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April 19, 2017

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Director and State Public Health Officer
California Department of Public Health
P.O. Box 997377, MS 0500
Sacramento, CA 95899-7377

Re: AB 626 (Garcia): California Retail Food Code: microenterprise home kitchen operations (Oppose)

Dear Dr. Smith:

The California Conference of Local Health Officers (CCLHO) voted at the CCLHO Board meeting on April 6, 2017 to take an Oppose recommendation on AB 626 (Garcia), a bill that would repeal the health and safety code exemption of a private home from the definition of a food facility and include a microenterprise home kitchen operation within the definition of a food facility. CCLHO recognizes that there may be some economic benefit to regulating food preparation and sales from private homes. However, CCLHO believes that there is a serious risk of food contamination and food-borne illnesses associated with home kitchen operations.

Food that is prepared in the home environment and sold for consumption is responsible for a disproportionate amount of food-borne illness in California. This is due in part to inadequate storage, preparation, cooking and storage. Improper temperature control is conducive to bacterial growth, and contributes to outbreaks of E coli. and Salmonella. Inadequate hand washing and sanitation is responsible for outbreaks of gastroenteritis caused by Norovirus, Shigella and Campylobacter. In addition, some home kitchens use meat and dairy products that are not regulated by CDFA and USDA, posing an additional risk for bacterial and parasitic infections.

CCLHO is aware that the author of the bill, some regulators and advocates of home operations have proposed regulatory measures to limit risk of illness. These include requirements for food handler training, limitations on revenue and meals served, inspections and enforcement. These and other regulatory measures have indeed contributed to reduced rates of food borne illnesses and outbreaks associated with existing food facilities subject to the California Retail Food Code. However, successful enforcement resulting in reduction of food borne illness is largely dependent on both announced and unannounced kitchen inspections. In particular, unannounced inspections, typically in response to a complaint or to frequent inspection shortcomings, allow the local enforcement agency the ability to identify food storage and preparation practices that are not compliant with Cal Code, to quickly cease operations if needed, and establish criteria for reopening of a facility. Under the proposed legislation, home operations will not be subject to unannounced inspections, nor would it be feasible. Inspectors would therefore be unable to respond as quickly to complaints. As for limits on meals served and revenue, CCLHO is unaware of evidence to show that such limits reduce the risk of food-borne illness.

Karen L. Smith, MD, MPH
April 19, 2017
Page 2

CCLHO also acknowledges that California's current regulated food facility industry allows opportunities for individuals to express their culinary talents while protecting Californians from contamination and food-borne illness.

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.

This position of opposition to include a microenterprise home kitchen operation within the definition of a food facility under health and safety code and regulate said operations is consistent with CCLHO's strategic priority to provide evidence-based public health advice, expertise & recommendations. It is further consistent with the legislative priority of providing recommendations on population-based issues that affect the health of all Californians

If you have any questions, please feel free to contact me at Ken.Cutler@co.nevada.ca.us or at 530-265-7154.

Sincerely and on behalf of the CCLHO membership,

A handwritten signature in black ink that reads "K Cutler MD". The signature is written in a cursive, slightly slanted style.

Ken Cutler, MD, MPH
President, California Conference of Local Health Officers