**Conference for Food Protection**

**2020 Issue Form**

**Issue: 2020 I-023**

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| **Council Recommendation:** | Accepted as  Submitted |  | Accepted as Amended |  | No Action |  |
| **Delegate Action:** | Accepted |  | Rejected |  |  |  |

*All information above the line is for conference use only.*

**Title:**

Amend Food Code to Address New Reusable Scenarios in Food Retail

**Recommended Solution: The Conference recommends...:**

that section 3-304.17 proactively address a wider range of scenarios by clarifying safety standards surrounding the use of reusable containers, including but not limited to:

1. **Replacement of conflicting or ambiguous terms:** Taking inspiration from recent CA legislation (see "Assembly Bill No 619 in Supporting Attachments), define reusable containers as those either provided by or returned to the food facility.
2. **Better identify the scenarios being regulated:** Stipulate that for ready-to-consume TCS foods, reusable containers must be designed and constructed for reuse per Section 3-304.17(B)(1) of the Code. Remove the arbitrary distinction between food and beverage handling scenarios, with the exception of water vending.

The Conference further recommends a letter be sent to the FDA requesting that the most current edition of the Food Code be amended to replace section 3-304.17 with new language below. Explanatory notes are found in the attached content document entitled "Refilling Reusables Language".

**3-304.17 ~~Refilling Returnables~~ Refilling Reusable Containers**

~~(A) Except as specified in ¶¶ (B) - (E) of this section, empty containers returned to a FOOD ESTABLISHMENT for cleaning and refilling with FOOD shall be cleaned and refilled in a regulated FOOD PROCESSING PLANT.~~

(A) A reusable container is designed and constructed for reuse in accordance with the requirements specified under Part 4-1 and 4-2.

~~(B) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with FOOD if the FOOD container is:~~

(B) Only reusable containers returned to a food establishment may be refilled with ready-to-eat or TCS foods either by a food employee or the consumer, except as specified in ¶¶ (1)-(2) of this section.

~~(1) Designed and constructed for reuse and in accordance with the requirements specified under Part 4-1 and 4-2;~~

(1) A consumer-owned container not specifically designed for reuse may be refilled by the same consumer with a non-TCS food or beverage in a contamination-free transfer process.

~~(2) One that was initially provided by the FOOD ESTABLISHMENT to the CONSUMER, either empty or filled with FOOD by the FOOD ESTABLISHMENT, for the purpose of being returned for reuse;~~

(2) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

~~(3) Returned to the FOOD ESTABLISHMENT by the CONSUMER after use;~~

~~(4) Subject to the following steps before being refilled with FOOD: (a) Cleaned as specified under Part 4-6 of this Code,~~

~~(b) Sanitized as specified under Part 4-7 of this Code; P and~~

~~(c) Visually inspected by a FOOD EMPLOYEE to verify that the container, as returned, meets the requirements specified under Part 4-1 and 4-2. P~~

~~(C) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with BEVERAGE if:~~

~~(1) The BEVERAGE is not a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD~~

~~(2) The design of the container and of the rinsing EQUIPMENT and the nature of the BEVERAGE, when considered together, allow effective cleaning at home or in the FOOD ESTABLISHMENT;~~

~~(3) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;~~

~~(4) The CONSUMER-owned container returned to the FOOD ESTABLISHMENT for refilling is refilled for sale or service only to the same CONSUMER; and~~

~~(5) The container is refilled by:~~

~~(a) An EMPLOYEE of the FOOD ESTABLISHMENT, or~~

~~(b) The owner of the container if the BEVERAGE system includes a contamination-free transfer process as specified under ¶¶ 4-204.13(A), (B), and (D) that cannot be bypassed by the container owner.~~

(C) Establishment-owned, managed, or provided reusable containers returned to a food establishment for refilling with food shall be cleaned as specified under Part 4-6 and sanitized as specified under Part 4-7 of this Code prior to refilling.

~~(D) Consumer-owned, personal take-out BEVERAGE containers, such as thermally insulated bottles, nonspill coffee cups, and promotional BEVERAGE glasses, may be refilled by EMPLOYEES or the CONSUMER if refilling is a contamination-free process as specified under ¶¶ 4-204.13(A), (B), and (D).~~

(D) Reusable containers returned to a food establishment for refilling by a food employee or the consumer must be refilled in a contamination-free transfer process such that:

(1) Any consumer-owned container is isolated from food-serving surfaces or such surfaces are sanitized by an employee after each filling.

(2) The food establishment shall prepare, maintain and adhere to written procedures to prevent cross-contamination which additionally address waste water disposal. The food establishment shall make the written procedures available to the enforcement agency upon request.

~~(E) CONSUMER-owned containers that are not FOOD-specific may be filled at a water VENDING MACHINE or system.~~

It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.