

Introduced by Senator WieckowskiFebruary 19, 2021

An act to add Article 8.5 (commencing with Section 110961) to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, relating to food.

LEGISLATIVE COUNSEL'S DIGEST

SB 651, as introduced, Wieckowski. Synthetic food dyes.

Existing federal law, the Federal Food, Drug, and Cosmetic Act, regulates, among other things, the quality and packaging of foods introduced or delivered for introduction into interstate commerce and generally prohibits the misbranding of food. Existing federal law, the Nutrition Labeling and Education Act of 1990, governs state and local labeling requirements, including those that characterize the relationship of any nutrient specified in the labeling of food to a disease or health-related condition. Existing state law, the Sherman Food, Drug, and Cosmetic Law, generally regulates the labeling of food. Under existing law, a violation of these provisions is a crime.

This bill would establish the Reducing Exposure to Synthetic Food Dyes Act, which would make it a crime for a person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the State of California food that contains synthetic dyes without a prescribed label, either on the package or on the shelf or bin where the food is displayed for bulk foods. The bill would require prescribed language to be included on the menu or menu board of a restaurant when a dish includes synthetic food dyes. 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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

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

3 (a) The behavioral effects of synthetic dyes on children may
4 impair their academic success and interfere with the ability of
5 classmates to learn.

6 (b) In Europe, foods containing certain synthetic dyes, including
7 the three most widely used in the United States, are required to
8 bear a warning label stating that the dye “may have effects on
9 attention and activity in children.”

10 (c) As a consequence, foods for the European market have been
11 reformulated to eliminate the use of dyes that trigger the warning
12 label requirement.

13 (d) Labels can improve consumers’ understanding of health
14 risks associated with some food ingredients and allow informed
15 choices in the marketplace.

16 (e) Because synthetic food dyes are used in a wide variety of
17 foods, dyed foods are heavily marketed to children, and because
18 parents may be unaware of their behavioral effects, more
19 transparent labeling would assist consumers in making informed
20 choices.

21 (f) It is in the public interest for the Legislature to enact
22 legislation that requires warning labels on food containing synthetic
23 food dyes. The benefits to Californians from enacting such
24 legislation would be significant in societal and economic terms.

25 SEC. 2. Article 8.5 (commencing with Section 110961) is
26 added to Chapter 5 of Part 5 of Division 104 of the Health and
27 Safety Code, to read:

1 Article 8.5. Synthetic Food Dyes

2
3 110961. This article shall be known, and may be cited, as the
4 Reducing Exposure to Synthetic Food Dyes Act.

5 110961.1. For purposes of this article, the following definitions
6 shall apply:

7 (a) “Food” shall have the same meaning as in Section 109935.

8 (b) “Label” shall have the same meaning as in Section 109955.

9 (c) “Labeling” shall have the same definition as in Section
10 109960.

11 (d) “Principal display panel” shall have the same definition as
12 in Section 110015.

13 110961.2. (a) It is unlawful for a person to manufacture,
14 package, sell, offer to sell, distribute, or import for sale or
15 distribution within the State of California food that contains
16 synthetic dyes without the following label: SAFETY WARNING:
17 Synthetic dyes may cause or worsen behavioral problems in
18 children.

19 (b) The label required pursuant to subdivision (a) shall be located
20 on the principal display panel and shall be prominently placed so
21 as to render it likely to be read and understood by an ordinary
22 individual under customary conditions of purchase and use.

23 (c) The text of the label required pursuant to subdivision (a)
24 shall be black on a white background or white on a black
25 background, in a manner that contrasts, by typography, layout, or
26 color, with all other printed material on the package. The text shall
27 not be crowded with artwork or other labeling and shall be set off
28 on a box by use of hairlines.

29 (d) Unpackaged, bulk food that requires a label pursuant to
30 subdivision (a) shall be labeled on the shelf or bin where the food
31 is displayed for retail sale.

32 (e) A chain restaurant that is considered a “covered
33 establishment” under federal menu labeling requirements and that
34 is selling foods with synthetic dyes shall indicate with symbols or
35 an icon and a Safety Warning on the menus and menu boards which
36 items contain synthetic dyes and shall place the language required
37 in subdivision (a) on their menus and menu boards. The language
38 shall appear on the same page or board as the menu item containing
39 synthetic dyes and shall be of the same size and font as the menu
40 item text. Implementing regulations to further develop these

1 labeling requirements may be developed by the State Department
2 of Public Health.

3 (f) This section does not apply to an alcoholic beverage, as
4 defined in Section 23004 of the Business and Professions Code,
5 or a medical food, as defined in Section 109971.

6 110961.3. (a) A food that violates the requirements in Section
7 110961.2 or a rule or regulation promulgated pursuant to that
8 section is subject to seizure in accordance with Section 111880.

9 (b) A retailer or manufacturer that violates Section 110961.2 or
10 a rule or regulation promulgated pursuant to that section is subject
11 to the penalties prescribed in Section 111825.

12 110961.4. If any provision of this article or of the regulations
13 promulgated under this article, or the application of any provision
14 to a person or circumstance is held to be invalid, the remainder of
15 this article, including rules and regulations promulgated pursuant
16 to it, and the application of those provisions to any other person
17 or circumstance shall not be affected and shall continue to be
18 enforced to the fullest extent possible.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.