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AB-1830 Corn masa flour and wet corn masa products: folic acid fortification. (2023-2024)

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Assembly Bill No. 1830

CHAPTER 912

An act to add Section 110531 to the Health and Safety Code, relating to food.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1830, Arambula. Corn masa flour and wet corn masa products: folic acid fortification.

Existing federal law, the Federal Food, Drug, and Cosmetic Act and the regulations adopted pursuant to that act, authorizes folic acid to be used in food as a nutrient in accordance with specified prescribed conditions, including that folic acid may be added to corn masa flour at a level not to exceed 0.7 milligrams of folic acid per pound of corn masa flour. Existing federal law also requires any state requirement for nutrition labeling of food to conform with federal law, and requires the declaration of folic acid to be included when added as a nutrient supplement, as specified.

Existing state law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of various subjects relating to the processing, labeling, advertising, and sale of food, drugs, and cosmetics, including enriched food, under the administration and enforcement of the State Department of Public Health. Existing law provides that all food additive and food labeling regulations and any amendments to those regulations adopted pursuant to the federal law are the regulations of this state, and authorizes the department to prescribe conditions under which a food additive may be used in this state whether or not these conditions are in accordance with the regulations adopted pursuant to the federal act and to adopt additional food labeling regulations. A violation of these provisions is a crime.

This bill would, commencing January 1, 2026, require corn masa flour, as defined, that is manufactured, sold, delivered, distributed, held, offered for sale, or used as an ingredient in the manufacture of a food product to contain folic acid at a level of 0.7 milligrams of folic acid per pound of corn masa flour, as specified, and would authorize wet corn masa product that is manufactured, sold, delivered, distributed, held, offered for sale, or used as an ingredient in the manufacture of a food product to contain folic acid at a level of 0.4 milligrams of folic acid per pound of end product, as specified. The bill would require corn masa flour or a wet corn masa product to include specified information, including a declaration of folic acid on the nutrition label in accordance with applicable federal law. The bill would exempt snack foods and corn masa flour made by, or supplied to, specified types of businesses, including cottage food operations or a grocery store that also offers conforming products. The bill would make these provisions severable. 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 no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) Latino communities face a disproportionately higher risk of neural tube defects (NTDs), which are severe birth defects that occur in early pregnancy.
- (b) NTDs include spina bifida, which is an opening along the spine, and anencephaly, which is a missing portion of the brain or skull. Individuals with spina bifida can experience symptoms ranging from mild nerve damage to severe paraplegia, often requiring costly and lengthy treatment. Anencephaly is fatal for infants.
- (c) Daily consumption of folic acid has been shown to decrease the risk of NTDs by more than one-half. In 1998, the United States Food and Drug Administration mandated folic acid fortification of all enriched cereal grain products to provide a baseline level of folic acid to the public, which resulted in a 35-percent decrease in the occurrence of NTDs.
- (d) While the American diet often relies heavily on wheat, many Central and South American cuisines depend on corn masa as a staple. Corn masa flour was omitted from the 1998 mandate without justification. The higher rate of NTDs in Latino communities is a symptom in the broader disease of health inequity.
- (e) In 2016, the United States Food and Drug Administration approved voluntary folic acid fortification of corn masa flour. Because this policy is reliant on the industry's initiative, only 10 percent of corn masa flour products are fortified with folic acid in the United States.
- (f) Folic acid fortification of corn masa flour and wet corn masa products can lower the rate of NTDs, saving lives and dollars.

SEC. 2. Section 110531 is added to the Health and Safety Code, to read:

110531. (a) (1) Commencing January 1, 2026, corn masa flour manufactured, sold, delivered, distributed, held, offered for sale, or used as an ingredient in the manufacture of a food product shall contain folic acid at a level of 0.7 milligrams of folic acid per pound of corn masa flour within an acceptable industry standard deviation of error.

(2) Commencing January 1, 2026, wet corn masa product manufactured, sold, delivered, distributed, held, offered for sale, or used as an ingredient in the manufacture of a food product may contain folic acid at a level of 0.4 milligrams of folic acid per pound of end product within an acceptable industry standard of deviation of error.

(b) Commencing January 1, 2026, corn masa flour or a wet corn masa product shall include both of the following:

(1) A declaration of folic acid on the nutrition label in accordance with applicable federal law, including, but not limited to, Section 101.9 of Title 21 of the Code of Federal Regulations.

(2) A declaration that the product contains corn masa flour or was manufactured through a wet corn masa manufacturing process.

(c) (1) A person or entity may manufacture, sell, deliver, distribute, hold, offer for sale, or use as an ingredient in the manufacture of products corn masa flour that does not meet the requirements of paragraph (1) of subdivision (a), if they meet the definition of, or are suppliers to, any of the following:

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

(B) A food facility as defined in Section 113789.

(C) A grocery store, as defined in paragraph (3) of subdivision (e) of Section 113948, that offers for retail sale corn masa flour that does not contain folic acid, so long as the grocery store also offers for retail sale corn masa flour that meets the required folic acid requirements in paragraph (1) of subdivision (a).

(2) This section shall not apply to snack foods.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(e) For purposes of this section, the following terms have the following meanings:

(1) "Corn masa flour," also commonly known as masa harina, means a dry flour-type product made from corn that has been treated with slaked lime or otherwise undergoes a process known as nixtamalization.

(2) "Wet corn masa product" means food manufactured by using an alkali solution with corn kernels to transform them into nixtamal. Wet corn masa product does not include products made with corn masa flour.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because 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.