
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 1138 **Hearing Date:** April 17, 2018
Author: Skinner
Version: March 22, 2018
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Food Options: Plant-Based Meals*

HISTORY

Source: Friends of the Earth
Physicians Committee for Responsible Medicine
Social Compassion in Legislation

Prior Legislation: None

Support: Adventist Health Clearlake; Balanced; Brighter Green; California Public Defenders Association; Center for Biological Diversity; Center for Food Safety; East Bay Animal PAC; Ella Baker Center for Human Rights; Environmental Working Group; Health Care Without Harm; Humane Society of the United States; Occidental Arts & Ecology Center; Tofurkey Company; over 100 individuals

Opposition: None known

PURPOSE

The purpose of this bill is to require the California Department of Corrections and Rehabilitation (CDCR) to make plant-based meals available to the inmates under its jurisdiction, and to require specified licensed health care facilities to make plant-based meals available to their patients, as specified.

Existing law defines a “health facility” as a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, which includes an acute care hospital, an acute psychiatric hospital, a skilled nursing facility, an intermediate care facility, a special hospital, and a nursing facility. (Health & Saf. Code, § 1250.)

Existing law requires a licensed general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, special hospital, and nursing facility to employ a dietitian. (Health & Saf. Code, § 1265.4, subd. (a).)

Existing law imposes criminal sanctions for a violation of various provisions, or willful or repeated violations of rules or regulations adopted pursuant to those provisions, relating to licensed health facilities. (Health & Saf. Code, § 1290.)

Existing law requires CDCR to provide each prisoner with a bed, sufficient covering of blankets, and with garments of substantial material and of distinctive manufacture, and with sufficient plain and wholesome food of such variety as may be most conducive to good health. (Pen. Code, § 2084.)

This bill requires a licensed health facility, as specified, to make available wholesome, plant-based meals of such variety as to meet the needs of patients in accordance with their physicians' orders.

This bill specifies that notwithstanding any other law, a violation of the requirement that specified licensed health facilities make available plant-based meals to patients shall not constitute a crime.

This bill defines "plant-based meals" to mean entire meals that contain no animal products or byproducts, including meat, poultry, fish, dairy, or eggs.

This bill requires CDCR to make plant-based meals available to inmates.

COMMENTS

1. Need for This Bill

According to the author:

Most of us have the option to prepare at home or bring a meal with us to work, school or elsewhere that suits our religious, ethical, and dietary needs. Those in an institutional setting such as a licensed health care facility or a state prison do not have that option. While many public institutions already provide vegetarian or vegan options, it is not yet required at hospitals and prisons.

Providing a plant-based meal option not only ensures that religious, ethical, or dietary needs are respected, plant-based meals, if properly selected, can also be healthier.

Additionally, eating a plant-based diet results in fewer greenhouse gas emissions. In a two-year pilot program, Friends of the Earth (FOE) and Oakland Unified School District (OUSD) were able to show that serving more plant-based meals at OUSD resulted in a 14% reduction in the carbon footprint of the District's food program, 6% reduction in water footprint, and \$42,000 in cost-savings. In addition, a 2014 UCLA report found that increasing the inclusion of plant-based meals could increase the global food supply by 49% without expanding croplands as well as significantly reduce carbon emissions and waste byproducts that end up in our oceans.

The support for plant-based meals is growing. In 2017, the American Medical Association called on hospitals to provide plant-based meal options to align hospital menus with their health care mission. In addition, the California Penal Code already laid the foundation by ensuring that each prisoner must be provided with sufficient vegetarian meals upon request. These meals, however, are not strictly plant-based and often contain milk or eggs.

SB 1138 will ensure that hospitals and state prisons provide a plant-based meal option to improve health, respect religious and other preferences as well as extend California's environmental stewardship.

2. CDCR Policies on Food Service and Inmate Diets

Penal Code section 2084 requires CDCR to provide inmates "with sufficient plain and wholesome food of such variety as may be most conducive to good health." CDCR regulations further specify that each inmate must be provided a "nutritionally balanced diet." (Cal. Code of Regs., tit. 15, § 3050, subd. (a).) The current Recommended Dietary Allowances (RDA) and Dietary Reference Intakes (RDI) as established by the Food and Nutrition Board of the Institute of Medicine, National Academy of Science are authoritative in setting levels of nutritional need. (Dept. of Operations Manual (DOM) § 54080.1.) The standardized CDCR menu and nutritional analysis must be reviewed by a registered dietician annually to ensure compliance with the RDA and DRI. (DOM § 54080.4.) Generally, inmates must be provided three meals during each 24-hour period, and a minimum of two of those meals must be hot meals. (DOM § 54080.5) Deviations from the two hot meals per day requirement may be allowed to accommodate religious observances and religious diet programs and institution emergencies. (*Id.*)

The regulations also delineate the department's policies on special inmate diets. Each institution must make reasonable efforts to accommodate those inmates who have been determined to require a religious diet, as specified. (Cal. Code of Regs., tit. 15, § 3054, subd. (a).) Inmates requesting a special diet must be a participant of the Religious Diet Program. There are three religious diet options: vegetarian, kosher, and religious meat alternate. (Cal. Code of Regs., tit. 15, § 3054, subd. (e).)

Vegetarian meals must be available at all institutions upon request for inmates with any religious, personal, or ethical dietary need. Inmates may seek participation in the vegetarian diet program by submitting to any chaplain a Religious Diet Program Request form. (Cal. Code of Regs., tit. 15, § 3054.1.) No more than 30 days may pass between receipt of the request, which results in a determination about the inmate's eligibility for the program, and the day an accepted inmate begins receiving the religious meals requested. (Cal. Code of Regs., tit. 15, § 3054.1, subd. (a).) Inmates approved for participation in the program must be provided with an approved vegetarian protein alternative. (Cal. Code of Regs., tit. 15, § 3054.1.)

The approval process for participation in the Religious Diet Program requires the chaplain to:

- Interview the inmate requesting the religious diet.
- Determine the inmate's religious diet eligibility and placement into the appropriate religious diet program.
- When Religious Diet Program eligibility is determined, explain the department's agreement concerning the religious diet program.

- When applicable, have the inmate sign the Religious Diet Program Agreement and the Religious Diet Program Request.
- Distribute the completed Religious Diet Program Request and the Religious Diet Program Agreement, within three working days to the Community Resources Manager.
- Notify the inmate of the decision in writing by providing a copy of their Religious Diet Request.
- Enter pertinent information for each inmate approved to participate in a Religious Diet Program onto a religious diet participant list within 24 hours of approval. Maintain and update the list every 30 days, and provide the correctional food manager with a copy of the list of those inmates who have been determined eligible to receive a religious diet, and which diet they will receive.
- Regularly monitor the religious diet lists with food service staff to ensure that all inmate Religious Diet Program participants are served their religious dietary meals with minimal delay.
- Provide each approved inmate with a Religious Diet Card.
- Meet with inmates, giving them the opportunity to respond to any allegations of Religious Diet Program Agreement compliance violations, prior to making a determination of continuing eligibility.

(Cal. Code of Regs., tit. 15, § 3054.4, subd. (b).)

Inmate participants of the Religious Diet Program must show their Religious Diet Card when receiving their approved religious diet and follow the conditions of the signed Religious Diet Program Agreement. (Cal. Code of Regs., tit. 15, § 3054.4, subd. (c).) An inmate who wishes to withdraw from the Religious Diet Program must sign the Religious Diet Program Cancellation Request form and submit the completed it to the institution's Community Resources Manager. (Cal. Code of Regs., tit. 15, § 3054.4, subd. (d).) Any alleged compliance violation of the Religious Diet Program Agreement must be reported and documented in the inmate's central file. All reports must be sent to the designated representative of the RRC, who then must consult with the inmate. The RRC makes the final determination of continuing eligibility. A first violation of the Religious Diet Program Agreement results in a warning issued to the inmate, and a second violation within six months of the first violation may subject the inmate to removal from the program. (Cal. Code of Regs., tit. 15, § 3054.5.)

CDCR is currently not required to make plant-based food options available to inmates. Because it is not known how many inmates would opt for plant-based meals if that option were available or how many of the vegetarian meals that CDCR currently offers are also plant-based meals, the impact of this bill is unknown. This bill is double referred to the Senate Health Committee. The requirement that specified licensed health facilities make plant-based meals available to patients and the other health-related aspects of the bill will be analyzed in that committee.

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