

AMENDED IN ASSEMBLY MARCH 8, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1678**

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**Introduced by Assembly Member Monning**

February 14, 2012

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An act to add Section 114294.1 to the Health and Safety Code, relating to food.

LEGISLATIVE COUNSEL'S DIGEST

AB 1678, as amended, Monning. Mobile food facilities: school campus location.

The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, including mobile food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing this code. A violation of these provisions is punishable as a misdemeanor.

This bill would prohibit a mobile food facility from selling or otherwise providing food or beverages within ~~1,500~~ 500 feet of ~~any~~ *the* property line of ~~an~~ *a public* elementary or secondary school campus, *except* as specified. It would also require the enforcing agency to notify each individual or entity that seeks approval of a mobile food facility of this requirement. By imposing additional duties upon local officials and creating a new crime, this bill would create 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 finds and declares all of the  
2 following:
- 3 (a) All students deserve a school environment that promotes  
4 and protects good health.
- 5 (b) A school environment that fosters good health through sound  
6 nutrition is critical to overall student wellness and academic  
7 achievement.
- 8 (c) Past and ongoing efforts to create a healthier school  
9 environment for California's students are undermined by  
10 off-campus mobile food vending, which competes with the  
11 provision of healthful meals and snacks through the federally  
12 funded school nutrition programs.
- 13 (d) Mobile food vending diminishes participation in the school  
14 nutrition programs, reinforces the stigma associated with eating  
15 school meals, and jeopardizes the fiscal viability of school nutrition  
16 programs at the local level.
- 17 (e) Well-nourished students, such as those who participate in  
18 school meal programs, demonstrate better cognitive performance,  
19 classroom behavior, and social interaction, as well as improved  
20 academic achievement.
- 21 (f) Research shows meals served at school are often more  
22 nutritious than meals brought from home or served elsewhere.  
23 Students who participate in the School Breakfast Program consume  
24 more milk, more fruit, and less added sugar than their peers who  
25 do not eat a school breakfast. Students who participate in the  
26 National School Lunch Program consume more milk and more  
27 nutrient-dense lunches than their nonparticipating peers.  
28 Low-income students who participate in school lunch also eat more  
29 fruit than their nonparticipating peers.

1 (g) Mobile food vending increases students' access to foods and  
2 beverages that are calorie rich, nutrient poor, and contribute to  
3 negative health outcomes like being overweight and obesity.

4 (h) Mobile food vending near school campuses provides an  
5 incentive for students to leave school grounds, which decreases  
6 adult supervision of students during school hours and increases  
7 students' exposure to off-campus safety hazards.

8 (i) Mobile food vending near school campuses often results in  
9 crowded, impassable sidewalks and traffic congestion near school  
10 grounds, that infringes upon student safety.

11 (j) Mobile food vending near school campuses specifically and  
12 intentionally targets California's students.

13 (k) To help ensure student safety, promote good nutrition, and  
14 create healthier school environments, areas surrounding school  
15 campuses should be free of mobile food vending.

16 SEC. 2. Section 114294.1 is added to the Health and Safety  
17 Code, to read:

18 114294.1. (a) ~~A~~ *Except as provided in subdivision (b), a mobile*  
19 *food facility may shall not sell or otherwise provide food or*  
20 *beverages within ~~1,500~~ 500 feet of the property line of an a public*  
21 *elementary or secondary school campus, from the hours of 6:00*  
22 *a.m. and 6:00 p.m., inclusive, on a ~~day~~ weekday that school is in*  
23 *session.*

24 (b) *The prohibition of this section shall not apply to any of the*  
25 *following:*

26 (1) *A mobile food facility operating on nonresidential, private,*  
27 *real property with the express consent of the owner or lessee of*  
28 *the real property.*

29 (2) *A mobile food facility operating adjacent to a permitted*  
30 *construction site and vending to a person who is at least 18 years*  
31 *of age.*

32 (3) *A mobile food facility operating to exclusively serve a film*  
33 *production, as defined in Section 14999.31 of the Government*  
34 *Code.*

35 (4) *A mobile food facility operating under a formal agreement*  
36 *with a school district pursuant to Chapter 9 (commencing with*  
37 *Section 49400) of Part 27 of Division 4 of Title 2 of the Education*  
38 *Code.*

39 (c) *This section shall not be construed to limit or otherwise*  
40 *prohibit the enforcement of a local ordinance adopted prior to*

1 *January 1, 2013, by a city, county, city and county, or district,*  
 2 *including a school district, that regulates the location of operations*  
 3 *by a mobile food facility, regardless of whether the local restriction*  
 4 *is more or less restrictive than subdivision (a). This section also*  
 5 *shall not be construed to limit or otherwise prohibit the adoption*  
 6 *and enforcement of a local ordinance adopted on or after January*  
 7 *1, 2013, that is more restrictive of the location of operations by a*  
 8 *mobile food facility than subdivision (a).*

9 ~~(b)~~

10 (d) The enforcement agency shall, in the course of approving  
 11 mobile food facilities pursuant to Section 114294, provide  
 12 notification of the restriction described in this section to each  
 13 individual or entity that seeks approval of a mobile food facility.

14 SEC. 3. No reimbursement is required by this act pursuant to  
 15 Section 6 of Article XIII B of the California Constitution for certain  
 16 costs that may be incurred by a local agency or school district  
 17 because, in that regard, this act creates a new crime or infraction,  
 18 eliminates a crime or infraction, or changes the penalty for a crime  
 19 or infraction, within the meaning of Section 17556 of the  
 20 Government Code, or changes the definition of a crime within the  
 21 meaning of Section 6 of Article XIII B of the California  
 22 Constitution.

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