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SB-969 Vietnamese rice cakes. (2015-2016)

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Senate Bill No. 969

CHAPTER 193

An act to amend Sections 111222 and 111223 of, to amend the heading of Article 14 (commencing with Section 111222) of Chapter 5 of Part 5 of Division 104 of, and to add Section 114429.3 to, the Health and Safety Code, relating to food.

[Approved by Governor August 25, 2016. Filed with Secretary of State August 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 969, Nguyen. Vietnamese rice cakes.

Existing law, the Sherman Food, Drug, and Cosmetic Law, requires all manufacturers of Korean rice cakes, as defined, to place a label issued by the Korean Rice Cake Association Corporation on the Korean rice cake that indicates the date of manufacture, and requires the label to include a statement that the rice cake must be consumed within one day of manufacture. A violation of these provisions is a crime.

This bill would require, except as provided, a manufacturer of Vietnamese rice cakes, as defined, to place a label, designed by the Vietnamese Rice Cake Association, Inc., on the Vietnamese rice cake that indicates the date and time the cooking process was completed, and would require the label to include a statement that the rice cake must be consumed within 24 hours of the date and time printed on the label. By creating a new crime, this bill would impose a state-mandated local program.

Existing law, the California Retail Food Code, provides for the regulation of health and sanitation standards for food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. A violation of these provisions is a crime. Existing law authorizes a food facility to sell Korean rice cakes, as defined, that have been at room temperature for no more than 24 hours, and requires, at the end of the operating day, Korean rice cakes that have been at room temperature for no more than 24 hours to be destroyed in a manner approved by the enforcement agency.

This bill would also authorize a food facility to sell Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit for no more than 24 hours and would require Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit but have been stored for more than 24 hours to be destroyed in a manner approved by the enforcement agency. By imposing new enforcement requirements on local health agencies, and by creating a new crime, 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. The heading of Article 14 (commencing with Section 111222) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code is amended to read:

Article 14. Asian Rice Noodles, Korean Rice Cakes, and Vietnamese Rice Cakes

SEC. 2. Section 111222 of the Health and Safety Code is amended to read:

111222. For purposes of this article the following definitions shall apply:

(a) "Asian rice-based noodle" is defined as a rice-based pasta that contains rice powder, water, wheat starch, vegetable cooking oil, and optional ingredients to modify the pH or water activity, or to provide a preservative effect. The ingredients shall not include any animal fats or any other products derived from animals. An Asian rice-based noodle is prepared by using a traditional method that includes cooking by steaming at not less than 130 degrees Fahrenheit, for not less than four minutes.

(b) "Korean rice cake" is defined as a confection that contains rice powder, salt, sugar, various edible seeds, oil, dried beans, nuts, dried fruits, and dried pumpkin. The ingredients may not include any animal fats or any other products derived from animals. A Korean rice cake is prepared by using a traditional Korean method that includes cooking by steaming at not less than 275 degrees Fahrenheit, for not less than five minutes, nor more than 15 minutes.

(c) "Vietnamese rice cake," also known as Bánh Tét or Bánh Chưng, is defined as a confection that contains a combination of rice, beans, and meat or fruit wrapped tightly in banana leaves for cooking. Bánh Tét is a rice cake in a cylindrical shape, and Bánh Chưng is a rice cake in a square shape. A Vietnamese rice cake is prepared using a traditional Vietnamese method that includes cooking by boiling in water for not less than 10 hours. Vietnamese rice cakes are required to be handled, prepared, and stored under sanitary conditions both when they are kept at no more than 70 degrees Fahrenheit upon completion of cooking and after the rice cakes have been cooled to below 70 degrees Fahrenheit. Any Vietnamese rice cakes that are unwrapped from the banana leaves after cooking shall be refrigerated.

SEC. 3. Section 111223 of the Health and Safety Code is amended to read:

111223. (a) (1) All manufacturers of Asian rice-based noodles shall place a label on the packaging of Asian rice-based noodles that indicates the date and time that the product first came out of hot holding at temperatures above 135 degrees Fahrenheit and includes a statement that the Asian rice-based noodles are perishable.

(2) The product packaging shall only be labeled once.

(3) Notwithstanding paragraphs (1) and (2), this section shall not apply to Asian rice-based noodles that have a pH of 4.6 or below, have a water activity of 0.85 or below, or have been determined by the department to be nonpotentially hazardous foods based on formulation and supporting laboratory documentation submitted to the department by the manufacturer.

(b) All manufacturers of Korean rice cakes shall place a label issued by the Korean Rice Cake Association Corporation on the Korean rice cake that indicates the date of manufacture. The Korean rice cakes label shall include a statement that the rice cake must be consumed within one day of manufacture.

(c) (1) All manufacturers of Vietnamese rice cakes shall place a label, designed by the Vietnamese Rice Cake Association, Inc., on the Vietnamese rice cake that indicates the date and time the cooking process was completed. The Vietnamese rice cakes label shall include a statement that the rice cake must be consumed within 24 hours of the date and time printed on the label.

(2) Notwithstanding paragraph (1), this section does not apply to Vietnamese rice cakes that have been determined by the department to be nonpotentially hazardous foods based on formulation and supporting laboratory documentation submitted to the department by the manufacturer.

SEC. 4. Section 114429.3 is added to the Health and Safety Code, to read:

114429.3. (a) Notwithstanding Sections 113996 and 114343 and if permitted by federal law, a food facility may sell Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit for no more than 24 hours.

(b) Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit but have been stored for more than 24 hours shall be destroyed in a manner approved by the enforcement agency.

(c) All Vietnamese rice cakes shall bear a label meeting the requirements of Section 111223.

SEC. 5. 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.