

AMENDED IN SENATE MARCH 28, 2012

SENATE BILL

No. 1486

Introduced by Senator Lieu

February 24, 2012

An act ~~relating to food~~ to add Section 114092 to the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1486, as amended, Lieu. Food facilities: menu labeling.

The Sherman Food, Drug, and Cosmetic Law contains various provisions regarding the contents, packaging, labeling, and advertising of food, drugs, and cosmetics. The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. A violation of any of these provisions is punishable as a ~~misdemeanor~~.

~~The~~

~~misdemeanor.~~ The code requires fish that are received for sale or service to be commercially and legally caught or harvested. The code also imposes various labeling and storage requirements for shellstock.

~~This bill would declare the intent of the Legislature to enact legislation to ensure that consumers receive certain information regarding seafood.~~

This bill would require a retail food facility, as defined, that offers or sells as a menu item seafood, as defined, that is raised, caught, or produced outside the United States to identify on the menu specified information regarding the seafood.

The bill would require the department or local enforcement agencies to enforce these provisions, as specified, and would make a violation an infraction or subject to a civil penalty.

By expanding the definition of a crime and imposing additional duties upon local 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.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 114092 is added to the Health and Safety
2 Code, to read:
3 114092. (a) A retail food facility that offers or sells as a menu
4 item seafood that is raised, caught, or produced outside the United
5 States shall identify on the menu all of the following information:
6 (1) The species of seafood.
7 (2) The country in which the seafood was raised or caught.
8 (3) Whether the seafood was raised or caught wild.
9 (b) (1) Enforcement of this section shall be pursuant to Section
10 113713.
11 (2) (A) A violation of this section is, notwithstanding Section
12 114395, an infraction, punishable by a fine of not less than fifty
13 dollars (\$50) nor more than five hundred dollars (\$500). A second
14 violation within a five-year period from a prior violation shall be
15 punishable by a fine of not less than one hundred dollars (\$100)
16 nor more than one thousand dollars (\$1,000). For a third or
17 subsequent violation within a five-year period, the fine shall be
18 not less than two hundred fifty dollars (\$250) nor more than two
19 thousand five hundred dollars (\$2,500). A food facility shall not

1 *be found to have committed a violation under this paragraph more*
2 *than once during an inspection visit.*

3 *(B) Alternatively, the enforcement agency may assess a civil*
4 *penalty of an amount that is no less than or greater than the*
5 *amounts specified for fines in this paragraph.*

6 *(c) For purposes of this section, all of the following definitions*
7 *shall apply:*

8 *(1) "Food facility" means a food facility in the state that*
9 *operates as part of a chain with at least 19 other food facilities*
10 *doing business with the same name and offering for sale*
11 *substantially the same menu items.*

12 *(2) "Seafood" means naturally born, hatchery-raised, net-pen*
13 *aquacultural, or farm-raised fish and shellfish. "Seafood" includes*
14 *a fillet, steak, nugget, and any other flesh from fish or shellfish.*

15 *SEC. 2. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution for certain*
17 *costs that may be incurred by a local agency or school district*
18 *because, in that regard, this act creates a new crime or infraction,*
19 *eliminates a crime or infraction, or changes the penalty for a crime*
20 *or infraction, within the meaning of Section 17556 of the*
21 *Government Code, or changes the definition of a crime within the*
22 *meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*

24 *However, if the Commission on State Mandates determines that*
25 *this act contains other costs mandated by the state, reimbursement*
26 *to local agencies and school districts for those costs shall be made*
27 *pursuant to Part 7 (commencing with Section 17500) of Division*
28 *4 of Title 2 of the Government Code.*

29 ~~SECTION 1. It is the intent of the Legislature to enact~~
30 ~~legislation that would ensure that consumers know the true source~~
31 ~~of seafood through enhanced disclosure and country of origin~~
32 ~~labeling.~~