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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437] (*Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.*)

CHAPTER 13. Compliance and Enforcement [114380 - 114437] (*Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.*)

ARTICLE 2. Enforcement [114390 - 114399] (*Article 2 added by Stats. 2006, Ch. 23, Sec. 2.*)

114390. (a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(3) The enforcement officer may, for the purpose of determining compliance with the gross annual sales requirements for operating a microenterprise home kitchen operation or a cottage food operation, require those operations to provide copies of documents related to determining gross annual sales.

(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.

(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e) A written report of the inspection shall be made, and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

(Amended by Stats. 2018, Ch. 470, Sec. 7. (AB 626) Effective January 1, 2019.)

114393. (a) Based upon inspection findings or other evidence, an enforcement officer may impound food, equipment, or utensils that are found to be, or suspected of being, unsanitary or in such disrepair that food, equipment, or utensils may become contaminated or adulterated, and inspect, impound, or inspect and impound any utensil that is suspected of releasing lead or cadmium in violation of Section 108860. The enforcement officer may attach a tag to the food, equipment, or utensils that shall be removed only by the enforcement officer following verification that the condition has been corrected.

(b) No food, equipment, or utensils impounded pursuant to subdivision (a) shall be used unless the impoundment has been released.

(c) Within 30 days, the enforcement agency that has impounded the food, equipment, or utensils pursuant to subdivision (a) shall commence proceedings to release the impounded materials or to seek administrative or legal remedy for its disposition.

(Amended by Stats. 2007, Ch. 96, Sec. 57. Effective July 20, 2007.)

114395. Except as otherwise provided in this part, any person who violates any provision of this part or regulation adopted pursuant to this part is guilty of a misdemeanor. Each offense shall be punished by a fine of not less than twenty-five dollars (\$25) or more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a term not exceeding six months, or by both fine and imprisonment.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114397. The owner, manager, or operator of any food facility is responsible for any violation by an employee of any provision of this part or any regulation adopted pursuant to this part. Each day the violation occurs shall be a separate and distinct offense.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114399. A violation of any provision of this part or regulation adopted pursuant to this part relating to facilities held in common or shared by more than one food facility shall be deemed a violation for which the owner, manager, or operator of each food facility is responsible.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)