

Assembly Bill No. 759

Passed the Assembly August 18, 2008

Chief Clerk of the Assembly

Passed the Senate August 14, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1569.84 of, and to add Section 13113.11 to, the Health and Safety Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 759, Karnette. Fire protection: residential care facilities for the elderly.

Existing law establishes the State Fire Marshal within the Department of Forestry and Fire Protection.

Existing law requires local fire enforcing agencies or the State Fire Marshal, whichever has primary jurisdiction, upon request of a prospective applicant for a license to operate specified facilities, including residential care facilities for the elderly, to conduct a reinspection of the facility prior to the final fire clearance approval. Existing law authorizes a specified fee to be charged for the preinspection.

Existing law prohibits the State Fire Marshal or any local public entity from charging a fee to a residential care facility for the elderly servicing 6 or fewer persons for enforcing fire inspection regulations.

This bill would, on and after July 1, 2009, require a local fire enforcing agency or the State Fire Marshal, whichever has primary jurisdiction, to conduct an annual inspection of all licensed residential care facilities for the elderly with 6 or fewer residents within its jurisdiction. The bill would provide that these annual inspections shall occur not less than 9 months and not more than 15 months following the previous inspection, unless a violation is detected during the annual inspection. This bill would require the inspecting agency to report violations that are not corrected within 60 calendar days to the State Department of Social Services.

This bill would, notwithstanding existing law, require the inspecting agency to charge and collect a fee for all inspections after the initial inspection, as prescribed, from the owner of the facility to cover the costs of performing the inspections.

This bill would require the State Department of Social Services to notify the appropriate local fire enforcement agency or the State Fire Marshal when a facility subject to inspection is added or when

a change in a facility's status occurs. This bill would also require the State Fire Marshal, in cooperation with the State Department of Social Services, to develop and adopt an inspection checklist with certain guidelines to be utilized by the inspecting agency in its annual inspections. This bill would additionally require the inspecting agency to make the checklist and guidelines available to residential care facilities for the elderly prior to the annual inspection, and to provide the facility with a consultation, at the time of inspection, regarding the checklist and guidelines.

By requiring local agencies to conduct these annual inspections, this 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.

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

SECTION 1. Section 1569.84 of the Health and Safety Code is amended to read:

1569.84. A residential care facility for the elderly, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1569.85, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Except as provided in Section 13113.11, neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential care facilities for the elderly which service six or fewer persons.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment

dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

SEC. 2. Section 13113.11 is added to the Health and Safety Code, to read:

13113.11. (a) On and after July 1, 2009, the local fire enforcing agency or the State Fire Marshal, whichever has primary jurisdiction, shall conduct an annual fire safety inspection of all licensed residential care facilities for the elderly, as defined in Section 1569.2, with six or fewer residents within its jurisdiction. An annual inspection pursuant to this section shall be performed not less than nine months and not more than 15 months following the previous inspection. However, the inspecting agency may reinspect a facility within 60 days if one or more fire safety violations are detected during the annual inspection. Any fire safety violation noted and not corrected within 60 calendar days of issuance shall be reported to the State Department of Social Services by the inspecting agency.

(b) Notwithstanding Section 1569.84, the inspecting agency that inspects a residential care facility for the elderly pursuant to subdivision (a) shall charge and collect, for all inspections after the initial inspection, a fee from the owner of the facility that shall not exceed the estimated reasonable cost of performing the inspections.

(c) Within 180 days of enactment of this section, the Community Care Licensing Division of the State Department of Social Services shall notify local fire enforcing agencies or the State Fire Marshal of all facilities subject to inspection under subdivision (a). The licensing division shall also notify the appropriate local fire enforcing agency or the State Fire Marshal when a new facility is added or when a change to a facility's inspection status occurs.

(d) The State Fire Marshal, in cooperation with the State Department of Social Services, shall develop and adopt an inspection checklist with certain guidelines to be utilized by the inspecting agency in its annual inspections of residential care facilities for the elderly. The checklist and guidelines shall be made available to residential care facilities for the elderly prior to the annual inspection.

(e) At the time of the inspection, the inspecting agency shall provide the facility with a consultation regarding the checklist and guidelines.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Approved _____, 2008

Governor