

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2865

Introduced by Assembly Member Torrico
(Principal coauthor: Assembly Member Montanez)
(Coauthors: Assembly Members Koretz, Lieber, and Pavley)
(Coauthor: Senator Migden)

February 24, 2006

An act to amend Sections 17609, 17610, 17610.1, and 17612 of the Education Code, ~~and~~ to amend Sections 13183, 13185, and 13186 of the Food and Agricultural Code, *and to amend Section 1596.845 of the Health and Safety Code*, relating to school safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 2865, as amended, Torrico. School safety.

Existing law, the Health Schools Act of 2000 requires that the preferred method of managing pests at schoolsites *be to* use effective, least toxic pest management practices and requires schoolsites to maintain records of all pesticides used at the schoolsite for a period of 4 years. Existing law requires schools to provide all staff and parents or guardians of pupils enrolled at a school written notification of, among other things, expected pesticide use at that site.

This bill would expand the definition of "schoolsites" as used in these provisions to also include private child *day care*—~~and development programs facilities~~, as specified *with the exception of facilities operated in a rental property. This bill would also require property owners to notify tenants who operate a child day care facility of their pest management practices. This bill would also require child*

day care facilities to inform contractors hired to apply pesticide at the schoolsite that the facility must comply with the act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17609 of the Education Code is
2 amended to read:

3 17609. The definitions set forth in this section govern the
4 construction of this article unless the context clearly requires
5 otherwise:

6 (a) “Antimicrobial” means those pesticides defined by the
7 Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
8 Sec. 136(mm)).

9 (b) “Crack and crevice treatment” means the application of
10 small quantities of a pesticide consistent with labeling
11 instructions in a building into openings such as those commonly
12 found at expansion joints, between levels of construction and
13 between equipment and floors.

14 (c) “Emergency conditions” means any circumstances in
15 which the school designee deems that the immediate use of a
16 pesticide is necessary to protect the health and safety of pupils,
17 staff, or other persons, or the schoolsite.

18 (d) “School designee” means the individual identified by a
19 schoolsite or school district to carry out the requirements of this
20 article at the schoolsite.

21 (e) “Schoolsite” means any facility used ~~for any child care~~
22 ~~and development program, as defined in subdivision (i) of~~
23 ~~Section 8208, as a child day care facility, as defined in Section~~
24 ~~1596.750 of the Health and Safety Code, or for kindergarten,~~
25 elementary, or secondary school purposes. The term includes the
26 buildings or structures, playgrounds, athletic fields, vehicles, or
27 any other area of property visited or used by pupils. “Schoolsite”
28 does not include any postsecondary educational facility attended
29 by secondary pupils or private kindergarten, elementary, or
30 secondary school facilities.

31 SEC. 1.5. Section 17610 of the Education Code is amended to
32 read:

1 17610. It is the policy of the state that effective least toxic
2 pest management practices should be the preferred method of
3 managing pests at schoolsites and that the state, in order to
4 reduce children’s exposure to toxic pesticides, shall take the
5 necessary steps, pursuant to Article 17 (commencing with
6 Section 13180) of Chapter 2 of Division 7 of the Food and
7 Agricultural Code, to facilitate the adoption of effective least
8 toxic pest management practices at schoolsites. It is the intent of
9 the Legislature to encourage appropriate training to be provided
10 to school personnel involved in the application of pesticide at a
11 schoolsite.

12 *The Healthy Schools Act of 2000 shall not apply to a child day*
13 *care facility, as defined in Section 1596.750 of the Health and*
14 *Safety Code that, because of its operation in a rental property*
15 *and lack of involvement in pest management at the facility, does*
16 *not have access to information on the application of pesticide on*
17 *the facility’s premises. Under these circumstances, the operator*
18 *of a child day care facility shall use his or her best efforts to*
19 *learn about the pest management practiced on the facility’s*
20 *premises and to comply with the act. To the extent that the*
21 *operator of a child day care facility operated under these*
22 *circumstances is involved in pest management at the facility, the*
23 *child day care center shall comply with the act.*

24 *Property owners shall notify any new tenant who operates a*
25 *child day care facility, or upon renewal of an existing rental*
26 *agreement shall notify existing tenants who operate a child day*
27 *care facility, of their pest management practices to enable the*
28 *facility to comply with the act.*

29 SEC. 2. Section 17610.1 of the Education Code is amended to
30 read:

31 17610.1. (a) (1) The use of a pesticide on a schoolsite is
32 prohibited if that pesticide is granted a conditional registration,
33 an interim registration, or an experimental use permit by the
34 Department of Pesticide Regulation, or if the pesticide is subject
35 to an experimental registration issued by the United States
36 Environmental Protection Agency, and either of the following is
37 applicable:

- 38 (A) The pesticide contains a new active ingredient.
- 39 (B) The pesticide is for a new use. This paragraph does not
40 apply to a conditionally registered pesticide that is approved for

1 other uses that has fulfilled all registration requirements that
2 relate to human health, including, but not limited to, the
3 completion of mandatory health effect studies pursuant to the
4 Birth Defect Prevention Act of 1984 (Art. 14 (commencing with
5 Sec. 13121), Ch. 2, Div. 7, F.& A.C.). The requirements of this
6 section are not intended to impose any new labeling
7 requirements.

8 (2) The use of a pesticide on a schoolsite is prohibited if the
9 Department of Pesticide Regulation cancels or suspends
10 registration, or requires phase out of use, of that pesticide.

11 (b) Vendors or manufacturers of pesticides that are prohibited
12 for use on a schoolsite pursuant to subdivision (a) are prohibited
13 from furnishing those pesticides to school districts or schoolsites
14 either by sale or by gift.

15 (c) This section does not apply to public health pesticides or
16 antimicrobial pesticides registered pursuant to Section 12836 of
17 the Food and Agricultural Code.

18 SEC. 3. Section 17612 of the Education Code is amended to
19 read:

20 17612. (a) The school designee shall annually provide to all
21 staff and parents or guardians of pupils enrolled at a schoolsite a
22 written notification of the name of all pesticide products expected
23 to be applied at the schoolsite during the upcoming year. The
24 notification shall identify the active ingredient or ingredients in
25 each pesticide product. The notice shall also contain the Internet
26 address used to access information on pesticides and pesticide
27 use reduction developed by the Department of Pesticide
28 Regulation pursuant to Section 13184 of the Food and
29 Agricultural Code and may contain other information deemed
30 necessary by the school designee. No other written notification of
31 pesticide applications shall be required by this act except as
32 follows:

33 (1) In the written notification provided pursuant to this
34 subdivision, the school designee shall provide the opportunity for
35 recipients to register with the schoolsite if they wish to receive
36 notification of individual pesticide applications at the schoolsite.
37 Persons who register for ~~such~~ notification shall be notified of
38 individual pesticide applications at least 72 hours prior to the
39 application. The notice shall include the product name, the active

1 ingredient or ingredients in the product, and the intended date of
2 application.

3 (2) If a pesticide product not included in the annual
4 notification is subsequently intended for use at the schoolsite, the
5 school designee shall, consistent with this subdivision and at
6 least 72 hours prior to application, provide written notification of
7 its intended use.

8 (b) The school designee shall make every effort to meet the
9 requirements of this section in the least costly manner. Annual
10 notification *by a school district* to parents and guardians shall be
11 provided pursuant to Section 48980.3. Any other notification
12 shall, to the extent feasible and consistent with the act adding this
13 article, be included as part of any other written communication
14 provided to individual parents or guardians. Nothing in this
15 section shall require the school designee to issue the notice
16 through first-class mail, unless he or she determines that no other
17 method is feasible.

18 (c) Pest control measures taken during an emergency condition
19 as defined in Section 17609 shall not be subject to the
20 requirements of paragraphs (1) and (2) of subdivision (a).
21 However, the school designee shall make every effort to provide
22 the required notification for an application of a pesticide under
23 emergency conditions.

24 (d) The school designee shall post each area of the schoolsite
25 where pesticides will be applied with a warning sign. The
26 warning sign shall prominently display the term
27 “Warning/Pesticide Treated Area” and shall include the product
28 name, manufacturer’s name, the United States Environmental
29 Protection Agency’s product registration number, intended date
30 and areas of application, and reason for the pesticide application.
31 The warning sign shall be visible to all persons entering the
32 treated area and shall be posted 24 hours prior to the application
33 and remain posted until 72 hours after the application. In case of
34 a pest control emergency, the warning sign shall be posted
35 immediately upon application and shall remain posted until 72
36 hours after the application.

37 (e) Subdivisions (a) and (d) shall not apply to schools operated
38 by the California Youth Authority. The school administrator of a
39 school operated by the California Youth Authority shall notify
40 the chief medical officer of that facility at least 72 hours prior to

1 application of pesticides. The chief medical officer shall take any
2 steps necessary to protect the health of pupils in that facility.

3 (f) This section and Section 17611 shall not apply to activities
4 undertaken at a school by participants in the state program of
5 agricultural vocational education, pursuant to Article 7
6 (commencing with Section 52450) of Chapter 9 of Part 28, if the
7 activities are necessary to meet the curriculum requirements
8 prescribed in Section 52454. Nothing in this subdivision relieves
9 schools participating in the state program of agricultural
10 vocational education of any duties pursuant to this section for
11 activities that are not directly related to the curriculum
12 requirements of Section 52454.

13 SEC. 4. Section 13183 of the Food and Agricultural Code is
14 amended to read:

15 13183. The Department of Pesticide Regulation shall promote
16 and facilitate the voluntary adoption of integrated pest
17 management programs for all schoolsites that voluntarily choose
18 to do so. For these schoolsites, the department shall do all of the
19 following:

20 (a) Establish an integrated pest management program for
21 schoolsites consistent with Section 13181. In establishing the
22 program, the department shall:

23 (1) Develop criteria for identifying least-hazardous pest
24 control practices and encourage their adoption as part of an
25 integrated pest management program at each schoolsite.

26 (2) Develop a model program guidebook that prescribes
27 essential program elements for ~~a schoolsite that has~~ *schoolsites*
28 *that have* adopted a least-hazardous integrated pest management
29 program. At a minimum, this guidebook shall include guidance
30 on all of the following:

31 (A) Adopting an IPM policy.

32 (B) Selecting and training an IPM coordinator.

33 (C) Identifying and monitoring pest populations and damage.

34 (D) Establishing a community-based school district advisory
35 committee.

36 (E) Developing a pest management plan for making
37 least-hazardous pest control choices.

38 (F) Contracting for integrated pest management services.

39 (G) Training and licensing opportunities.

1 (H) Establishing a community-based right-to-know standard
2 for notification and posting of pesticide applications.

3 (I) Recordkeeping and program review.

4 (b) Make the model program guidebook available to
5 schoolsites and establish a process for systematically updating
6 the guidebook and supporting documentation.

7 SEC. 5. Section 13185 of the Food and Agricultural Code is
8 amended to read:

9 13185. (a) The department shall establish an integrated pest
10 management training program in order to facilitate the adoption
11 of a model IPM program and least-hazardous pest control
12 practices by schoolsites. In establishing the IPM training
13 program, the department shall do all of the following:

14 (1) Adopt a “train-the-trainer” approach, whenever feasible, to
15 rapidly and broadly disseminate program information.

16 (2) Develop curricula and promote ongoing training efforts in
17 cooperation with the University of California and the California
18 State University.

19 (3) Prioritize outreach on a regional basis first and then to
20 school districts.

21 (b) Nothing in this article shall preclude a schoolsite from
22 adopting stricter pesticide use policies.

23 SEC. 6. Section 13186 of the Food and Agricultural Code is
24 amended to read:

25 13186. (a) The Legislature finds and declares that the
26 Department of Pesticide Regulation, pursuant to Section 12979
27 of the Food and Agricultural Code and Sections 6624 and 6627
28 of Title 3 of the California Code of Regulations, requires persons
29 engaged for hire in the business of pest control to maintain
30 records of pesticide use and report a summary of that pesticide
31 use to the county agricultural commissioner or director. The
32 Legislature further finds and declares that it is in the interest of
33 the state, in implementing a school integrated pest management
34 program pursuant to this article, to collect specified information
35 on the use of pesticides at schoolsites.

36 (b) The Department of Pesticide Regulation shall prepare a
37 school pesticide use form to be used by licensed and certified
38 pest control operators when they apply any pesticides at a
39 schoolsite. The form shall include, for each application at a
40 schoolsite, the name and address of the schoolsite, date and

1 location of application, pesticide product name, and the quantity
2 of pesticide used. Nothing in this section shall change any
3 existing applicable pesticide use reporting requirements.

4 (c) Persons who are required to submit pesticide use records to
5 the county agricultural commissioner or director shall complete
6 and submit to the director the school pesticide use forms
7 established pursuant to this section. The forms shall be submitted
8 annually and may be submitted more often at the discretion of the
9 pest control operator maintaining the forms. *Child day care*
10 *facilities, as defined in Section 1596.750 of the Health and Safety*
11 *Code that are subject to the Healthy Schools Act of 2000 shall*
12 *inform contractors hired to apply pesticide at the schoolsite that*
13 *the facility must comply with the Health Schools Act of 2000.*

14 *SEC. 7. Section 1596.845 of the Health and Safety Code is*
15 *amended to read:*

16 1596.845. Prior to the issuance of a new license or special
17 permit pursuant to this chapter, Chapter 3.5 (commencing with
18 Section 1596.90), or Chapter 3.6 (commencing with Section
19 1597.30) the applicant shall attend an orientation given by the
20 department. The orientation given by the department shall outline
21 all of the following:

22 (a) The rules and regulations of the department applicable to
23 child day care facilities.

24 (b) The scope of operation of a child day care facility.

25 (c) The responsibility entailed in operating a child day care
26 facility.

27 (d) *Information about the Health Schools Act of 2000 and*
28 *integrated pest management practices.*