

AMENDED IN ASSEMBLY MARCH 28, 2012

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1872

Introduced by Assembly Member Alejo

February 22, 2012

An act to add Section 1597.50 to the Health and Safety Code, relating to family day care homes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1872, as amended, Alejo. Family day care homes: nutrition.

Existing law, the California Child Day Care Facilities Act, administered by the State Department of Social Services, provides for the licensure and regulation of child day care facilities, defined to include, among others, family day care homes. Under existing law, the department may assess a civil penalty of no more than \$50 per day, with exceptions, for violations of the act relating to family day care homes. Willful or repeated violation of these provisions is a misdemeanor.

This bill would require, except as provided, a family day care home to adhere to certain nutrition standards in the provision of meals and snacks. The bill would require the department to take specified actions with respect to noncompliance with these provisions, and would require the department to disseminate certain information to prospective and current providers. ~~A violation of these requirements would subject a family day care home to the above civil penalty. This bill would specify that a violation of these requirements would not be subject to a criminal penalty.~~ *The bill would exempt a family day care home from criminal*

and civil penalties for noncompliance with these provisions and other provisions relating to noncompliance.

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. The Legislature finds and declares all of the
2 following:

3 (a) Nearly 25 percent of children between two and five years
4 of age in California are overweight or obese and at risk of
5 developing chronic diseases that contribute to escalating health
6 costs.

7 (b) Research demonstrates that taste preferences and lifelong
8 nutrition habits are formed in early childhood years.

9 (c) The recent changes to improve school nutrition should be
10 complemented with changes to the nutritional environment in child
11 care facilities.

12 (d) Research demonstrates that the nutritional environment in
13 child care facilities could be improved by encouraging appropriate
14 portion size and a healthy balance of dairy, fruits and vegetables,
15 whole grains, and proteins.

16 (e) More than 50 percent of the nearly 50,000 licensed child
17 care centers and licensed family day care homes in California,
18 which serve more than 500,000 children, do not participate in the
19 federal Child and Adult Care Food Program (*CACFP*), often
20 because child care providers lack adequate information about this
21 nutrition program.

22 (f) *Child care centers and family day care homes may receive*
23 *up to \$1,200 per child and \$1,100 per child, respectively, in federal*
24 *CACFP reimbursements each year, but over 5,000 licensed child*
25 *care centers and 5,000 licensed family day care homes do not*
26 *receive these much needed reimbursements. A child care center*
27 *serving 100 children could receive over \$100,000 per year in*
28 *federal CACFP reimbursements, and a family day care home*
29 *serving five children could receive over \$5,000 per year in federal*
30 *CACFP reimbursements for serving nutritious meals. While over*
31 *\$200,000,000 in CACFP funding was provided to California child*
32 *care centers last year, and over \$100,000,000 in CACFP funding*
33 *was provided to family day care homes last year, tens of millions*

1 *of dollars in CACFP reimbursements would be provided if more*
2 *child care centers and family day care homes participated in the*
3 *CACFP.*

4 (f)

5 (g) The State of California has a strong policy and financial
6 interest in the licensed child care system and in the health and
7 safety of children while they are engaged in that system.

8 SEC. 2. Section 1597.50 is added to the Health and Safety
9 Code, to read:

10 1597.50. (a) Except as provided in subdivisions (b) and (c), a
11 family day care home shall ensure that any meals and snacks
12 provided by the family day care home include, at a minimum, the
13 amount of food and the components that are specified by the United
14 States Department of Agriculture Child and Adult Care Food
15 Program (CACFP) (7 C.F.R. 226.20).

16 (b) If a child has a medical necessity, documented in writing
17 by a medical provider, that includes the need for “medical food”
18 as defined by Section 109971, a licensed family day care facility
19 shall be exempt from complying with the requirements of
20 subdivision (a), to the extent necessary to meet the medical needs
21 of that child.

22 (c) This section shall not apply to meals or snacks provided by
23 a parent or legal guardian for his or her child at a family day care
24 home.

25 (d) Family day care homes shall, on an annual basis, self-certify
26 to the department ~~compliance with the provisions of this section~~
27 *whether the licensee understands the nutrition standards required*
28 *by this section and the family day care home’s progress toward*
29 *compliance.*

30 (e) The department shall ~~determine~~ *review the status of*
31 *compliance with this section only during regularly scheduled,*
32 *authorized monitoring inspections, and shall not be required to*
33 *conduct separate and independent visits. ~~In addition to any action~~*
34 *taken by the department with respect to* *If the department*
35 *determines that a family day care home’s noncompliance home is*
36 *noncompliant with this section, the department shall recommend*
37 *to the family day care home relevant nutrition information and*
38 ~~trainings~~ *training.*

39 (f) For the purposes of improving nutrition in family day care
40 homes *and child day care facilities generally* and increasing

1 providers' capacity to serve healthy foods, the department shall
2 inform prospective and current providers about the CACFP by
3 posting information relating to eligibility, enrollment, and
4 reimbursement on the department's Internet Web site, and by
5 disseminating information by other means deemed appropriate by
6 the department. *These means may include, but are not limited to,*
7 *orientation materials, during regular inspections, and through*
8 *written communications to licensees.*
9 (g) ~~Section~~ Sections 1596.56, 1596.62, and 1596.890 shall not
10 apply to this section. *The compliance procedures described in*
11 *subdivision (e) shall supersede any other compliance procedures*
12 *required by this chapter.*