code (CRFC) and requires, commencing July 1, 2026, *a food facility that is subject to federal menu labeling requirements* to provide written notification of the major food allergens that the **food facility** knows or reasonably should know are contained in each menu item.

Major Provisions

- 1) *Adds sesame to the definition of major food allergen in the CFRC.*
- 2) *Requires, commencing July 1, 2026, a food facility that is subject to federal menu labeling requirements to provide written notification of major food allergens that the restaurant knows or reasonably should know are contained as ingredients in each menu item, in either of the following manners:*
 - a) *Directly on the food facility's menu, followed by a written statement immediately below or adjacent to the menu item indicating the major food allergens contained in the menu item; or,*
 - b) *In a digital format, including a quick response (QR) code that links to the food facility's digital menu. If the food facility provides information in a digital format, the restaurant must also provide an alternative method, such as a separate, allergen-specific menu, an allergen chart or grid, an allergen booklet, or other written materials.*
- 3) *Authorizes an enforcement agency to use either of the following methods to evaluate a food facility's compliance with this bill:*
 - a) *Visual verification of allergen disclosure. An enforcement officer is authorized to confirm the presence of required allergen statements on printed menus, digital menus, or the alternative methods described in 2) b) above; or,*
 - b) *Other reasonable methods of verification consistent with the intent of this bill.*
- 4) *Clarifies this bill does not apply to prepackaged foods, compact mobile operations, or nonpermanent food facilities, as defined.*
- 5) *Clarifies this bill does not alter any duty that a food facility may have under existing law to reasonably ensure the safety of its patrons.*

COMMENTS

Prevalence of Food Allergies. According to the California Department of Public Health (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.

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 CRFC. This bill adds sesame to the list.

Food Allergies in Restaurants. A 2014 report published on the federal Centers for Disease Control and Prevention (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%.

European Union (EU). 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 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.

Federal Model Food Code. 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. 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, and includes sesame as a major food allergen and requires written notification of major food allergens as ingredients in unpackaged food, including restaurant meals. The model Food Code states "written notification" of top allergens can be provided in many forms such as physical or electronic means, including brochures, deli case or menu notifications, label statements, table tents, placards, or other effective written means.

Federal Menu Labeling Requirements. According to DPH's website, California Health and Safety Code Section 114094, establishes provisions for menu labeling requirements in California that conform with the existing federal law and FDA menu labeling regulations that were promulgated under the Patient Protection and Affordable Care Act. The federal menu labeling requirements in Title 21, United States Code (USC) Section 343(q)(5)(H), requires chain restaurants with 20 or more locations operating under the same business name with substantially

the same menu, and "other similar" eating establishments, to provide nutrition information related to standard menu items.

Under the United States Food and Drug Administration (FDA) menu labeling requirements, chain restaurants and similar retail food establishments were required to comply with the menu labeling requirements beginning May 7, 2018. This rule applies to restaurants and similar retail food establishments if they are part of a chain of 20 or more locations, doing business under the same name, offering for sale substantially the same menu items and offering for sale restaurant-type foods. The total number of establishments is based on number located within the United States. Chains with less than 20 locations in California but 20 or more throughout the United States are subject to the rule and enforceable in California.

Please see the Assembly Health Committee analysis for additional background.

According to the Author

Even though eating at restaurants poses a risk of allergic reactions for people with food allergies, there is an inadequate and/or inconsistent labeling of allergens in foods. The author states 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 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 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.

Arguments in Support

This bill is co-sponsored by Robyn Huey Lao and Addie Lao and the Asthma and Allergy Foundation (AAF). AAF states that 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 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.

Arguments in 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. The California Restaurant Association opposes this bill unless 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.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, DPH estimates minor and absorbable costs to conduct initial training and create and post on its website a Frequently Asked Questions document, which DPH can complete with existing resources. The California Association of Environmental Health Administrators (CAEHA) states local governments will need to update inspection forms, brief staff on the new law, and monitor the presence or absence of the required allergy labeling, with minor cost impacts on local governments. CAEHA states local jurisdictions do not seek state reimbursement for updating forms and local training.

VOTES

SENATE FLOOR: 32-0-8

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cortese, Durazo, Gonzalez, Grayson, Grove, Hurtado, Laird, McGuire, McNerney, Menjivar, Niello, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Cervantes, Choi, Dahle, Jones, Limón, Ochoa Bogh, Reyes, Strickland

ASM HEALTH: 14-1-1

YES: Bonta, Addis, Aguiar-Curry, Caloza, Rogers, Flora, Mark González, Elhawary, Patel, Celeste Rodriguez, Sanchez, Schiavo, Sharp-Collins, Stefani

NO: Ellis

ABS, ABST OR NV: Chen

ASM APPROPRIATIONS: 11-2-2

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

NO: Dixon, Tangipa

ABS, ABST OR NV: Jeff Gonzalez, Ta

UPDATED

VERSION: September 4, 2025

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