



SOFT ROLL-OUT CODE ENFORCEMENT FOR HAND CONTACT & READY-TO-EAT FOODS

By Christine H. Long

A new section of the California Retail Food Code scheduled to go into effect January 1, 2014, requiring foodservice workers to use disposable gloves or utensils when handling ready-to-eat foods will not be strictly enforced for the first six months of 2014. The change was included in AB 1252, which made several changes to the Code.

The California Department of Public Health (CDPH) and the California Conference of Directors of Environmental Health (CCDEH) has agreed to implement a six-month soft roll-out instead of strict enforcement on January 1. Many retail food facility owners and operators will be affected by the law, and may not be aware of the new bare hand contact rules or may be unable to implement new procedures in time for compliance on January 1. During the first six months of 2014, if bare hand contact is observed during an inspection, the incident will be noted on the inspection report as a warning and the operator will receive information on the new rule in order to begin compliance.

Section 113961 of the California Retail Food Code adds this additional restriction to prevent the transmission of foodborne viruses and bacteria in food facilities as identified by the National Advisory Committee for Microbiological Criteria for Foods. This is the third component to the code that also restricts ill employees from working with food and requires employees to use proper hand washing procedures. Restaurants and other food handling operators should keep apprised of guidelines through their local or county health departments.

The specific requirements of Section 113691 are:

"...(b) Except when washing fruits and vegetables, as specified in Section 113992 or as specified in subdivisions (e) unused gloves, or dispensing equipment.

(c) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form."

Foodservice and other hospitality employers are continually faced with challenging employment and labor issues and ever-changing federal and state laws and regulations. Berliner Cohen attorneys stand ready to advise foodservice employers when faced with this or related issues and requirements. The firm places an emphasis on creative and preventable solutions, and, when necessary, represent clients in litigation.

To help prevent future issues or lawsuits, it is recommended that foodservice employers review on an on-going basis with their workers current and new requirements including the following:

Ready-to-eat foods are defined as edible and do not require additional preparation to be safely eaten, which are, but not limited to:

- any food that will not be thoroughly cooked or reheated (165 degrees) before it is served
- any food item that has already been cooked
- prepared fresh fruits and vegetables served raw or cooked
- salads and salad ingredients
- fruit or vegetables for mixed drinks
- garnishes, such as lettuce, parsley, lemon wedges, pickles

- cold meats and sandwiches
- raw sushi fish and sushi rice
- bread, toast, rolls, baked goods

Safe ways for food employees to handle ready-to-eat foods are:

- tongs, forks, spoons, bakery or deli wraps, wax paper, scoops, spatulas, dispensing equipment or single-use disposable gloves

Disposable gloves may be used to handle ready-to-eat foods:

- one pair of gloves may only be used for one task or one type of food, and for no other purpose; they must be discarded when damaged or soiled, when interruptions in food handling occur; gloves must be changed every time when hands are washed
- also a good time to review hand washing requirements for food service workers

In addition, there are certain exceptions in accordance with CalCode Section 113961(f) when food employees not serving a highly susceptible population may contact ready-to-eat foods if certain practices are followed, including pre-approval from local County health departments. For more information on this option, it is recommended that you contact your local health department.

*For more information, please contact:
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Christine H. Long, an attorney at Berliner Cohen, represents and counsels clients on employment issues and disputes, real estate matters, and contract claims. Ms. Long has litigated disputes covering the entire range of the employment relationship from hiring to post-termination competition.

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