

Assembly Bill No. 1325

CHAPTER 101

An act to amend Section 113825 of the Health and Safety Code, relating to retail food facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2023. Filed with Secretary of State July 21, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1325, Waldron. Microenterprise home kitchen operations.

The California Retail Food Code (code) authorizes the governing body of a city, county, or city and county, by ordinance or resolution, to permit microenterprise home kitchen operations (MHKO) if certain conditions are met. Existing law requires an MHKO, as a restricted food service facility, to meet specified food safety standards, including, among others things, that the food is prepared, cooked, and served on the same day. Under existing law, the food preparation is limited to no more than 30 individual meals per day, or the approximate equivalent of meal components when sold separately, and no more than 60 individual meals, or the approximate equivalent of meal components when sold separately, per week. Existing law also requires an MHKO to have no more than \$50,000 in verifiable gross annual sales, as adjusted annually for inflation. A violation of the code is a misdemeanor.

This bill would require the food preparation to be limited to no more than 90 individual meals, as defined, or the approximate equivalent of meal components when sold separately, per week. The bill would also allow an MHKO to have no more than \$100,000 in verifiable gross annual sales, adjusted for inflation.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 113825 of the Health and Safety Code is amended to read:

113825. (a) "Microenterprise home kitchen operation" means a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets all of the following requirements:

- (1) The operation has no more than one full-time equivalent food employee, not including a family member or household member.
- (2) Food is prepared, cooked, and served on the same day.

(3) Food is consumed onsite at the microenterprise home kitchen operation or offsite if the food is picked up by the consumer or delivered within a safe time period based on holding equipment capacity.

(4) Food preparation does not involve processes that require a HACCP plan, as specified in Section 114419, or the production, service, or sale of raw milk or raw milk products, as defined in Section 11380 of Title 17 of the California Code of Regulations.

(5) The service and sale of raw oysters is prohibited.

(6) The production, manufacturing, processing, freezing, or packaging of milk or milk products, including, but not limited to, cheese, ice cream, yogurt, sour cream, and butter, is prohibited.

(7) Food preparation is limited to no more than 30 individual meals per day, or the approximate equivalent of meal components when sold separately, and no more than 90 individual meals, or the approximate equivalent of meal components when sold separately, per week. The local enforcement agency may decrease the limit of the number of individual meals prepared based on food preparation capacity of the operation, but shall not, in any case, increase the limit of the number of individual meals prepared.

(8) The operation has no more than one hundred thousand dollars (\$100,000) in verifiable gross annual sales, as adjusted annually for inflation based on the California Consumer Price Index.

(9) The operation only sells food directly to consumers and not to any wholesaler or retailer. For purposes of this paragraph, the sale of food prepared in a microenterprise home kitchen operation through the internet website or mobile application of an internet food service intermediary, as defined in Section 114367.6, is a direct sale to consumers. An operation that sells food through the internet website or mobile application of an internet food service intermediary shall consent to the disclosures specified in paragraphs (6) and (7) of subdivision (a) of Section 114367.6.

(b) “Microenterprise home kitchen operation” does not include either of the following:

(1) A catering operation.

(2) A cottage food operation, as defined in Section 113758.

(c) For purposes of this section, “resident of a private home” means an individual who resides in the private home when not elsewhere for labor or other special or temporary purpose.

(d) For purposes of this section, “meal” means the amount or quantity of food that is intended to be consumed by one customer in one sitting. A meal may include one or more of any of the following:

(1) A main dish.

(2) Appetizers.

(3) Side dishes.

(4) Beverages.

(5) Baked goods.

(6) Desserts.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

Article IV of the California Constitution and shall go into immediate effect.
The facts constituting the necessity are:

In order to ensure that microenterprise home kitchen operations are able to continue operating and earning money as the cost of goods increases, it is necessary for this act to take effect immediately.

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