

**Introduced by Senator Hollingsworth**February 23, 2006

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An act to amend Sections 1523.1, 1566.2, and 1566.3 of, and to add Section 1566.9 to, the Health and Safety Code, relating to community care facilities.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1504, as introduced, Hollingsworth. Community care facilities: business licenses.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities by the State Department of Social Services. Existing law prohibits a local jurisdiction from imposing any business license, fee, or tax for the privilege of operating a community care facility that serves 6 or fewer persons. A violation of these provisions is a crime.

This bill would, instead, allow a local jurisdiction that requires any type of business to obtain a business license to require that a community care facility obtain a business license if the facility serves any adult or juvenile who is under the supervision of the Department of Corrections and Rehabilitation, or whose use of the facility is required pursuant to a court order related to an offense committed by the adult or juvenile. By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1523.1 of the Health and Safety Code is  
2 amended to read:  
3 1523.1. (a) An application fee adjusted by facility and  
4 capacity shall be charged by the department for the issuance of a  
5 license. After initial licensure, a fee shall be charged by the  
6 department annually on each anniversary of the effective date of  
7 the license. The fees are for the purpose of financing the  
8 activities specified in this chapter. Fees shall be assessed as  
9 follows:

10 Fee Schedule					
11 Facility		12 Initial			
13 Facility	13 Capacity	13 Application	13 Annual		
14 Foster					
15 Family and		\$2,500	\$1,250		
16 Adoption					
17 Agencies					
18 Adult Day	1-15	\$150	\$75		
19 Programs	16-30	\$250	\$125		
	20 31-60	\$500	\$250		
	21 61-75	\$626	\$313		
	22 76-90	\$750	\$375		
	23 91-120	\$1,000	\$500		
	24 121+	\$1,250	\$625		
25 Other	1-3	\$375	\$375		
26 Community	26 Care	4-6	\$750	\$375	
	27 Facilities	7-15	\$1,126	\$563	
		16-30	\$1,500	\$750	
		29 31-49	\$1,876	\$938	
		30 50-74	\$2,252	\$1,126	
		31 75-100	\$2,628	\$1,314	
32 101-150	\$3,004	\$1,502			
	34 151-200	\$3,502	\$1,751		

Fee Schedule			
Facility Type	Initial		
	Capacity	Application	Annual
	201–250	\$4,000	\$2,000
	251–300	\$4,500	\$2,250
	301–350	\$5,000	\$2,500
	351–400	\$5,500	\$2,750
	401–500	\$6,500	\$3,250
	501–600	\$7,500	\$3,750
	601–700	\$8,500	\$4,250
	701+	\$10,000	\$5,000

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the annual fee, in addition to the annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

1 (F) A late fee that represents an additional 50 percent of the  
2 established annual fee when any licensee fails to pay the annual  
3 licensing fee on or before the due date as indicated by postmark  
4 on the payment.

5 (G) A fee to cover any costs incurred by the department for  
6 processing payments including, but not limited to, bounced check  
7 charges, charges for credit and debit transactions, and postage  
8 due charges.

9 (H) A plan of correction fee of two hundred dollars (\$200)  
10 when any licensee does not implement a plan of correction on or  
11 prior to the date specified in the plan.

12 (2) Foster family homes shall be exempt from the fees  
13 imposed pursuant to this subdivision.

14 (3) Foster family agencies shall be annually assessed eighty  
15 dollars (\$80) for each home certified by the agency.

16 (4) ~~No~~ *Except as provided in Section 1566.9, no* local  
17 jurisdiction shall impose any business license, fee, or tax for the  
18 privilege of operating a facility licensed under this chapter which  
19 serves six or fewer persons.

20 (c) (1) The revenues collected from licensing fees pursuant to  
21 this section shall be utilized by the department for the purpose of  
22 ensuring the health and safety of all individuals provided care  
23 and supervision by licensees and to support activities of the  
24 licensing program, including, but not limited to, monitoring  
25 facilities for compliance with licensing laws and regulations  
26 pursuant to this chapter, and other administrative activities in  
27 support of the licensing program, when appropriated for these  
28 purposes. The revenues collected shall be used in addition to any  
29 other funds appropriated in the Budget Act in support of the  
30 licensing program.

31 (2) The department shall not utilize any portion of these  
32 revenues sooner than 30 days after notification in writing of the  
33 purpose and use of this revenue, as approved by the Director of  
34 Finance, to the Chairperson of the Joint Legislative Budget  
35 Committee, and the chairpersons of the committee in each house  
36 that considers appropriations for each fiscal year. The department  
37 shall submit a budget change proposal to justify any positions or  
38 any other related support costs on an ongoing basis.

39 (d) A facility may use a bona fide business check to pay the  
40 license fee required under this section.

1 (e) The failure of an applicant or licensee to pay all applicable  
2 and accrued fees and civil penalties shall constitute grounds for  
3 denial or forfeiture of a license.

4 SEC. 2. Section 1566.2 of the Health and Safety Code is  
5 amended to read:

6 1566.2. ~~A~~*Except as provided in Section 1566.9, a residential*  
7 *facility, which that* serves six or fewer persons shall not be  
8 subject to any business taxes, local registration fees, use permit  
9 fees, or other fees to which other family dwellings of the same  
10 type in the same zone are not likewise subject. Nothing in this  
11 section shall be construed to forbid the imposition of local  
12 property taxes, fees for water service and garbage collection, fees  
13 for inspections not prohibited by Section 1566.3, local bond  
14 assessments, and other fees, charges, and assessments to which  
15 other family dwellings of the same type in the same zone are  
16 likewise subject. Neither the State Fire Marshal nor any local  
17 public entity shall charge any fee for enforcing fire inspection  
18 regulations pursuant to state law or regulation or local ordinance,  
19 with respect to residential facilities which serve six or fewer  
20 persons.

21 For the purposes of this section, “family dwellings,” includes,  
22 but is not limited to, single-family dwellings, units in multifamily  
23 dwellings, including units in duplexes and units in apartment  
24 dwellings, mobilehomes, including mobilehomes located in  
25 mobilehome parks, units in cooperatives, units in condominiums,  
26 units in townhouses, and units in planned unit developments.

27 SEC. 3. Section 1566.3 of the Health and Safety Code is  
28 amended to read:

29 1566.3. (a) Whether or not unrelated persons are living  
30 together, a residential facility~~which that~~ serves six or fewer  
31 persons shall be considered a residential use of property for the  
32 purposes of this article. In addition, the residents and operators of  
33 such a facility shall be considered a family for the purposes of  
34 any law or zoning ordinance~~which that~~ relates to the residential  
35 use of property pursuant to this article.

36 For the purpose of all local ordinances, a residential facility  
37 ~~which that~~ serves six or fewer persons shall not be included  
38 within the definition of a boarding house, rooming house,  
39 institution or home for the care of minors, the aged, or the  
40 mentally infirm, foster care home, guest home, rest home,

1 sanitarium, mental hygiene home, or other similar term which  
2 implies that the residential facility is a business run for profit or  
3 differs in any other way from a family dwelling.

4 This section shall not be construed to forbid any city, county,  
5 or other local public entity from placing restrictions on building  
6 heights, setback, lot dimensions, or placement of signs of a  
7 residential facility ~~which~~ *that* serves six or fewer persons as long  
8 as ~~such~~ *the* restrictions are identical to those applied to other  
9 family dwellings of the same type in the same zone.

10 This section shall not be construed to forbid the application to  
11 a residential care facility of any local ordinance ~~which~~ *that* deals  
12 with health and safety, building standards, environmental impact  
13 standards, or any other matter within the jurisdiction of a local  
14 public entity if the ordinance does not distinguish residential care  
15 facilities ~~which~~ *that* serve six or fewer persons from other family  
16 dwellings of the same type in the same zone; and if the ordinance  
17 does not distinguish residents of the residential care facilities  
18 from persons who reside in other family dwellings of the same  
19 type in the same zone.

20 No conditional use permit, zoning variance, or other zoning  
21 clearance shall be required of a residential facility ~~which~~ *that*  
22 serves six or fewer persons ~~which~~ *that* is not required of a family  
23 dwelling of the same type in the same zone.

24 Use of a family dwelling for purposes of a residential facility  
25 serving six or fewer persons shall not constitute a change of  
26 occupancy for purposes of Part 1. 5 (commencing with Section  
27 17910) of Division 13 or local building codes. However, nothing  
28 in this section is intended to supersede Section 13143 or 13143.6,  
29 to the extent ~~such~~ *those* sections are applicable to residential  
30 facilities providing care for six or fewer residents.

31 For the purposes of this section, “family dwelling,” includes,  
32 but is not limited to, single-family dwellings, units in multifamily  
33 dwellings, including units in duplexes and units in apartment  
34 dwellings, mobilehomes, including mobilehomes located in  
35 mobilehome parks, units in cooperatives, units in condominiums,  
36 units in townhouses, and units in planned unit developments.

37 *(b) Nothing in this section shall prohibit a local jurisdiction*  
38 *from requiring a community care facility covered by Section*  
39 *1566.9 to obtain a business license.*

1 SEC. 4. Section 1566.9 is added to the Health and Safety  
2 Code, to read:

3 1566.9. Notwithstanding any other provision of this chapter,  
4 a local jurisdiction that requires any type of business to obtain a  
5 business license may require that a community care facility  
6 obtain a business license if the facility serves any adult or  
7 juvenile who is under the supervision of the Department of  
8 Corrections and Rehabilitation, or whose use of the facility is  
9 required pursuant to a court order related to an offense  
10 committed by the adult or juvenile.

11 SEC. 5. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the  
16 penalty for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition of a  
18 crime within the meaning of Section 6 of Article XIII B of the  
19 California Constitution.