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Ron Chapman, MD, MPH
CA Department of Public Health
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RE: AB 1616 (Gato) Food safety: cottage food operations

Dear Dr. Chapman:

The California Conference of Local Health Officers (CCLHO) Board voted on August 2, 2012, at the CCLHO Board meeting to oppose AB 1616, unless it is amended. Specific amendments required for CCLHO to drop the oppose position include: 1) eliminate indirect sales from the bill, 2) reduce the total annual sales to \$25,000.00, 3) define "small child" (as less than 14 years of age), 4) limit sales to within a 5 mile radius from the cottage food kitchen (unless extended by the local health department, and 5) limit permitted foods to those in the Association of Food and Drug Officials best practices guidance. Our recommendation is that the California Department of Public Health should also take this position.

AB 1616 proposes managing the cottage industry food growing, preparation, and sales outside the traditional food facility regulation structure. Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law exempts private homes from the definition of a food facility, and prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. A violation of these provisions is a misdemeanor. This bill would include a cottage food operation, as defined, that is registered or has a permit within the private home exemption of the California Retail Food Code. The bill would also exclude a cottage food operation from specified food processing establishment and Sherman Law requirements. This bill would require a cottage food operation to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales. The bill would establish various zoning and permit requirements relating to cottage food operations.

As you are aware, CCLHO was established in statute in 1947 to advise the California Department of Health Services (now the California Department of Public Health), other departments, boards, and commissions, as well as officials of federal, state and local agencies, the Legislature and other organizations on all matters affecting health. CCLHO membership consists of all legally appointed physician health officers in California's 61 city and county jurisdictions.

Thank you for your consideration. If you have questions, please feel free to contact me at wilma.wooten@sdcounty.ca.gov or 619-542-4181.

Sincerely,

Wilma Wooten, MD, MPH
President, California Conference of Local Health Officers

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