



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers

168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 23-726

September 19, 2023

Introduced: 9/1/2023

Current Status: Scheduled AM

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Matter Type: General Agenda Item

- a. Receive a report on the implementation of Assembly Bill 626 (AB626) as it pertains to the amendment of the Health and Safety Code commencing with Chapter 11.6 Microenterprise Home Kitchen Operation, 104 Environmental Health Part 7. California Retail Food Code, and Assembly Bill 377 (AB377); and
- b. Provide direction to opt in or opt out of participation for Health and Safety Code commencing with Chapter 11.6 Microenterprise Home Kitchen Operation, 104 Environmental Health Part 7. California Retail Food Code.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a report on the implementation of Assembly Bill 626 (AB626) as it pertains to the amendment of the Health and Safety Code commencing with Chapter 11.6 Microenterprise Home Kitchen Operation, 104 Environmental Health Part 7. California Retail Food Code, and Assembly Bill 377 (AB377); and
- b. Provide direction to opt in or opt out of participation for Health and Safety Code commencing with Chapter 11.6 Microenterprise Home Kitchen Operation, 104 Environmental Health Part 7. California Retail Food Code.

SUMMARY/DISCUSSION:

California's Retail Food Code was amended through Assembly Bill 626 (AB626) allowing for food preparation through Microenterprise Home Kitchen Operations (MEHKO's). The purpose of AB626 was to establish "microenterprise home kitchen operation" as a new category of a retail food facility. MEHKO's are restricted food facilities in a private residence operated by the resident and may produce, prepare, cook, and serve food products or meals that the Cottage Food Operations permit does not allow. A MEHKO food facility is operated through a private residence where food is stored, handled, prepared, and served to consumers, and that meets specified requirements including that the operation has no more than one full-time equivalent food employee and has no more than \$100,000 in verifiable gross annual sales.

AB626 specifies that the governing body of a city or county, or city and county, shall have full discretion to authorize, by ordinance or resolution, the permitting of MEHKO's in accordance with the provisions of the bill. The bill also requires a MEHKO to be considered a restricted food service facility for purposes of certain provisions of the code, with an exemption from various provisions applicable to food facilities, including provisions relating to handwashing, sinks, ventilation, and animals. Applicants are required to obtain a permit to operate and to submit to the local enforcement

agency (LEA) written standard operating procedures that include specified information, including all good types or products that will be handled and the days and times that the home kitchen will potentially be utilized as a MEHKO.

The Health Department Environmental Health Bureau has evaluated the benefits as well as the risks of MEHKO operations within the county. There are widely recognized benefits from the opportunity to own a home business for the unemployed, disadvantaged, elderly, or disabled to work from their place of residency.

This bill offers the opportunity to significantly lower overhead costs of a restaurant start up, maintenance, and operational costs. The lower costs enable profits to begin almost immediately. The variety and cost of ethnic food produced can also be a positive on local cultures.

The amended law to California Retail Food Code 2022 allows local jurisdictions to conduct a routine inspection of the MEHKOs place of business within a 12-month period provided advanced notice is issued and includes regulations to include but not limited to:

- Demonstration of knowledge (training)
- Employee health & hygienic practices
- Time and temperature relationships which includes proper cooking and cooling methods
- Protection from contamination
- Verification that food comes from approved sources
- General food safety requirements
- An investigation inspection or emergency inspection as allowed for in the California Retail Food Code 2022.

The Health Department Environmental Health Bureau has also evaluated the potential costs and significant health risks MEHKOs. In the cost category, additional staff may be required to regulate home based operations and subsequent follow up which is not recaptured through permitting fees. If the Health Department were to charge the entire cost of microenterprise home kitchen administrative and enforcement activities, such ventures would likely not be financially feasible for most applicants, creating unintended inequities for a home business trying to establish a means to generate a limited source of revenue. At the county level, local health departments are expected to incur increased costs of permitting microenterprise kitchens and investigating and responding to complaints. For additional cost recovery, MEHKO grants are available for counties to apply for funding and encourage opting in.

Other costs may also include managing a foodborne illness outbreak. These investigations can take weeks, months, or even years to conduct, and incur significant expenses to the county.

The Health Department Environmental Health Bureau has concerns about the preparation of potentially hazardous foods in home kitchens. Home kitchens are not built to the same code as commercial kitchens and cannot be inspected in the same process as food facilities due to privacy considerations within the law.

After AB626 was enacted, a new bill was introduced to provide more regulatory definition for county jurisdictions. AB377 allows for the governing body of a city or county, or city and county, “full discretion” to authorize the MEHKO program in their jurisdiction and to opt in or opt out of authorizing the permitting of MEHKOs. The food preparation requirements remain the same for all food facilities, however it is the facility and equipment requirements that are less stringent.

Having outlined the potential risks and benefits of MEHKOs, the Health Department Environmental Health Bureau requests direction from the Board regarding participation in or opting out of Health and Safety Code commencing with Chapter 11.6 Microenterprise Home Operation, 104 Environmental Health Part 7. California Retail Food Code.

This activity supports the Monterey County Health Department 2018-2022 Strategic Plan Goals: 1) Empower the community to improve health; 2) Enhance community health and safety through prevention. This activity also supports three of the ten essential public health services specifically: 5. Develop policies and plans that support individual and community health efforts 6. Enforce laws and regulations that protect health and ensure safety, and 10. Research for new insights and innovative solutions to health problems.

OTHER AGENCY INVOLVEMENT:

County Counsel has approved the staff report as to form.

FINANCING:

The financial impact will depend upon the Board’s recommendation to opt in or out of the program. Opting in will result increased costs and revenue; however, the net impact cannot be estimated at this time as it is unknown how many such permits will be issued or the level of effort required to administer them. Opting out will result in no change to the Monterey County Environmental Health’s current financial structure and no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

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Infrastructure:


- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Robin Kimball, Management Analyst III, 796-1297

Approved by:

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Date 9/8/2023 | 6:06 PM PDT

Elsa Mendoza Jimenez, Director of Health Services, 755-4526

on behalf of Elsa Mendoza Jimenez

Attachments:

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