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AB-1276 Single-use foodware accessories and standard condiments. (2021-2022)

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Assembly Bill No. 1276

CHAPTER 505

An act to amend Sections 42270 and 42271 of, to amend the heading of Chapter 5.2 (commencing with Section 42270) of Part 3 of Division 30 of, and to add Sections 42272 and 42273 to, the Public Resources Code, relating to solid waste.

[Approved by Governor October 05, 2021. Filed with Secretary of State October 05, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1276, Carrillo. Single-use foodware accessories and standard condiments.

Existing law prohibits a full-service restaurant, as specified, from providing single-use plastic straws, as defined, to consumers unless requested by the consumer, and places the duty to enforce this prohibition on specified state and local health and environmental health officers and their agents. Existing law specifies that the first and 2nd violations of these provisions result in a notice of violation, and any subsequent violation is 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.

This bill would instead prohibit a food facility from providing any single-use foodware accessory or standard condiment, as defined, to a consumer unless requested by the consumer, as provided. The bill would prohibit those items from being bundled or packaged in a way that prohibits the consumer from taking only the item desired. The bill would authorize a food facility to ask a drive-through consumer, or a food facility located within a public airport to ask a walk-through consumer, if the consumer wants a single-use foodware accessory in specified circumstances. The bill would require a food facility using a third-party food delivery platform to list on its menu the availability of single-use foodware accessories and standard condiments and only provide those items when requested, as provided. The bill would exclude from these requirements correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias.

This bill would require a city, county, or city and county, on or before June 1, 2022, to authorize an enforcement agency to enforce these requirements. The bill would specify that the first and 2nd violations of these provisions result in a notice of violation, and any subsequent violation is an infraction punishable by a fine of \$25 for each day in violation, but not to exceed an annual total of \$300. By creating a new crime and imposing additional duties on local governing bodies, 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.

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

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

CHAPTER 5.2. Single-Use Foodware Accessories and Condiments

SEC. 2. Section 42270 of the Public Resources Code is amended to read:

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

- (a) "Consumer" has the same meaning as in Section 113757 of the Health and Safety Code.
- (b) "Food facility" has the same meaning as in Section 113789 of the Health and Safety Code.
- (c) "Ready-to-eat food" has the same meaning as in Section 113881 of the Health and Safety Code.
- (d) "Single-use" means designed to be used once and then discarded, and not designed for repeated use and sanitizing.
- (e) "Single-use foodware accessory" means all of the following single-use items provided alongside ready-to-eat food:
 - (1) Utensils, which is defined as forks, knives, spoons, and sporks.
 - (2) Chopsticks.
 - (3) Condiment cups and packets.
 - (4) Straws.
 - (5) Stirrers.
 - (6) Splash sticks.
 - (7) Cocktail sticks.
- (f) "Standard condiment" means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes.
- (g) "Third-party food delivery platform" has the same meaning as in Section 113930.5 of the Health and Safety Code.

SEC. 3. Section 42271 of the Public Resources Code is amended to read:

42271. (a) Except as provided in subdivisions (c) and (d), a food facility, for on-premises dining or when using a third-party food delivery platform, shall not provide any single-use foodware accessory or standard condiment packaged for single use to a consumer unless the single-use foodware accessory or standard condiment is requested by the consumer.

(b) Single-use foodware accessories and standard condiments packaged for single use provided by food facilities for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of single-use foodware accessory or standard condiment desired without also having to take a different type of single-use foodware accessory or standard condiment.

(c) A food facility may ask a drive-through consumer if the consumer wants a single-use foodware accessory if the single-use foodware accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

(d) A food facility that is located entirely within a public use airport, as defined in Section 77.3 of Title 14 of the Code of Federal Regulations, may ask a walk-through consumer if the consumer wants a single-use foodware accessory if the single-use foodware accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

(e) (1) A third-party food delivery platform shall provide consumers with the option to request single-use foodware accessories or standard condiments from a food facility serving ready-to-eat food.

(2) If a food facility uses any third-party delivery platform for ready-to-eat food, the food facility shall customize its menu with a list of available single-use foodware accessories and standard condiments, and only those single-use foodware accessories or standard condiments selected by the consumer shall be provided by the food facility. If a consumer does not select any single-use foodware accessories or standard condiments, no single-use foodware accessory or standard condiment shall be provided by the food facility for delivery of ready-to-eat food.

(f) Nothing in this section shall prohibit a food facility from making unwrapped single-use foodware accessories available to a consumer using refillable self-service dispensers that dispense one item at a time to allow for single-use foodware accessories to be obtained.

(g) Nothing in this section shall prohibit a food facility from making standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained. A food facility that offers standard condiments is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single use.

(h) 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 food facility or a third-party food delivery platform from providing single-use foodware accessories or standard condiments to a consumer.

(i) A food facility is encouraged, but not required, to take actions in addition to the requirements of this section that support a goal of reducing the use of and waste generated by all single-use food service products.

SEC. 4. Section 42272 is added to the Public Resources Code, to read:

42272. (a) On or before June 1, 2022, a city, county, or city and county shall authorize an enforcement agency to enforce this chapter.

(b) The first and second violations of this chapter 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 in violation, but not to exceed three hundred dollars (\$300) annually.

SEC. 5. Section 42273 is added to the Public Resources Code, to read:

42273. This chapter does not apply to any of the following:

(a) Correctional institutions, which has the same meaning as in Section 7502 of the Penal Code.

(b) Health care facilities licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or facilities that are owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(c) Residential care facilities licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(d) Public and private school cafeterias, as referenced in paragraph (1) of subdivision (b) of Section 113789 of the Health and Safety Code.

SEC. 6. 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.