

AMENDED IN SENATE APRIL 18, 2007

SENATE BILL

No. 1000

Introduced by Senator Harman

February 23, 2007

An act to amend Sections 11831.5, 11834.01, 11834.02, 11834.03, 11834.09, 11834.10, 11834.15, 11834.17, 11834.18, 11834.20, 11834.21, 11834.22, 11834.23, 11834.24, 11834.25, 11834.26, 11834.29, 11834.30, 11834.31, 11834.32, 11834.36, and 11834.50 of, to add Sections 11834.04 and 11834.11 to, and to repeal and add Section 11834.16 of, the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1000, as amended, Harman. Substance abuse: adult recovery maintenance facilities.

Existing law provides for the licensure, certification, and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults, administered by the State Department of Alcohol and Drug Programs. Existing law authorizes the department to conduct site visits to licensed facilities for compliance purposes. Existing law requires the department to grant certification to any alcoholism or drug abuse recovery or treatment program requesting the certification. Existing law prohibits the department from levying a fee for certification *or licensure* of nonprofit organizations or local governmental entities under these provisions.

This bill would, *among other things*, permit the department to authorize local code enforcement officials to conduct the site visits. It would also require *that* the department ~~to also~~ administer the licensure, certification, and regulation of adult recovery maintenance facilities, as defined. This bill would delete the prohibition against levying fees

for certification *or licensure* of nonprofit organizations or local governmental entities.

This bill would provide that a sober living home, as defined, is exempt from licensure if it demonstrates specified characteristics.

This bill would require any person or entity applying for a license to provide documentation to the department regarding the joining of the facility and any conditional use *or similar* permit if the facility cares for at least 7 persons.

~~Existing law requires the department to calculate and establish a fee for initial licensure, and for extension of the period of licensure, of an alcoholism or drug abuse recovery or treatment facility. Existing law also prohibits fees from being levied for licensure of nonprofit organizations or local governmental entities.~~

~~This bill would eliminate the prohibition against levying licensing fees for licensure of nonprofit organizations or local governmental entities, with respect to fees for licensure of an alcoholism or drug abuse recovery or treatment facility or an adult recovery maintenance facility.~~

Existing law requires a facility that serves 6 or fewer persons to be considered a residential use of property for purposes of the above-described provisions.

~~This bill would exempt from this requirement those facilities that are located within 300 feet of another facility that is owned or operated by the same person or entity and provides specified services.~~

Existing law prohibits for purposes of all local ordinances a facility that serves 6 or fewer persons from being included within the definition of a boarding house or other similar term that implies that the facility is a business run for profit or differs in any other way from a single-family residence.

This bill would exempt from this prohibition any local ordinance that requires a business license for the rental of residential property *or for a home office that is ancillary to residential use.*

This bill would establish the Residential and Outpatient Programs Compliance Branch Licensing and Certification Trust Fund in the State Treasury. The bill would require the trust fund, upon appropriation by the Legislature, to be used exclusively to cover administrative costs of the licensing and certification process established by the bill.

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 11831.5 of the Health and Safety Code
2 is amended to read:

3 11831.5. (a) Certification shall be granted by the department
4 pursuant to this section to any qualified alcoholism or drug abuse
5 recovery or treatment program, regardless of the source of the
6 program's funding, upon approval of a completed application and
7 payment of the required fee. The certification shall be valid for a
8 period of not more than two years. The department may extend
9 the certification period upon receipt of an application for renewal
10 and payment of the required certification fee prior to the expiration
11 date of the certification.

12 (b) The purposes of certification under this section shall be all
13 of the following:

14 (1) To identify programs that exceed minimal levels of service
15 quality, are in substantial compliance with the department's
16 standards, and merit the confidence of the public, third-party
17 payers, and county alcohol and drug programs.

18 (2) To encourage programs to meet their stated goals and
19 objectives.

20 (3) To encourage programs to strive for increased quality of
21 service through recognition by the state and by peer programs in
22 the alcoholism and drug field.

23 (4) To assist programs to identify their needs for technical
24 assistance, training, and program improvements.

25 (c) Certification may be granted under this section on the basis
26 of evidence satisfactory to the department that the requesting
27 alcoholism or drug abuse recovery or treatment program has an
28 accreditation by a statewide or national alcohol or drug program
29 accrediting body. The accrediting body shall provide accreditation
30 that meets or exceeds the department's standards and is recognized
31 by the department.

32 (d) Certification, or the lack thereof, shall not convey any
33 approval or disapproval by the department, but shall be for
34 information purposes only.

35 (e) The standards developed pursuant to Section 11830 and the
36 certification under this section shall satisfy the requirements of
37 Section 1463.16 of the Penal Code.

1 (f) The department and the State Department of Social Services
 2 shall enter into an interagency agreement to establish a process by
 3 which the Department of Alcohol and Drug Programs can certify
 4 residential facilities or programs serving primarily adolescents, as
 5 defined in paragraph (1) of subdivision (a) of Section 1502, that
 6 provide alcoholism and drug abuse recovery or treatment services.

7 (g) Regulations adopted by the department pursuant to this
 8 section shall be adopted as emergency regulations in accordance
 9 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
 10 Division 3 of Title 2 of the Government Code, and for the purposes
 11 of that chapter, including Section 11349.6 of the Government
 12 Code, the adoption of these regulations is an emergency and shall
 13 be considered by the Office of Administrative Law as necessary
 14 for the immediate preservation of the public peace, health and
 15 safety, and general welfare. Notwithstanding Chapter 3.5
 16 (commencing with Section 11340) of Part 1 of Division 3 of Title
 17 2 of the Government Code, including subdivision (e) of Section
 18 11346.1 of the Government Code, any emergency regulations
 19 adopted pursuant to this section shall be filed with, but not be
 20 repealed by, the Office of Administrative Law and shall remain
 21 in effect until revised by the department. Nothing in this
 22 subdivision shall be interpreted to prohibit the department from
 23 adopting subsequent amendments on a nonemergency basis or as
 24 emergency regulations in accordance with the standards set forth
 25 in Section 11346.1 of the Government Code.

26 SEC. 2. Section 11834.01 of the Health and Safety Code is
 27 amended to read:

28 11834.01. (a) The department has the sole authority in state
 29 government to license adult alcoholism or drug abuse recovery or
 30 treatment facilities and adult recovery maintenance facilities.

31 (b) In administering this chapter, the department shall issue new
 32 licenses for a period of two years to those programs that meet the
 33 criteria for licensure set forth in Section 11834.03, and the criteria
 34 for certification set forth in Chapter 7 (commencing with Section
 35 11830).

36 (c) Onsite program visits for compliance shall be conducted at
 37 least once during each licensure or certification period. However,
 38 the department may waive an onsite program visit for compliance
 39 no more than once every other licensure or certification period if

1 the provider has demonstrated satisfactory compliance as
2 determined by regulation.

3 (d) The department may conduct announced or unannounced
4 site visits to facilities licensed pursuant to this chapter for the
5 purpose of reviewing for compliance with all applicable statutes
6 and regulations. In addition, the department may authorize a local
7 code enforcement official, ~~upon request by this official,~~ to conduct
8 these site visits for this purpose.

9 (e) Except where otherwise directly stated or necessarily
10 implied, all provisions of this chapter shall apply to adult
11 alcoholism or drug abuse recovery or treatment facilities and to
12 adult recovery maintenance facilities.

13 (f) On or before July 1, 2009, the department, in consultation
14 with providers of alcohol and other drug recovery, treatment,
15 detoxification, and adult recovery maintenance services, county
16 alcohol and drug program administrators, local government
17 jurisdictions, funding and referral organizations and agencies, and
18 appropriate state agencies, shall develop and adopt emergency
19 regulations governing the licensing and operation of adult recovery
20 maintenance facilities, including regulations governing services
21 related to special needs as these needs are identified by the
22 department.

23 SEC. 3. Section 11834.02 of the Health and Safety Code is
24 amended to read:

25 11834.02. (a) As used in this chapter, the following terms have
26 the following meanings:

27 (1) “Alcoholism or drug abuse recovery or treatment facility”
28 means any premises, place, or building that provides 24-hour
29 residential nonmedical services to adults who are recovering from
30 problems related to alcohol, drug, or alcohol and drug misuse or
31 abuse, and who receive alcohol, drug, or alcohol and drug recovery
32 treatment or detoxification services.

33 (2) “Adult recovery maintenance facility” means any facility,
34 place, or building that provides alcohol- or drug-free housing whose
35 rules, peer-led groups, staff activities, or other structured operations
36 are directed toward maintenance of sobriety for adults in early
37 recovery from substance abuse or adults who recently have
38 completed alcoholism or drug abuse recovery or treatment services.
39 This facility is designed to promote independent living in a
40 supervised setting, but does not provide professional recovery and

1 treatment services onsite. The facility may require that adults
2 receive offsite certified alcoholism or other drug treatment services.
3 The facility is otherwise authorized to receive public funds for
4 individual residents.

5 (3) “Adults” may include, but are not limited to, the following:

6 (A) Persons 18 years of age or older and their minor children.

7 (B) Emancipated minors, which may include, but is not limited
8 to, persons under 18 years of age and their minor children.

9 (4) “Emancipated minors” means persons under 18 years of age
10 who have acquired emancipation status pursuant to Section 7002
11 of the Family Code.

12 (b) Notwithstanding paragraph (1) of subdivision (a), an
13 alcoholism or drug abuse recovery or treatment facility may serve
14 adolescents upon the issuance of a waiver granted by the
15 department pursuant to regulations adopted under subdivision (c)
16 of Section 11834.50.

17 SEC. 4. Section 11834.03 of the Health and Safety Code is
18 amended to read:

19 11834.03. Any person or entity applying for licensure shall
20 file with the department, on forms provided by the department, all
21 of the following:

22 (a) A completed written application for licensure.

23 (b) A fire clearance approved by the State Fire Marshal or local
24 fire enforcement officer.

25 (c) A licensure fee, established by the department in accordance
26 with Section 11834.15.

27 (d) Documentation that the facility will be located in an area
28 that is zoned for residential use.

29 (e) Documentation that the facility has a conditional use permit
30 *or similar local permit* from the local jurisdiction if the facility
31 cares for at least seven persons.

32 (PU Added by Stats. 1993, Ch. 741, Sec. 1. Effective January
33 1, 1994.)

34 SEC. 5. Section 11834.04 is added to the Health and Safety
35 Code, to read:

36 ~~11834.04. (a) Sober living homes are exempt from licensing.~~
37 ~~However, to ensure quality assurance of sober living homes, the~~
38 ~~department may recognize sober living homes that have been~~
39 ~~certified, registered, or approved by a recognized governmental~~

1 or nonprofit organization that provides a credible quality assurance
2 service.

3 (b) ~~“Sober living homes” means homes that provide room or~~
4 ~~board or both, and that require residents to abstain from using~~
5 ~~alcohol or illicit drugs, but do not provide or require participation~~
6 ~~in any recovery maintenance activities, do not require supervision,~~
7 ~~do not receive public funds for individual residents, and do not~~
8 ~~maintain case management files as a condition of residency.~~
9 ~~However, residents may form or participate in peer-led self-help~~
10 ~~groups within a sober living home.~~

11 *11834.04. (a) For purposes of this chapter, “sober living*
12 *home” means a residential property that is operated as a*
13 *cooperative living arrangement to provide an alcohol- and*
14 *drug-free environment for persons recovering from alcoholism or*
15 *drug abuse, or both, who seek a living environment in which to*
16 *remain clean and sober. A sober living home shall be exempt from*
17 *licensure if it demonstrates all of the following characteristics that*
18 *distinguish it from similar facilities that are subject to licensure,*
19 *including, but not limited to, community care facilities and*
20 *alcoholism and drug treatment facilities:*

21 *(1) Residents of the facility, including live-in managers,*
22 *operators, or owners, are recovering from alcohol or drug abuse.*

23 *(2) Residents actively participate in legitimate programs,*
24 *including, but not limited to, Alcoholics Anonymous or Narcotics*
25 *Anonymous programs, and maintain current records of meeting*
26 *attendance. These records shall be made available for inspection*
27 *upon the request of a law or code enforcement officer.*

28 *(3) Owners, managers, operators, and residents shall observe*
29 *and promote a zero tolerance policy regarding the consumption*
30 *or possession of alcohol or controlled substances, except for*
31 *prescription medications obtained and used under direct medical*
32 *supervision.*

33 *(4) Residents submit to mandatory random alcohol or drug*
34 *testing, or both, which is conducted onsite by managers or*
35 *operators, or by peer leaders in self-governed homes. Testing*
36 *records shall be current and maintained onsite, and shall be made*
37 *available for inspection upon the request of a law or code*
38 *enforcement officer.*

39 *(5) Owners, managers, operators, and residents do not provide*
40 *onsite any of the following services, as they are defined in*

1 paragraph (6) of subdivision (a) of Section 10501 of Title 9 of the
2 California Code of Regulations:

3 (A) Detoxification.

4 (B) Educational counseling.

5 (C) Individual or group counseling sessions.

6 (D) Treatment or recovery planning.

7 (E) The number of residents who are subject to the sex offender
8 registration requirements of Section 290 of the Penal Code does
9 not exceed the limit set forth in Section 3003.5 of the Penal Code
10 and does not violate the distance provisions set forth in Section
11 3003 of the Penal Code.

12 (6) No resident requires nonmedical care or supervision, as
13 those terms are defined in Section 1503.5 and paragraph (3) of
14 subdivision (a) of Section 80001 of Title 22 of the California Code
15 of Regulations.

16 (7) Residents are responsible for their own meals. Owners,
17 managers, or operators do not provide food services to residents.

18 (8) Owners, managers, operators, and residents ensure that the
19 property and its use comply with applicable state and local law.

20 (b) This section shall not be construed to prohibit any city,
21 county, or other local public entity from placing restrictions on a
22 residential facility that serves six or fewer persons regarding
23 building height, setback, lot dimension, and sign placement if these
24 restrictions are identical to those applied to other family dwellings
25 of the same type in the same zone.

26 (c) A sober living home shall notify the department of its address
27 in order for the department to determine whether a sober living
28 home is located within 300 feet of another sober living home.

29 SEC. 6. Section 11834.09 of the Health and Safety Code is
30 amended to read:

31 11834.09. (a) Upon receipt of a completed written application
32 for initial licensure or extension of licensure, fire clearance,
33 applicable fee from the applicant and other documentation required
34 pursuant to Section 11834.03, and subject to the department's
35 review and determination that the applicant can comply with this
36 chapter and regulations adopted pursuant to this chapter, the
37 department may issue any of the following:

38 (1) A single license to the following types of alcoholism or drug
39 abuse recovery or treatment facilities:

40 (A) A residential facility.

1 (B) A facility wherein separate buildings or portions of a
2 residential facility are integral components of a single alcoholism
3 or drug abuse recovery or treatment facility and all of the
4 components of the facility are managed by the same provider.

5 (2) A single license to an adult recovery maintenance facility.

6 (3) A single certification to an outpatient program.

7 (b) The department shall commence the licensure of adult
8 recovery maintenance facilities only after developing and adopting
9 regulations for purposes of Section 11834.01. However, the
10 licensing activity shall not commence later than January 1, 2010.

11 (c) Failure to submit a completed written application for initial
12 licensure or extension of licensure, fire clearance, and payment of
13 the required licensing or certification fee in a timely manner shall
14 result in termination of the department's licensure or certification
15 review and shall require submission of a new application by the
16 applicant.

17 (d) Failure of the applicant to demonstrate the ability to comply
18 with this chapter or the regulations adopted pursuant to this chapter
19 shall result in departmental denial of the applicant's application
20 for licensure or certification.

21 SEC. 7. Section 11834.10 of the Health and Safety Code is
22 amended to read:

23 11834.10. A licensee shall not operate an alcoholism or drug
24 abuse recovery or treatment facility or an adult recovery
25 maintenance facility beyond the conditions and limitations
26 specified on the license.

27 SEC. 8. Section 11834.11 is added to the Health and Safety
28 Code, to read:

29 11834.11. On and after January 1, 2010, no state or local social
30 services, law enforcement, corrections agency, court, probation
31 officer, or parole officer shall refer any person to an alcoholism
32 or drug abuse recovery or treatment facility or an adult recovery
33 maintenance facility that is not licensed.

34 SEC. 9. Section 11834.15 of the Health and Safety Code is
35 amended to read:

36 11834.15. (a) (1) The department shall calculate and establish
37 the fee for initial licensure or certification of alcoholism or drug
38 abuse recovery or treatment facilities and for extension of the
39 period of licensure or certification. The nonrefundable licensing
40 or certification fee shall be calculated every two years.

1 (2) The initial fee for licensure or certification shall equal the
2 department's cost of processing the application, performing the
3 onsite visit, conducting followup visits, and investigating
4 complaints.

5 (3) The extension fee for licensure or certification shall equal
6 the department's cost of processing the extension application,
7 performing compliance visits, and investigating complaints.

8 (b) (1) The licensing and certification fees required pursuant
9 to this section may be imposed by the department as of January 1,
10 2010, for all initial and extension applications.

11 (2) The department may assess civil penalties in accordance
12 with Sections 11834.31 and 11834.34.

13 (c) The department may charge a fee to cover the cost of a
14 followup visit to determine program compliance.

15 (d) (1) On or before July 1, 2009, the department shall adopt
16 emergency regulations, applicable only to adult recovery
17 maintenance facilities, to implement the fee process for initial
18 licensure, extension of licensure, initial certification, extension of
19 certification, followup compliance visit, and civil penalties.

20 (2) The initial fee for licensure or certification shall equal the
21 department's cost of processing the application, performing the
22 onsite visit, issuing initial licenses, conducting followup visits,
23 and investigating complaints.

24 (e) There is hereby established in the State Treasury a
25 Residential and Outpatient Programs Compliance Branch Licensing
26 and Certification Trust Fund. All initial licensure fees, extension
27 of licensure fees, initial certification fees, extension of certification
28 fees, followup compliance visit fees, and civil penalty fees
29 collected from the providers of licensing and certification services
30 shall be deposited into this fund.

31 (f) (1) Upon appropriation by the Legislature, the trust fund
32 shall be used exclusively to cover the administrative costs of the
33 licensing and certification process incurred by the department,
34 including staff salaries and benefits, related travel costs, and state
35 operational and administrative costs.

36 (2) A reserve equal to 10 percent of the total initial licensure
37 fees, extension of licensure fees, initial certification fees, extension
38 of certification fees, followup compliance visit fees, and civil
39 penalty fees collected during the preceding fiscal year may be held
40 in each trust account to reimburse the department if the actual cost

1 for the licensure, certification, inspection, and investigation exceeds
2 fees collected during a fiscal year.

3 (3) Except as otherwise provided in this section, if funds remain
4 in the trust fund after appropriation by the Legislature and
5 allocation for the costs associated with the initial licensure and
6 extension of licensure of alcoholism or drug abuse recovery or
7 treatment facilities, the initial licensure or extension of licensure
8 of adult recovery maintenance facilities, the initial licensure and
9 extension of licensure of outpatient programs, and followup
10 compliance visits, a percentage of the excess funds, to be
11 determined by the department, shall be annually set aside for
12 automation, technical assistance, and training of providers.

13 SEC. 10. Section 11834.16 of the Health and Safety Code is
14 repealed.

15 SEC. 11. Section 11834.16 is added to the Health and Safety
16 Code, to read:

17 11834.16. In order to obtain a license or certification, the
18 provider shall submit to the department a complete written
19 application for extension and appropriate licensure or certification
20 fee for each subsequent two-year period 30 days prior to the
21 expiration date shown on the license or certification. Failure to
22 submit the required written application and extension fee prior to
23 the expiration date shown on the license or certification shall result
24 in automatic termination of the license or certification by the
25 operation of law.

26 SEC. 12. Section 11834.17 of the Health and Safety Code is
27 amended to read:

28 11834.17. No city, county, city and county, or district shall
29 adopt or enforce any building ordinance or local rule or regulation
30 relating to the subject of fire and life safety in alcoholism and drug
31 abuse recovery or treatment facilities or adult recovery maintenance
32 facilities that is more restrictive than those standards adopted by
33 the State Fire Marshal.

34 SEC. 13. Section 11834.18 of the Health and Safety Code is
35 amended to read:

36 11834.18. (a) Nothing in this chapter shall authorize the
37 imposition of rent regulations or controls for licensed alcoholism
38 or drug abuse recovery or treatment facilities or adult recovery
39 maintenance facilities.

1 (b) Licensed alcoholism and drug abuse recovery or treatment
2 facilities and adult recovery maintenance facilities shall not be
3 subject to controls on rent imposed by any state or local agency
4 or other local government or entity.

5 SEC. 14. Section 11834.20 of the Health and Safety Code is
6 amended to read:

7 11834.20. (a) The Legislature hereby declares that it is the
8 policy of this state that each county and city shall permit and
9 encourage the development of sufficient numbers and types of
10 alcoholism or drug abuse recovery or treatment facilities and adult
11 recovery maintenance facilities as are commensurate with local
12 need, exclusive of the needs of other jurisdictions.

13 (b) *The Legislature hereby declares it to also be the policy of*
14 *the state to prevent an over concentration of alcoholism or drug*
15 *abuse recovery maintenance facilities, adult recovery maintenance*
16 *facilities, or sober living homes that impair the integrity of*
17 *residential neighborhoods.*

18 ~~The~~

19 (c) *The provisions of this article apply equally to any chartered*
20 *city, general law city, county, city and county, district, and any*
21 *other local public entity.*

22 (d) *For the purposes of this section, “over concentration” means*
23 *that there are alcoholism or drug abuse recovery or treatment*
24 *facilities, adult recovery maintenance facilities, or sober living*
25 *homes within 300 feet of each other, as measured from any point*
26 *upon the outside walls of the structures housing those facilities.*

27 ~~For~~

28 (e) *For the purposes of this article, “six or fewer persons” does*
29 *not include the licensee, members of the licensee’s family, persons*
30 *employed as facility staff, or minor dependents of the resident.*
31 *include the licensee or sober living home owner, members of the*
32 *licensee’s or owner’s family, or persons employed as facility or*
33 *sober living home staff.*

34 SEC. 15. Section 11834.21 of the Health and Safety Code is
35 amended to read:

36 11834.21. Any person licensed under this chapter who operates
37 or proposes to operate an alcoholism or drug abuse recovery or
38 treatment facility or an adult recovery maintenance facility, the
39 department or other public agency authorized to license such a
40 facility, or any public or private agency that uses or may use the

1 services of the facility to place its clients, may invoke the
2 provisions of this article.

3 This section shall not be construed to prohibit any interested
4 party from bringing suit to invoke the provisions of this article.

5 SEC. 16. Section 11834.22 of the Health and Safety Code is
6 amended to read:

7 11834.22. An alcoholism or drug abuse recovery or treatment
8 facility or an adult recovery maintenance facility that serves six
9 or fewer persons shall not be subject to any business taxes, local
10 registration fees, use permit fees, or other fees to which other
11 single-family dwellings are not likewise subject. Nothing in this
12 section shall be construed to forbid the imposition of local property
13 taxes, fees for water service and garbage collection, fees for
14 inspections not prohibited by Section 11834.23, local bond
15 assessments, and other fees, charges, and assessments to which
16 other single-family dwellings are likewise subject. Neither the
17 State Fire Marshal nor any local public entity shall charge any fee
18 for enforcing fire inspection regulations pursuant to state law or
19 regulation or local ordinance, with respect to alcoholism or drug
20 abuse recovery or treatment facilities or adult recovery maintenance
21 facilities that serve six or fewer persons.

22 SEC. 17. Section 11834.23 of the Health and Safety Code is
23 amended to read:

24 11834.23. Whether or not unrelated persons are living together,
25 an alcoholism or drug abuse recovery or treatment facility or an
26 adult recovery maintenance facility that serves six or fewer persons
27 shall be considered a residential use of property for the purposes
28 of this article, ~~unless the facility is located within 300 feet of~~
29 ~~another facility that is owned or operated by the same person or~~
30 ~~entity and provides services that are integral or shared components~~
31 ~~of the services provided by the other facility. In purposes of this~~
32 ~~article. In addition, the residents and operators of the facility shall~~
33 be considered a family for the purposes of any law or zoning
34 ordinance that relates to the residential use of property pursuant
35 to this article.

36 For the purpose of all local ordinances, except an ordinance that
37 requires a business license for the rental of residential property *or*
38 *for a home office that is ancillary to residential use*, an alcoholism
39 or drug abuse recovery or treatment facility or an adult recovery
40 maintenance facility that serves six or fewer persons shall not be

1 included within the definition of a boarding house, rooming house,
2 institution or home for the care of minors, the aged, or the mentally
3 infirm, foster care home, guest home, rest home, sanitarium, mental
4 hygiene home, or other similar term that implies that the alcoholism
5 or drug abuse recovery or treatment home or the adult recovery
6 maintenance facility is a business run for profit or differs in any
7 other way from a single-family residence.

8 This section shall not be construed to forbid any city, county, or
9 other local public entity from placing restrictions on building
10 heights, setback, lot dimensions, or placement of signs of an
11 alcoholism or drug abuse recovery or treatment facility or an adult
12 recovery maintenance facility that serves six or fewer persons as
13 long as the restrictions are identical to those applied to other
14 single-family residences.

15 This section shall not be construed to forbid the application to
16 an alcoholism or drug abuse recovery or treatment facility or an
17 adult recovery maintenance facility of any local ordinance that
18 deals with health and safety, building standards, environmental
19 impact standards, or any other matter within the jurisdiction of a
20 local public entity. However, the ordinance shall not distinguish
21 alcoholism or drug abuse recovery or treatment facilities or adult
22 recovery maintenance facilities that serve six or fewer persons
23 from other single-family dwellings or distinguish residents of
24 alcoholism or drug abuse recovery or treatment facilities or adult
25 recovery maintenance facilities from persons who reside in other
26 single-family dwellings.

27 No conditional use permit, zoning variance, or other zoning
28 clearance shall be required of an alcoholism or drug abuse recovery
29 or treatment facility or an adult recovery maintenance facility that
30 serves six or fewer persons that is not required of a single-family
31 residence in the same zone.

32 Use of a single-family dwelling for purposes of an alcoholism
33 or drug abuse recovery or treatment facility or an adult recovery
34 maintenance facility serving six or fewer persons shall not
35 constitute a change of occupancy for purposes of Part 1.5
36 (commencing with Section 17910) of Division 13 or local building
37 codes. However, nothing in this section is intended to supersede
38 Section 13143 or 13143.6, to the extent those sections are
39 applicable to alcoholism or drug abuse recovery or treatment

1 facilities or adult recovery maintenance facilities serving six or
2 fewer residents.

3 SEC. 18. Section 11834.24 of the Health and Safety Code is
4 amended to read:

5 11834.24. No fire inspection clearance or other permit, license,
6 clearance, or similar authorization shall be denied to an alcoholism
7 or drug abuse recovery or treatment facility or an adult recovery
8 maintenance facility because of a failure to comply with local
9 ordinances from which the facility is exempt under Section
10 11834.23, if the applicant otherwise qualifies for a fire clearance,
11 license, permit, or similar authorization.

12 SEC. 19. Section 11834.25 of the Health and Safety Code is
13 amended to read:

14 11834.25. (a) For the purposes of any contract, deed, or
15 covenant for the transfer of real property executed on or after
16 January 1, 1979, an alcoholism or drug abuse recovery or treatment
17 facility that serves six or fewer persons shall be considered a
18 residential use of property and a use of property by a single family,
19 notwithstanding any disclaimers to the contrary.

20 (b) For the purposes of any contract, deed, or covenant for the
21 transfer of real property executed on or after the date that licensure
22 commences for adult recovery maintenance facilities, an adult
23 recovery maintenance facility that serves six or fewer persons shall
24 be considered a residential use of property and a use of property
25 by a single family, notwithstanding any disclaimers to the contrary.

26 SEC. 20. Section 11834.26 of the Health and Safety Code is
27 amended to read:

28 11834.26. (a) An alcoholism or drug abuse recovery or
29 treatment facility shall provide at least one of the following
30 nonmedical services:

- 31 (1) Recovery services.
- 32 (2) Treatment services.
- 33 (3) Detoxification services.

34 (b) The department shall adopt regulations requiring records
35 and procedures that are appropriate for each of the services
36 specified in subdivision (a). The records and procedures may
37 include all of the following:

- 38 (1) Admission criteria.
- 39 (2) Intake process.
- 40 (3) Assessments.

1 (4) Recovery, treatment, or detoxification planning.

2 (5) Referral.

3 (6) Documentation of provision of recovery, treatment or
4 detoxification services.

5 (7) Discharge and continuing care planning.

6 (8) Indicators of recovery, treatment, or detoxification
7 outcomes.

8 (c) In the development of regulations implementing this section,
9 the written record requirements shall be modified or adapted for
10 social model programs.

11 (d) An adult recovery maintenance facility shall provide, but
12 not be limited to providing, any of the following recovery
13 maintenance services:

14 (1) Aftercare.

15 (2) Referral to community resources.

16 (3) Referral to offsite certified alcoholism or other drug recovery
17 or treatment services when required.

18 (4) Documentation on progress made or services received from
19 referral agencies.

20 (5) Participation in self-help groups on or off premises.

21 (e) The adult recovery maintenance facility may require or
22 provide drug and alcohol testing and self-help groups on or off the
23 premises.

24 (f) The adult recovery maintenance facility shall maintain
25 records in order to document the services provided.

26 (g) The licensee shall require all residents to be alcohol and
27 drug free and provide testing to demonstrate compliance.

28 *SEC. 20.4. Section 11834.29 of the Health and Safety Code is*
29 *amended to read:*

30 11834.29. Any licensee that provides recovery, treatment, or
31 detoxification services, that is not in compliance with the
32 requirements of this article, ~~shall have one year from the effective~~
33 ~~date as well as~~ of the regulations adopted by the department
34 pursuant to this article and pursuant to Article 5 (commencing with
35 Section 11834.50) *shall have 90 days from notice of the*
36 *noncompliance in which to comply.* In the event that the licensee
37 fails to comply, the department shall take action against the licensee
38 pursuant to Article 4 (commencing with Section 11834.36).

39 *SEC. 21. Section 11834.30 of the Health and Safety Code is*
40 *amended to read:*

1 11834.30. (a) No person, firm, partnership, association,
2 corporation, or local governmental entity shall operate, establish,
3 manage, conduct, or maintain an alcoholism or drug abuse recovery
4 or treatment facility or an adult recovery maintenance facility to
5 provide recovery, treatment, detoxification, or recovery
6 maintenance services within this state without first obtaining a
7 current valid license issued pursuant to this chapter.

8 ~~(b) No person, firm, partnership, association, corporation, or~~
9 ~~local governmental entity shall operate, establish, manage, conduct,~~
10 ~~or maintain an adult recovery maintenance facility to provide~~
11 ~~recovery maintenance services within this state without first~~
12 ~~obtaining a current valid license issued pursuant to this chapter.~~

13 ~~(e)~~

14 (b) Any facility that is operated primarily for the purpose of
15 providing alcoholism or drug abuse recovery or treatment services
16 or requires clients to obtain these services and requires supervision
17 shall be licensed.

18 ~~(d)~~

19 (c) Any provider of both an alcoholism and drug abuse recovery
20 or treatment services facility and an adult recovery maintenance
21 facility shall hold a separate license for each facility.

22 SEC. 22. Section 11834.31 of the Health and Safety Code is
23 amended to read:

24 11834.31. If a facility is alleged to be in violation of Section
25 11834.30, the department shall conduct a site visit to investigate
26 the allegation. If the department's employee or agent finds evidence
27 that the facility is providing alcoholism or drug abuse recovery,
28 treatment, detoxification, or recovery maintenance services without
29 a license, the employee or agent shall take the following actions:

30 (a) Submit the findings of the investigation to the department.

31 (b) Upon departmental authorization, issue a written notice to
32 the facility stating that the facility is operating in violation of
33 Section 11834.30. The notice shall include all of the following:

34 (1) The date by which the facility shall cease providing services.

35 (2) Notice that the department will assess against the facility a
36 civil penalty of two hundred dollars (\$200) per day for every day
37 the facility continues to provide services beyond the date specified
38 in the notice.

1 (3) Notice that the case will be referred for civil proceedings
2 pursuant to Section 11834.32 in the event the facility continues to
3 provide services beyond the date specified in the notice.

4 (c) Inform the facility of the licensing requirements of this
5 chapter.

6 SEC. 23. Section 11834.32 of the Health and Safety Code is
7 amended to read:

8 11834.32. (a) The director may bring an action to enjoin the
9 violation of Section 11834.30 in the superior court in and for the
10 county in which the violation occurred. Any proceeding under this
11 section shall conform to the requirements of Chapter 3
12 (commencing with Section 525) of Title 7 of Part 2 of the Code
13 of Civil Procedure, except that the director shall not be required
14 to allege facts necessary to show or tending to show lack of
15 adequate remedy at law or irreparable damage or loss.

16 (b) With respect to any and all actions brought pursuant to this
17 section alleging actual violation of Section 11834.30, the court
18 shall, if it finds the allegations to be true, issue its order enjoining
19 the alcoholism or drug abuse recovery or treatment facility or the
20 adult recovery maintenance facility from continuance of the
21 violation.

22 SEC. 24. Section 11834.36 of the Health and Safety Code is
23 amended to read:

24 11834.36. (a) The director may suspend or revoke any license
25 or certification issued under this chapter, or deny an application
26 for licensure or certification, for extension of the licensing or
27 certification period, or to modify the terms and conditions of a
28 license or certification, upon any of the following grounds and in
29 the manner provided in this chapter:

30 (1) Violation by the licensee or certified provider of any
31 provision of this chapter or regulations adopted pursuant to this
32 chapter.

33 (2) Repeated violation by the licensee or certified provider of
34 any of the provisions of this chapter or regulations adopted pursuant
35 to this chapter.

36 (3) Aiding, abetting, or permitting the violation of, or any
37 repeated violation of, any of the provisions described in paragraph
38 (1) or (2).

39 (4) Conduct in the operation of an alcoholism or drug abuse
40 recovery or treatment facility or an adult recovery maintenance

1 facility that is inimical to the health, morals, welfare, or safety of
2 either an individual in, or receiving services from, the facility or
3 to the people of the State of California.

4 (5) Misrepresentation of any material fact in obtaining the
5 alcoholism or drug abuse recovery or treatment facility license or
6 the adult recovery maintenance facility license, or
7 misrepresentation of any material fact in obtaining certification.

8 (6) Failure to pay any civil penalties assessed by the department.

9 (b) The director may temporarily suspend any license prior to
10 any hearing when, in the opinion of the director, the action is
11 necessary to protect residents of the alcoholism or drug abuse
12 recovery or treatment facility or the adult recovery maintenance
13 facility from physical or mental abuse, abandonment, or any other
14 substantial threat to health or safety. The director shall notify the
15 licensee of the temporary suspension and the effective date of the
16 temporary suspension and at the same time shall serve the provider
17 with an accusation. Upon receipt of a notice of defense to the
18 accusation from the licensee, the director shall, within 15 days,
19 set the matter for hearing, and the hearing shall be held as soon as
20 possible. The temporary suspension shall remain in effect until the
21 time the hearing is completed and the director has made a final
22 determination on the merits. However, the temporary suspension
23 shall be deemed vacated if the director fails to make a final
24 determination on the merits within 30 days after the department
25 receives the proposed decision from the Office of Administrative
26 Hearings.

27 SEC. 25. Section 11834.50 of the Health and Safety Code is
28 amended to read:

29 11834.50. The department shall adopt regulations to implement
30 this chapter in accordance with the purposes required by Section
31 11835. These regulations shall be adopted only after consultation
32 with appropriate groups affected by the proposed regulations. The
33 regulations shall include, but not be limited to, all of the following:

34 (a) Provision for a formal appeal process for the denial,
35 suspension, or revocation of a license or certification.

36 (b) Establishment of requirements for compliance, procedures
37 for issuance of deficiency notices and civil penalties for
38 noncompliance.

39 (c) Provision for the issuance of a waiver for an alcoholism or
40 drug abuse recovery or treatment facility to serve not more than

1 three adolescents, or 10 percent of the total licensed capacity,
2 whichever is less, age 14 years and older, when a need exists and
3 services specific to adolescents are otherwise unavailable. The
4 regulations shall specify the procedures and criteria for granting
5 the waiver. The procedures shall include, but not be limited to,
6 criminal record reviews and fingerprinting.

7 (d) Establishment of the elements and minimum requirements
8 for recovery, treatment, detoxification, and recovery maintenance
9 services.

10 (e) Provision for an expedited process for reviewing an
11 application for licensure when a license is terminated pursuant to
12 subdivision (c) of Section 11834.40.