

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY MAY 26, 2006

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 *Jones, Koretz, Lieber, Lieu,*
***Strickland, and Pavley*)**
(Coauthor: Senator Migden)

February 24, 2006

An act to amend Sections 17609, 17610, 17610.1, and 17612 of the Education Code, 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 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 *and to provide a specified notice prior to the application of pesticides.* 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 *and require persons hired to apply pesticides at a child day care facility to provide specified information to the facility.* This bill would make other conforming changes.

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 *or a property owner of a property*
 16 *where a child day care facility is located, or the property*
 17 *owner’s agent,* deems that the immediate use of a pesticide is
 18 necessary to protect the health and safety of pupils, staff, or other
 19 persons, or the schoolsite.
 20 (d) “School designee” means the individual identified by a
 21 schoolsite or school district to carry out the requirements of this
 22 article at the schoolsite.
 23 (e) “Schoolsite” means any facility used as a child day care
 24 facility, as defined in Section 1596.750 of the Health and Safety
 25 Code, or for kindergarten, elementary, or secondary school
 26 purposes. The term includes the buildings or structures,
 27 playgrounds, athletic fields, vehicles, or any other area of

1 property visited or used by pupils. “Schoolsite” does not include
2 any postsecondary educational facility attended by secondary
3 pupils or private kindergarten, elementary, or secondary school
4 facilities.

5 SEC. 1.5. Section 17610 of the Education Code is amended to
6 read:

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

18 ~~The~~

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

31 ~~Property owners shall notify any new tenant who operates a~~
32 ~~child day care facility, or upon renewal of an existing rental~~
33 ~~agreement shall notify existing tenants who operate a child day~~
34 ~~care facility, of their pest management practices to enable the~~
35 ~~facility to comply with the act.~~

36 (c) (1) *A property owner of a property where a child day care*
37 *facility is located, or the property owner’s agent, who personally*
38 *applies any pesticides on any area listed in paragraph (2) shall*
39 *provide notice to the child day care facility as described in*
40 *paragraph (3) at least 120 hours before the application, unless*

1 *an emergency condition, as defined in Section 17609, exists. If*
2 *child day care facility fails to provide the property owner or his*
3 *or her agent proper notice of the presence of the child day care*
4 *facility, then the requirements of this subdivision do not apply.*

5 *A property owner shall be subject to the requirement to*
6 *provide notice pursuant to this subdivision 30 days after it has*
7 *received notice from a child day care facility of its presence at*
8 *the property, unless the property owner, or his or her agent*
9 *received that notice pursuant to paragraph (1) of subdivision (d)*
10 *of Section 1597.40 of the Health and Safety Code prior to the*
11 *effective date of this subdivision in which case the property*
12 *owner will be subject to the notice requirements on and after the*
13 *effective date of this subdivision.*

14 *(2) This subdivision applies when a property owner or his or*
15 *her agent intend to personally apply pesticides on any of the*
16 *following:*

17 *(A) Inside the child day care facility.*

18 *(B) Upon a designated child day care facility playground.*

19 *(C) Upon an area designated for use by the child day care*
20 *facility.*

21 *(D) Upon an area within 10 feet of the perimeter of the child*
22 *day care facility.*

23 *(3) The notice required by paragraph (1) shall include the*
24 *following:*

25 *(A) The product name.*

26 *(B) The manufacturer's name.*

27 *(C) The active ingredients of each pesticide.*

28 *(D) The United States Environmental Protection Agency's*
29 *product registration number.*

30 *(E) The intended date of application.*

31 *(F) The areas of application.*

32 *(G) The reason for application.*

33 *(4) A notice of pesticide application provided to a tenant*
34 *pursuant to subdivision (d) of Section 13186 of the Food and*
35 *Agricultural Code shall satisfy the notice requirements of this*
36 *section.*

37 SEC. 2. Section 17610.1 of the Education Code is amended to
38 read:

39 17610.1. (a) (1) The use of a pesticide on a schoolsite is
40 prohibited if that pesticide is granted a conditional registration,

1 an interim registration, or an experimental use permit by the
2 Department of Pesticide Regulation, or if the pesticide is subject
3 to an experimental registration issued by the United States
4 Environmental Protection Agency, and either of the following is
5 applicable:

6 (A) The pesticide contains a new active ingredient.

7 (B) The pesticide is for a new use. This paragraph does not
8 apply to a conditionally registered pesticide that is approved for
9 other uses that has fulfilled all registration requirements that
10 relate to human health, including, but not limited to, the
11 completion of mandatory health effect studies pursuant to the
12 Birth Defect Prevention Act of 1984 (Art. 14 (commencing with
13 Sec. 13121), Ch. 2, Div. 7, F. & A.C.). The requirements of this
14 section are not intended to impose any new labeling
15 requirements.

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

19 (b) Vendors or manufacturers of pesticides that are prohibited
20 for use on a schoolsite pursuant to subdivision (a) are prohibited
21 from furnishing those pesticides to school districts or schoolsites
22 either by sale or by gift.

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

26 SEC. 3. Section 17612 of the Education Code is amended to
27 read:

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

1 (1) In the written notification provided pursuant to this
2 subdivision, the school designee shall provide the opportunity for
3 recipients to register with the schoolsite if they wish to receive
4 notification of individual pesticide applications at the schoolsite.
5 Persons who register for notification shall be notified of
6 individual pesticide applications at least 72 hours prior to the
7 application. The notice shall include the product name, the active
8 ingredient or ingredients in the product, and the intended date of
9 application.

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

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

25 (c) Pest control measures taken during an emergency condition
26 as defined in Section 17609 shall not be subject to the
27 requirements of paragraphs (1) and (2) of subdivision (a).
28 However, the school designee shall make every effort to provide
29 the required notification for an application of a pesticide under
30 emergency conditions.

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

1 a pest control emergency, the warning sign shall be posted
2 immediately upon application and shall remain posted until 72
3 hours after the application.

4 (e) Subdivisions (a) and (d) shall not apply to schools operated
5 by the Division of Juvenile Justice. The school administrator of a
6 school operated by the Division of Juvenile Justice shall notify
7 the chief medical officer of that facility at least 72 hours prior to
8 application of pesticides. The chief medical officer shall take any
9 steps necessary to protect the health of pupils in that facility.

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

20 (g) *This section shall not apply to operators, residents, or staff*
21 *members of family day care homes, as defined in Section 1596.78*
22 *of the Health and Safety code, who apply pesticides themselves*
23 *rather than use contractors or others to apply pesticides.*

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

26 13183. The Department of Pesticide Regulation shall promote
27 and facilitate the voluntary adoption of integrated pest
28 management programs for all schoolsites that voluntarily choose
29 to do so. For these schoolsites, the department shall do all of the
30 following:

31 (a) Establish an integrated pest management program for
32 schoolsites consistent with Section 13181. In establishing the
33 program, the department shall:

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

37 (2) Develop a model program guidebook that prescribes
38 essential program elements for schoolsites that have adopted a
39 least-hazardous integrated pest management program. At a

1 minimum, this guidebook shall include guidance on all of the
2 following:

- 3 (A) Adopting an IPM policy.
- 4 (B) Selecting and training an IPM coordinator.
- 5 (C) Identifying and monitoring pest populations and damage.
- 6 (D) Establishing a community-based school district advisory
7 committee.
- 8 (E) Developing a pest management plan for making
9 least-hazardous pest control choices.
- 10 (F) Contracting for integrated pest management services.
- 11 (G) Training and licensing opportunities.
- 12 (H) Establishing a community-based right-to-know standard
13 for notification and posting of pesticide applications.
- 14 (I) Recordkeeping and program review.

15 (b) Make the model program guidebook available to
16 schoolsites and establish a process for systematically updating
17 the guidebook and supporting documentation.

18 ~~(e) For a child care facility that is defined as a schoolsite by
19 subdivision (e) of Section 17609 of the Education Code, make
20 the model guidebook available at the orientation given by the
21 Department of Social Services pursuant to Section 1596.845 of
22 the Health and Safety Code.~~

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

25 13185. (a) The department shall establish an integrated pest
26 management training program in order to facilitate the adoption
27 of a model IPM program and least-hazardous pest control
28 practices by schoolsites. In establishing the IPM training
29 program, the department shall do all of the following:

- 30 (1) Adopt a “train-the-trainer” approach, whenever feasible, to
31 rapidly and broadly disseminate program information.
- 32 (2) Develop curricula and promote ongoing training efforts in
33 cooperation with the University of California and the California
34 State University.
- 35 (3) Prioritize outreach on a regional basis first and then to
36 school districts.

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

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

1 13186. (a) The Legislature finds and declares that the
2 Department of Pesticide Regulation, pursuant to Section 12979
3 of the Food and Agricultural Code and Sections 6624 and 6627
4 of Title 3 of the California Code of Regulations, requires persons
5 engaged for hire in the business of pest control to maintain
6 records of pesticide use and report a summary of that pesticide
7 use to the county agricultural commissioner or director. The
8 Legislature further finds and declares that it is in the interest of
9 the state, in implementing a school integrated pest management
10 program pursuant to this article, to collect specified information
11 on the use of pesticides at schoolsites.

12 (b) The Department of Pesticide Regulation shall prepare a
13 school pesticide use form to be used by licensed and certified
14 pest control operators when they apply any pesticides at a
15 schoolsite. The form shall include, for each application at a
16 schoolsite, the name and address of the schoolsite, date and
17 location of application, pesticide product name, and the quantity
18 of pesticide used. Nothing in this section shall change any
19 existing applicable pesticide use reporting requirements.

20 (c) Persons who are required to submit pesticide use records to
21 the county agricultural commissioner or director shall complete
22 and submit to the director the school pesticide use forms
23 established pursuant to this section. The forms shall be submitted
24 annually and may be submitted more often at the discretion of the
25 pest control operator maintaining the forms. Child day care
26 facilities, as defined in Section 1596.750 of the Health and Safety
27 Code ~~that Code~~, which are subject to the Healthy Schools Act of
28 2000, shall inform contractors hired to apply ~~pesticide pesticides~~
29 at the schoolsite that the facility must comply with the Healthy
30 Schools Act of 2000.

31 (d) *Any person who is hired to apply pesticides at a child day
32 care facility, as defined in Section 1596.750 of the Health and
33 Safety Code, shall provide that facility's school designee with all
34 of the following information at least 120 hours in advance of any
35 pesticide application, except in the case of an emergency
36 condition, as defined in Section 17609 of the Education Code:*

37 (1) *The pesticide product name.*

38 (2) *The pesticide manufacturer's name.*

39 (3) *The United States Environmental Protection Agency's
40 product registration number.*

1 (4) *The active ingredient or ingredients in the pesticide*
2 *product.*

3 (5) *The areas of application.*

4 (6) *The intended date of application.*

5 (7) *The reason for the pesticide application.*

6 (e) *If a person hired to apply pesticides contracts directly with*
7 *the property owner or his or her agent rather than directly with*
8 *the child day care facility, as defined in Section 1596.750 of the*
9 *Health and Safety Code, the property owner or his or her agent*
10 *must notify the contractor that a child day care facility is being*
11 *operated on the property at which the pesticides are to be*
12 *applied to enable the contractor to comply with subdivision (d).*

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

15 1596.845. Prior to the issuance of a new license or special
16 permit pursuant to this chapter, Chapter 3.5 (commencing with
17 Section 1596.90), or Chapter 3.6 (commencing with Section
18 1597.30) the applicant shall attend an orientation given by the
19 department. The orientation given by the department shall outline
20 all of the following:

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

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

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

26 (d) Information about the ~~Health~~ *Healthy* Schools Act of 2000
27 and integrated pest management practices. ~~The department shall~~
28 ~~invite the appropriate representatives of the Department of~~
29 ~~Pesticide Regulation to provide each applicant with that~~
30 ~~department's model guidebook developed pursuant to paragraph~~
31 ~~(2) of subdivision (a) of Section 13183 of the Food and~~
32 ~~Agricultural Code and to provide other information regarding~~
33 ~~integrated pest management practices.~~