

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN ASSEMBLY JULY 3, 2007

AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN SENATE APRIL 23, 2007

AMENDED IN SENATE MARCH 21, 2007

AMENDED IN SENATE MARCH 8, 2007

SENATE BILL

No. 120

Introduced by Senators Padilla and Migden

(Principal coauthor: Assembly Member DeSaulnier)

(Coauthors: Senators Alquist and Cedillo)

(Coauthors: Assembly Members Coto, Hernandez, Mendoza, Saldana,
and Solorio)

January 22, 2007

An act to add Section 114094 to the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 120, as amended, Padilla. Food facilities: nutritional information.

The California Uniform Retail Food Facilities Law (CURFFL) provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Under existing law local health agencies are primarily responsible for enforcing CURFFL. A violation of any of these provisions is punishable as a misdemeanor.

This bill would require each food facility in the state that meets specified criteria to provide nutritional information that includes, per standard menu item, the total number of calories, grams of saturated fat, grams of trans fat, and milligrams of sodium on standard menus. It would also require the menu boards to include the total number of calories. The bill would provide that, on and after July 1, 2009, a food facility that violates the provisions of the bill is guilty of an infraction, and would specifically provide that a violation of these provisions is not a misdemeanor. By creating an infraction and adding a new local enforcement duty, 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: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Research continues to reveal the strong link between diet
- 4 and health, and that diet-related diseases start early in life.
- 5 (b) Increased caloric intake is a key factor contributing to the
- 6 alarming increase in obesity in the United States. According to the
- 7 Centers for Disease Control and Prevention, two-thirds of
- 8 American adults are overweight or obese, and the rates of obesity
- 9 have tripled in children and teens since 1980.
- 10 (c) Obesity increases the risk of diabetes, heart disease, stroke,
- 11 some cancers, and other health problems.
- 12 (d) Basic nutritional information is extremely important to
- 13 consumers who are dealing with chronic diseases like
- 14 cardiovascular disease and diabetes.

1 (e) Over the past two decades, there has been a significant
2 increase in the number of meals prepared or eaten outside the
3 home, with an estimated one-third of calories and almost one-half
4 (46 percent) of total food dollars being spent on food purchased
5 from or eaten at restaurants and other food facilities.

6 (f) Three-quarters of American adults report using food labels
7 on packaged foods, which are required by the Nutrition Labeling
8 and Education Act of 1990.

9 (g) Consumers should be provided with point of purchase access
10 to nutritional information when eating out in order to make
11 informed decisions involving their health and diet.

12 (h) It is the intent of the Legislature to provide consumers with
13 better access to nutritional information about prepared foods sold
14 at food facilities so that consumers can understand the nutritional
15 value of available foods.

16 SEC. 2. Section 114094 is added to the Health and Safety Code,
17 to read:

18 114094. (a) Except as provided in subdivision (e), each food
19 facility in this state that operates under common ownership or
20 control with at least ~~nine~~ 14 other food facilities with the same
21 name in the state that offer for sale substantially the same menu
22 items, or operates as a franchised outlet of a parent company with
23 at least ~~nine~~ 14 other franchised outlets with the same name in the
24 state that offers for sale substantially the same menu items, shall
25 make nutritional information available to consumers for all standard
26 menu items. This information shall include, but not be limited to,
27 all of the following, per standard menu item, as usually prepared
28 and offered for sale:

- 29 (1) Total number of calories.
- 30 (2) Total number of grams of saturated fat.
- 31 (3) Total number of grams of trans fat.
- 32 (4) Total number of carbohydrates.
- 33 (5) Total number of milligrams of sodium.

34 (b) Each food facility that uses a standard menu shall provide
35 the nutritional information next to each item on the menu in a size
36 and typeface that is clear and conspicuous. A page of the menu
37 shall include, in a clear and conspicuous manner, the following
38 statement: “Recommended limits for a 2,000 calorie daily diet are
39 20 grams of saturated fat and 2,300 milligrams of sodium.” If the
40 food facility also uses a menu board, the food facility may limit

1 the nutritional information listed on the menu board to the total
2 number of calories per item in a size and typeface that is clear and
3 conspicuous.

4 (c) Each food facility that uses only a menu board shall provide
5 on the menu board the total number of calories per item in a size
6 and typeface that is clear and conspicuous. This type of food
7 facility shall, upon request, make the other nutritional information
8 described in subdivision (a) available to consumers in writing at
9 the point of sale.

10 (d) Menus and menu boards may include a disclaimer that
11 indicates that there may be minimal variations in nutritional content
12 across servings, based on slight variations in overall size and
13 quantities of ingredients, and based on special ordering.

14 (e) *The nutritional information required by this section shall*
15 *be based upon a verifiable analysis of the menu item, which may*
16 *include the use of nutrient databases, laboratory testing, or other*
17 *reliable methods of analysis.* This section does not apply to items
18 that are on the menu for less than six months, to condiments, and
19 to other items placed on the table or counter for general use without
20 charge. This section also does not apply to alcoholic beverages.
21 This section also does not apply to the following types of food
22 facilities:

- 23 (1) Certified farmers' markets.
- 24 (2) Commissaries.
- 25 (3) Licensed health care facilities.
- 26 (4) Mobile support units.
- 27 (5) Public and private school cafeterias.
- 28 (6) Restricted food service facilities.
- 29 (7) Temporary food facilities.
- 30 (8) Vending machines.
- 31 (9) Grocery stores, except for separately owned food facilities
32 to which this section otherwise applies that are located in the
33 grocery store. For purposes of this paragraph, "grocery store"
34 means a store primarily engaged in the retail sale of canned foods,
35 dry goods, fresh fruits and vegetables, and fresh and prepared
36 meats, fish, and poultry, and includes convenience stores.

37 (f) Commencing July 1, 2009, a food facility that violates this
38 section is guilty of an infraction, punishable by a fine of not less
39 than fifty dollars (\$50) or more than five hundred dollars (\$500)
40 ~~for each violation~~, which may be assessed by a local enforcement

1 agency. *However, a food facility may not be found to violate this*
2 *section more than once during an inspection visit.* Notwithstanding
3 Section 113935, a violation of this section is not a misdemeanor.

4 SEC. 3. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution for certain
6 costs that may be incurred by a local agency or school district
7 because, in that regard, this act creates a new crime or infraction,
8 eliminates a crime or infraction, or changes the penalty for a crime
9 or infraction, within the meaning of Section 17556 of the
10 Government Code, or changes the definition of a crime within the
11 meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 However, if the Commission on State Mandates determines that
14 this act contains other costs mandated by the state, reimbursement
15 to local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.