

SENATE THIRD READING
SB 476 (Limón)
As Amended September 7, 2023
Majority vote

SUMMARY

Requires the Department of Public Health (DPH), by January 1, 2025 to post on its internet website a link to the internet website of an American National Standards Institute-accredited food handler training programs. Requires a local public health department to provide a link to that web page on its own internet website. Requires an employer to consider the time that it takes for the employee to complete the food handler training and the examination as compensable "hours worked," requiring the employer to pay according to existing Labor Code provisions, and to pay the employee for any necessary expenditures or losses associated with the employee obtaining a food handler card. Requires an employer to relieve an employee of all other work duties, while the employee is taking the training and examination.

Major Provisions

COMMENTS

SB 602 (Padilla), Chapter 309, Statutes of 2010, sponsored by the California Restaurant Association (CRA), requires food handlers to obtain food handler cards. A food handler card can only be issued if the food handler completes a training course and examination that meets specified requirements. The intent of food handler certification is to provide employees who handle non-prepackaged food with an overview of key elements of food safety in order to prevent the transmission of foodborne illnesses. Both the course and test for food handlers is required to be available online, and the test does not require a proctor. Topics covered include foodborne illness, time and temperature control, personal hygiene, cross-contamination prevention, and proper cleaning and sanitizing techniques. To obtain a food handler card, applicants are required to take the food handler training course and pass the assessment test with a score of at least 70%. The food handler test and card are required to be provided by a training provider that is accredited by American National Standards Institute (ANSI), and at least one vendor is required to offer the course for \$15 or less. There are many ANSI-accredited food handler training providers, and a number of them offer the course and card for around \$10. Food handler cards are valid for three years. The law requiring food facilities to have all food handlers obtain a food handler card does contain some exemptions, including those working in temporary food facilities, grocery stores, unionized food facilities, and food facilities with in-house training approved in another state (many chain restaurants, such as Burger King, Denny's, and McDonald's, are exempted under this provision). Additionally, food handlers that were subject to pre-existing local food handler programs in the counties of Riverside, San Bernardino, and San Diego are exempted. The restaurant worker generally pays for obtaining a food handler card.

New York Times (NYT) article on ServSafe food handler certification program. On January 17, 2023, the *NYT* published "How Restaurant Workers Help Pay for Lobbying to Keep Their Wages Low." According to the article, when new restaurant workers pay \$15 to take the ServSafe online class in food safety, they are also helping to fund a nationwide lobbying campaign to keep their own wages from increasing. The article states that ServSafe doubles as a fund-raising arm of the National Restaurant Association (NRA), which has spent decades fighting increases to the

minimum wage at the state and federal levels. According to the *NYT*, first, in 2007, the NRA took control of a training business, then they helped lobby states to mandate the kind of training they already provided, producing a flood of paying customers. According to the *NYT*, more than 3.6 million workers have taken this training, providing about \$25 million in revenue to the restaurant industry's lobbying arm since 2010, which was more than the NRA spent on lobbying in the same period based on filings with the Internal Revenue Service. The *NYT* article stated that other companies also offer this training, but cited restaurant industry veterans as saying that ServSafe is the dominant force in the market. The article quoted someone who runs a competing food handler program as stating that he believed ServSafe had at least 70% of the market.

The NRA published a rebuttal of the article on its website entitled "6 Things the New York Times Got Wrong," which included the following primary points: 1) the ServSafe training fees are used across the association for many purposes, not just for lobbying on certain topics; 2) restaurant workers are not required to choose ServSafe products and have their choice of where to obtain food handler training, and the costs are often reimbursed by employers; 3) NRA has never shied away from its connection to ServSafe, and are proud of its long history in helping prevent the risk of foodborne illness; and, 4) the NRA did not lobby for food handler mandates in any state, and believes food safety training is essential to the safety of everyone coming to a restaurant.

According to the Author

Currently, in California all foodservice workers are required to undergo a food safety training and receive a food handler card. A recent *NYT* article revealed that one of the most popular training services, ServSafe, was using some of the revenue to fund lobbying campaigns, often aimed at suppressing the wages of workers. ServSafe is the dominant food handling training company in the country controlling an estimated 70 percent of the market. They make money by charging workers for food handling trainings in all 50 states. This bill would require employers pay for the food handler training, and the employees time within 30 days after hire. It also spurs more industry competition by requiring DPH to make public all accredited food handler training providers and the cost of their trainings on their website. The author concludes workers and employers can choose the best and most affordable or free trainer from a public list.

Arguments in Support

The California Labor Federation (CLF), One Fair Wage, and the Service Employees International Union are the sponsors of this bill. They state that this bill prevents employers from using workers' money for corporate lobbying purposes; and, brings transparency to the food handler training industry to give workers and employers more choice in training providers. CLF points out that the *NYT* article referenced above exposed how the National Restaurant Association "runs a racket to use worker's wages to fund lobbying campaign against legislation like wage increases and paid sick days. Workers have collectively paid \$25 million to ServSafe for training without knowing their money was being used against them." CLF concludes that this bill will put an end to workers funding of corporate lobbying, and increases transparency by having DPH post accredited food handler trainers on their website along with the cost of training, increasing both worker and employer choice.

Arguments in Opposition

The CRA and the California Chamber of Commerce oppose this bill because this bill forces employers to pay for the existing mandated food safety training, as well as the time required for team members to complete the training. They state this bill imposes significant new costs on

restaurant employers at a time when they are still dealing with pandemic-related losses. They point out that Neighborhood restaurants continue to face operating challenges including workforce shortages, supply chain issues, and inflationary costs that have not been seen in 40 years. All of this is in addition to the financial debt that was incurred during the pandemic due to government ordered restaurant closures and new operational requirements. They conclude that any new cost increase will create further strain as restaurants simply try to get back on a solid financial and operational footing.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, DPH estimates annual costs of \$159,000 to develop and continuously update the list of ANSI-accredited food handler training programs (General Fund).

VOTES

SENATE FLOOR: 30-9-1

YES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NO: Dahle, Glazer, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
ABS, ABST OR NV: Alvarado-Gil

ASM HEALTH: 10-3-2

YES: Wood, Aguiar-Curry, Arambula, Boerner, Wendy Carrillo, Maienschein, McCarty, Rodriguez, Santiago, Weber
NO: Waldron, Vince Fong, Joe Patterson
ABS, ABST OR NV: Flora, Villapudua

ASM APPROPRIATIONS: 12-4-0

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Soria, Weber, Wilson
NO: Megan Dahle, Dixon, Mathis, Sanchez

UPDATED

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