

Senate Bill No. 557

CHAPTER 285

An act to add Article 13 (commencing with Section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety.

[Approved by Governor September 25, 2017. Filed with
Secretary of State September 25, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 557, Hernandez. Food donations and pupil meals: schools.

The California Retail Food Code establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities and various types of food. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. A violation of any of these provisions is a crime. Existing law generally prohibits food that is unused or returned by the consumer, after being served or sold and in the possession of a consumer, from being offered as food for human consumption. Existing law authorizes a container of food that is not potentially hazardous to be transferred from one consumer to another if the food is dispensed so that it is protected from contamination and the container is closed between uses or if the food is in an unopened original package and is maintained in sound condition, and if the food is checked periodically on a regular basis.

This bill would exempt from this prohibition specified food that food service staff, pupils, and faculty return to a sharing table at a local educational agency, as defined, and that is made available to pupils during the course of a regular school meal time or then donated to a food bank or any other nonprofit charitable organization, as specified.

This bill would require the State Department of Education to update specified guidelines on the donation of leftover food.

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

SECTION 1. Article 13 (commencing with Section 49580) is added to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, to read:

Article 13. Food Recovery Program

49580. For purposes of this article, the following terms have the following meanings:

(a) “Food” has the same meaning as in Section 113781 of the Health and Safety Code.

(b) “Food bank” has the same meaning as in Section 113783 of the Health and Safety Code.

(c) “Nonprofit charitable organization” has the same meaning as in Section 113841 of the Health and Safety Code.

49581. The department shall update its guidance on the donation of leftover food to allow a public school cafeteria to donate food to a food bank or to any other nonprofit charitable organization for distribution to persons free of charge or to make leftover food available to pupils during the course of a regular school meal time that is consistent with Section 114079 of the Health and Safety Code.

SEC. 2. Section 114079 of the Health and Safety Code is amended to read:

114079. (a) Except as specified in subdivisions (b) and (c), after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer shall not be offered as food for human consumption.

(b) A container of food that is not potentially hazardous may be transferred from one consumer to another if the food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine, or if the food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition, and if the food is checked periodically on a regular basis.

(c) (1) A local educational agency may do both of the following to minimize waste and to reduce food insecurity:

(A) Provide sharing tables where food service staff, pupils, and faculty may return appropriate food items consistent with subparagraph (B) and make those food items available to pupils during the course of a regular school meal time.

(B) Allow the food placed on the sharing tables that is not taken by a pupil during the course of a regular school meal time in accordance with subparagraph (A) to be donated to a food bank or any other nonprofit charitable organization.

(2) Donations of food or food made available to pupils during the course of a regular school meal time pursuant to paragraph (1) may include prepackaged, nonpotentially hazardous food with the packaging still intact and in good condition, whole uncut produce that complies with Section 113992 before donation, unopened bags of sliced fruit, unopened containers of milk that are immediately stored in a cooling bin maintained at 41 degrees Fahrenheit or below, and perishable prepackaged food if it is placed in a proper temperature-controlled environment.

(3) When a local educational agency, pursuant to paragraph (1), makes food available to pupils during the course of a regular school meal time or donates food to a food bank or any other nonprofit charitable organization

for distribution, the preparation, safety, and donation of food shall be consistent with Section 113980.

(4) For purposes of this subdivision, “local educational agency” means a county office of education, school district, or charter school.

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