
SENATE COMMITTEE ON HOUSING
Senator Nancy Skinner, Chair
2023 - 2024 Regular

Bill No:	AB 2550	Hearing Date:	7/2/2024
Author:	Gabriel		
Version:	6/12/2024 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Max Ladow		

SUBJECT: Business establishments: building standards: retail food safety

DIGEST: This bill requires the California Building Standards Commission (CBSC) to adopt building standards to permit restaurants to have more flexibility with restroom and drinking fountain requirements and other buildings standards, and modifies requirements pertaining to grease traps and pass-through windows in restaurants.

ANALYSIS:

Existing law:

- 1) Defines a “food facility” as an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level. Excludes various entities, as specified.
- 2) Establishes the California Building Standards Commission (CBSC) within the Department of General Services. Requires the commission to approve and adopt building standards and to codify those standards in the California Building Standards Code.
- 3) Establishes the California Retail Food Code (CalCode) to provide for the regulation of retail food facilities. Health and sanitation standards are established at the state level through the CalCode, while enforcement is charged to local agencies, carried out by the 58 county environmental health departments, and four city environmental health departments.
- 4) Requires primary responsibility for the enforcement of the CalCode to be with the local enforcement agency, but provides that nothing prevent the California Department of Public Health (CDPH) from taking any necessary program or enforcement actions for the protection of public health and safety. Requires CDPH to provide technical assistance, training, standardization, program

evaluation, and other services to local health agencies as necessary to ensure the uniform interpretation and application of the CalCode, when an appropriation is made for this purpose.

- 5) Requires any construction, alteration, remodeling, or operation of a food facility to be approved by the local enforcement agency, and to be in accordance with all applicable local, state, and federal statutes, regulations, and ordinances, including fire, building, and zoning codes.
- 6) Requires food facilities to provide clean toilet rooms in good repair and conveniently located and accessible for use by employees during all hours of operation. Requires the number of toilet facilities to be in accordance with applicable local building and plumbing ordinances.
- 7) Requires a food facility to provide clean toilet facilities in good repair for guests, consumers, or invitees when there is onsite consumption of food or when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space. Requires a building with more than 20,000 square feet of floor space to provide at least one separate toilet facility for men and one separate toilet facility for women. Permits any city or county to enact ordinances that are more restrictive than these requirements.
- 8) Provides that food facilities located within amusement parks, stadiums, arenas, food courts, fairgrounds, and similar premises are not required to provide toilet facilities for employee use within each food facility if approved toilet facilities are located within 200 feet of each food facility and are readily available for use by employees, as specified.

This bill:

- 1) Enacts the Neighborhood Restaurant Relief Act, which requires the CBSC, as part of the next triennial update of the California Building Standards Code that occurs on or after January 1, 2025, to adopt building standards that do all of the following:
 - a) Permit a business establishment that is takeout only to operate without providing customer restrooms;
 - b) Permit a business establishment, regardless of whether the business establishment sells alcohol, with a maximum occupancy of 49 persons, to provide restrooms without urinals;
 - c) Permit a business establishment to install up to 1,000 square feet of patio seating without providing additional restrooms;

- d) Permit a business establishment that serves alcohol to satisfy a requirement to provide restrooms by exclusively providing restrooms for use by all genders;
 - e) Permit a business establishment with a maximum occupancy of 100 occupants to operate without drinking fountains;
 - f) Authorize a business establishment to operate cooking equipment, for the purpose of baking, that does not produce cooking odors, smoke, grease, or vapor without installing a Type 1 hood, as defined, over the cooking equipment; and,
 - g) Permit a business establishment to operate an under-the-counter dishwasher without installing a mechanical exhaust system over the dishwasher.
- 2) Revises requirements pertaining to grease traps and grease interceptors at retail food facilities, which are currently prohibited from being located in a food or utensil handling area unless specifically approved by enforcement agency, to instead permit an aboveground grease trap installed under a three-compartment sink under the following conditions:
- a) A structural hardship can be determined preventing the grease trap from being installed in an area not designated for food preparation or storage or a utensil handling area;
 - b) The site can provide a cleaning or maintenance plan that indicates how and when this grease trap will be accessed for service to prevent cross contamination of food or food contact surfaces; and,
 - c) The site can provide procedures that will be taken to properly clean and sanitize the area following servicing.
- 3) Revises the requirement for “pass-through window service openings” in retail food facilities, which are currently limited to being no more than 216 square inches and must be equipped with a self-closing device, or can be up to 432 square inches if equipped with an air curtain device, by allowing a window to be closed when not in use rather than having a self-closing device, and by permitting a pass-through window that is larger than 432 square inches if equipped with both a self-closing device and an air curtain device. Permits an enforcement agency to approve alternative pass-through windows or other service openings if the proposed alternative can adequately maintain exclusion of vermin or other means of contamination.
- 4) Revises the list of exemptions from a requirement that the walls and ceilings of all rooms in a retail food facility to be of a durable, smooth, nonabsorbent, and easily cleanable surface, which currently exempts bar areas where alcoholic

beverages are sold, to apply this exemption to areas where beverages are sold, served, or dispensed.

- 5) Makes other minor, technical changes to provisions of law governing retail food facilities.

COMMENTS:

- 1) *Author's Statement.* "As small restaurants across California struggle to survive, state action is needed to help facilitate more outdoor dining and small business opportunities, in a manner consistent with public health guidance. Neighborhood restaurants are the backbone of communities across California, but too many are barely hanging on by a thread. Supporting their start up efforts and operational needs offers a lifeline that can help keep these establishments afloat, and we must do all we can to assist them during these challenging times. AB 2550 ensures that restaurants are fully supported as they continue to innovate their business practices and safely operate."
- 2) *Establishing building standards.* The legislature typically offers guidelines, or directs agencies to consider specific standards, in order to provide flexibility. After the proposal of building standards by state agencies, the standards undergo a public vetting process. A code advisory committee, composed of experts in a particular scope of code, reviews the proposed standards, followed by public review. The proposing agency considers feedback and may then amend the standards and re-submit them to the CBSC for consideration. The codes are updated every three years with an intervening cycle every 18 months. The next code adoption cycle is currently underway and set to become effective in 2026.
- 3) *Local government responsibilities and authority.* Except for building occupancies subject to state agency enforcement, local government must enforce the California Building Code as published by CBSC. Examples of buildings subject to state enforcement include hospitals, prisons, state government buildings, University of California buildings, California State University buildings, and community college buildings. Most other building types and occupancies are subject to local enforcement.

The majority of local governments adopt the published the California Building Code by reference in local ordinances. This is commonly called an adoption ordinance. If a local government does not adopt the California Building Code by local ordinance, California Building Code becomes the applicable code by default.

Various state laws authorize local governments to adopt local ordinances that make amendments to the building standards of the California Building Code. A local ordinance amendment that relates to the implementation or enforcement of a building standard necessitates an express finding that the amendment is reasonably necessary because of local climatic, geological, topographic, or environmental conditions.

To be enforceable, an amendment must be filed with the CBSC. Allowing a jurisdiction to adopt ordinances or resolutions that require the health and safety changes listed in this bill may not fit into the findings criteria for local climatic, geological, or topographical condition and cannot be enforceable without a proper CBSC filing. Therefore, if a jurisdiction wants to enforce these requirements, an amendment to the California Building Code would be necessary, as proposed in this bill.

- 4) *Nose goes*. The CBSC only has jurisdiction, and therefore the ability to propose building standards, for certain types of buildings, and restaurants are not among them. Generally, the department with jurisdiction over the building type would be assigned the responsibility for proposing these changes, which would then be submitted to CBSC for approval and adoption. Although retail food facilities fall under the overall jurisdiction of CDPH, local agencies are the primary enforcement entities, and to the extent there are specific building requirements for restaurants, they are spelled out in the CalCode. However, the changes in this bill requiring CBSC to adopt are not requirements in the CalCode, but are requirements in the plumbing code that are typically derived from national model codes.
- 5) *Restaurant relief*. The author's intent with these changes is to support restaurants that have faced considerable challenges as a result of COVID-19. This bill aims to help facilitate outdoor dining and small business opportunities, particularly those which may have evolved in their business model in response to social distancing and other recent practices.
- 6) *Double referral*. This bill passed out of the Senate Health Committee on June 19, 2024 with a vote of 11-0.

RELATED LEGISLATION:

AB 1217 (Gabriel, Chapter 569, Statutes of 2023) — extended the ability, until to July 1, 2026, for permitted food facilities to operate a temporary satellite food service without needing to obtain a separate permit, and to permit licensees of the

Department of Alcohol and Beverage Control to serve alcoholic beverages in an adjacent property under a Temporary Catering Authorization. These provisions of existing law are currently only authorized for one year following the end of the COVID-19 state of emergency.

SB 1194 (Allen, Chapter 839, Statutes of 2022) — permitted a local government to require, by ordinance or resolution, that multi-stall public restroom facilities within its jurisdiction be designed, constructed, and identified for use by all genders.

AB 1632 (Akilah Weber, Chapter 893, Statutes of 2022) — required a place of business that has a toilet facility for its employees to allow an individual who is lawfully on the premises to use that toilet facility during normal business hours if the individual has an eligible medical condition or uses an ostomy device, and if specified conditions are met.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2024.)

SUPPORT:

Cal Asian Chamber of Commerce
California Association for Micro Enterprise Opportunity (CAMEO)
California Hispanic Chamber of Commerce
City of Los Angeles
Family Business Association of California
The Greater Los Angeles Hospitality Association

OPPOSITION:

None received.

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