

An act to amend Section 123322 of the Health and Safety Code, relating to nutrition.

SECURED
COPY



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

SECTION 1. Section 123322 of the Health and Safety Code is amended to read:

123322. (a) In order to effectively manage and administer the federal and state requirements for the vendors in the WIC Program, and remain in compliance with the conditions of federal funding, the department shall establish requirements for all of the following:

(1) Retail food delivery systems, as set forth in Section 246.12 of Title 7 of the Code of Federal Regulations, including, but not limited to, all of the following:

~~(1)~~

(A) Peer groups and a corresponding reimbursement system.

~~(2)~~

(B) Criteria used for vendor authorization, authorization and management.

(C) Online shopping.

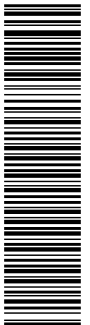
~~(3)~~

(2) The WIC Program authorized foods.

(b) Notwithstanding any other provisions of law, including the requirement in Section 123315 for enacting regulations to implement that section and Section 123310, the department may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific this section by means of an action by bulletin or similar instruction, section, Section 123310, and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of all-county letters, plan letters, information notices, provider bulletins, or other similar instructions, without taking any further regulatory action. The department shall provide notice to, and consult with, affected stakeholders, including vendors, manufacturers, local agencies, participants, advocates, consumer groups, and their respective associations, in the process of implementing, interpreting, or making specific this statute, and meet all of the following requirements:

(1) The notice shall be provided electronically to the stakeholders identified in this subdivision and shall also be posted on the program's ~~Internet Web site~~, internet website. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice shall provide opportunity for written comment by indicating the address to which to send the comment. The address may be an electronic site. The notice shall allow for at least 20 calendar days for comments to be submitted. The notice shall also provide the date of a consultation meeting with a stakeholder workgroup consisting of, but not limited to, representatives of stakeholder associations, stakeholder representatives, and consumer groups, to ensure stakeholder participation in the implementation of this section.

(2) The department shall consider all comments submitted before the due date, though it may withdraw the proposed action at any time by notification on its ~~Internet Web site~~ internet website or notification by electronic means. Unless the department withdraws the action, it shall publish the final action on its ~~Internet Web site~~ internet website no later than ~~120~~ 180 days after the consultation with stakeholders or the last



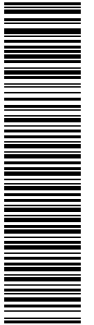
day for comments, whichever is later. If the department fails to issue a final action within ~~120~~ 180 days from the consultation with stakeholders or the last day for comments, whichever is later, the proposed action will be deemed withdrawn. The department may finalize a proposed action that has been withdrawn by renoticing the proposed action for comment pursuant to paragraphs (1) to (3), inclusive.

(3) The department shall provide at least 30 days' advance notice of the final action. In the final action, the department shall respond to the comments received.

(4) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may modify or repeal WIC Program requirements set forth in Title 22 of the California Code of Regulations pursuant to this section by bulletin or similar instruction, without taking further regulatory action, if the modification or repeal is filed with the Secretary of State and printed in Title 22 of the California Code of Regulations.

(4)

(5) The department shall establish a process to collect stakeholder feedback regarding the impact of the final action and any policy adjustments that should be considered postimplementation.



LEGISLATIVE COUNSEL'S DIGEST

Bill No. _____
as introduced, _____.
General Subject: California Special Supplemental Nutrition Program for Women,
Infants, and Children.

Existing law, the California Special Supplemental Nutrition Food Program for Women, Infants, and Children (WIC Program), authorizes establishment of a statewide program, administered by the State Department of Public Health, for providing nutritional food supplements to low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under 5 years of age, who have been determined to be at nutritional risk.

Existing law requires the department, in order to effectively manage and administer the federal and state requirements for the vendors in the WIC Program, to establish requirements for peer groups and a corresponding reimbursement system, criteria used for vendor authorization, and WIC Program-authorized foods. Existing law authorizes the department to implement, interpret, or make specific these provisions by bulletin or similar instruction. Existing law requires the department to notify and consult with affected stakeholders in the process of implementing, interpreting, or making specific these provisions, and requires the notice to provide opportunity for written comment. Existing law requires any final action to be published on the department's internet website no later than 120 days after the consultation with stakeholders or the last day for comments, whichever is later, and deems the final action withdrawn if the department fails to meet this requirement.

This bill would require the department to additionally establish requirements for online shopping and retail food delivery systems. The bill would also require the department to publish the final action no later than 180 days after the consultation with stakeholders or the last day for comments, whichever is later.

This bill would authorize the department, without taking regulatory action, to implement, interpret, or make specific all of the above-mentioned provisions by means of all-county letters, plan letters, information notices, provider bulletins, or other similar instruction. The bill would authorize the department to modify or repeal specified WIC Program requirements by bulletin or similar instruction, without taking further regulatory action, if certain criteria are met.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

