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AB-1884 Food facilities: single-use plastic straws. (2017-2018)

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Assembly Bill No. 1884

CHAPTER 576

An act to add Chapter 5.2 (commencing with Section 42270) to Part 3 of Division 30 of the Public Resources Code, relating to food facilities.

[Approved by Governor September 20, 2018. Filed with Secretary of State September 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1884, Calderon. Food facilities: single-use plastic straws.

Existing law, 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, as defined. Existing law defines "enforcement officer," for purposes of enforcing these provisions, to mean certain appointees of the State Public Health Officer, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees.

Existing law prohibits certain stores from providing a single-use carryout bag to a customer at the point of sale.

This bill would prohibit a full-service restaurant, as specified, from providing single-use plastic straws, as defined, to consumers unless requested by the consumer. The bill would specify that the first and 2nd violations of these provisions would result in a notice of violation and any subsequent violation would be an infraction punishable by a fine of \$25 for each day the full-service restaurant is in violation, but not to exceed an annual total of \$300. The provisions would be enforced by the same officers authorized to enforce the California Retail Food Code. By creating a new crime and imposing additional enforcement duties on local health agencies, 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 5.2 (commencing with Section 42270) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.2. Single-Use Plastic Straws

42270. For purposes of this chapter, the following definitions shall apply:

- (a) "Consumer" has the same meaning as in Section 113757 of the Health and Safety Code.
- (b) "Enforcement officer" has the same meaning as in Section 113774 of the Health and Safety Code.
- (c) "Single-use plastic straw" means a single-use, disposable tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage. "Single-use plastic straw" does not include a straw made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, or bamboo.
- (d) "Full-service restaurant" means an establishment with the primary business purpose of serving food, where food may be consumed on the premises, and where all of the following actions are taken by an employee of the establishment:
 - (1) The consumer is escorted or assigned to an assigned eating area. The employee may choose the assigned eating area or may seat the consumer according to the consumer's need for accommodation or other request.
 - (2) The consumer's food and beverage orders are taken after the consumer has been seated at the assigned seating area.
 - (3) The food and beverage orders are delivered directly to the consumer.
 - (4) Any requested items associated with the consumer's food or beverage order are brought to the consumer.
 - (5) The check is delivered directly to the consumer at the assigned eating area.

42271. (a) A full-service restaurant shall not provide a single-use plastic straw to a consumer unless requested by the consumer.

(b) This section shall be enforced by an enforcement officer. The first and second violations of subdivision (a) shall result in a notice of violation, and any subsequent violation shall constitute an infraction punishable by a fine of twenty-five dollars (\$25) for each day the full-service restaurant is in violation, but not to exceed three hundred dollars (\$300) annually.

(c) Nothing in this section shall prevent a city, county, city and county, or other local public agency from adopting and implementing an ordinance or rule that would further restrict a full-service restaurant from providing a single-use plastic straw to a consumer.

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

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