

AMENDED IN ASSEMBLY MAY 25, 2012
AMENDED IN ASSEMBLY APRIL 12, 2012
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 Sections 1596.812 and 1597.50 to the Health and Safety Code, relating to child day care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1872, as amended, Alejo. Child day care facilities: 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 *as a condition of licensure*. *The bill would require the department to explain these nutritional requirements on its Internet Web site, in appropriate department outreach materials, and during the orientation of prospective family day care home providers, and would authorize*

the department to send updated nutritional standard information to providers through a provider bulletin or other similar instruction. The bill would require a family day care home to comply with certain requirements relating to the disclosure and review of weekly menus. The bill would require the department to take specified actions with respect to noncompliance with these provisions. 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.

The bill would require the department to inform prospective and current child day care providers about the above-described nutrition requirements by posting certain information on the department’s Internet Web site, and by disseminating information by other means deemed appropriate by the department.

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 ~~day care facilities.~~
- 12 ~~(d) Research demonstrates that the nutritional environment in~~
- 13 ~~child day care facilities could be improved by encouraging~~
- 14 ~~appropriate portion size and a healthy balance of dairy, fruits and~~
- 15 ~~vegetables, whole grains, and proteins.~~
- 16 ~~(e) Almost 50 percent of the approximately 50,000 licensed day~~
- 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 providers lack adequate information about this nutrition~~
- 21 ~~program.~~

1 (f) Day care centers may receive up to \$1,260 per child in federal
2 CACFP reimbursements each year, but over 5,000 licensed day
3 care centers do not receive these much needed reimbursements.
4 More specifically, a day care center serving 50 children could
5 receive over \$63,000 per year in federal CACFP reimbursements
6 for serving nutritious meals. While over \$123,000,000 in federal
7 CACFP funding was provided to California day care centers in
8 the 2010–11 fiscal year, tens of millions of dollars more in federal
9 CACFP reimbursements would flow into California if more day
10 care centers participated in the program.

11 (g) Family day care homes may receive up to \$1,062 per child
12 in federal CACFP reimbursements each year, but over 16,000
13 family day care homes do not receive these much needed
14 reimbursements. More specifically, a family day care home serving
15 five children could receive over \$5,310 per year in federal CACFP
16 reimbursements for participating in the program. While over
17 \$101,000,000 in CACFP funding was provided to California family
18 day care homes in the 2010–11 fiscal year, tens of millions of
19 dollars more in federal CACFP reimbursements would flow into
20 California if more family day care homes participated in the
21 program.

22 (h) The State of California has a strong policy and financial
23 interest in the licensed child care system and in the health and
24 safety of children while they are engaged in that system.

25 ~~SEC. 2.~~

26 *SECTION 1.* Section 1596.812 is added to the Health and Safety
27 Code, to read:

28 1596.812. For the purposes of improving nutrition in child day
29 care facilities, as defined in Section 1596.750, and increasing
30 providers' capacity to serve healthy foods, the department shall
31 inform prospective and current providers about the United States
32 Department of Agriculture Child and Adult Care Food Program
33 (CACFP) (7 C.F.R. 226.20) by posting information relating to
34 eligibility, enrollment, and reimbursement on the department's
35 Internet Web site, and by disseminating information by other means
36 deemed appropriate by the department. These means may include,
37 but are not limited to, orientation materials, during regular
38 inspections, and through written communications to licensees.

1 ~~SEC. 3.~~

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

4 1597.50. (a) Except as provided in subdivisions ~~(b) and (e)~~
5 ~~(c) and (d)~~, a family day care home shall ensure, *as a condition of*
6 *licensure*, that any meals and snacks provided by the family day
7 care home include, at a minimum, the amount of food and the
8 components that are specified by the United States Department of
9 Agriculture Child and Adult Care Food Program (CACFP) (7
10 C.F.R. ~~226.20~~; 226.20). *The department shall explain these*
11 *nutritional requirements on its Internet Web site, in appropriate*
12 *department outreach materials, and during the orientation of*
13 *prospective family day care home providers.*

14 **(b)** *If the CACFP is amended to include new nutritional*
15 *standards, the department may inform providers of these updated*
16 *standards by provider bulletin or other similar instruction.*

17 ~~(b)~~

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

23 ~~(e)~~

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

27 ~~(d)~~

28 **(e)** Family day care homes shall, ~~on an annual basis, self-certify~~
29 ~~to the department whether the licensee understands the nutrition~~
30 ~~standards required by this section and the family day care home's~~
31 ~~progress toward compliance post, in an area open to parents and~~
32 ~~guardians, a weekly menu clearly listing each food item for each~~
33 ~~meal and snack to be served by the provider, including any~~
34 ~~substitutions. The weekly menus shall be retained by the family~~
35 ~~day care home provider for no less than six months, and shall be~~
36 ~~made available, upon request, for review by the department or~~
37 ~~current or prospective parents or guardians of children attending~~
38 ~~the family day care home.~~

39 ~~(e)~~

1 (f) The department shall review the status of compliance with
2 this section only during regularly scheduled, authorized monitoring
3 inspections, and shall not be required to conduct separate and
4 independent visits *based solely on complaints regarding*
5 *compliance with the CACFP nutritional standards. Compliance*
6 *shall be determined by examining the posted menu, observing any*
7 *meal or snack served during the monitoring visit, if any, and, at*
8 *the discretion of the department, by inquiry of the provider or*
9 *review of prior menus.* If the department determines that a family
10 day care home is noncompliant with this section, the department
11 shall recommend to the family day care home relevant nutrition
12 information and training *opportunities*.

13 ~~(f)~~
14 (g) Article 5 (commencing with Section 1596.89) of Chapter
15 3.4, *and the provisions relating to civil penalties that are imposed*
16 *by Sections 1597.56, 1597.58, and 1597.62 shall not apply to this*
17 *section. The compliance procedures described in subdivision (e)*
18 *shall supersede any other compliance procedures required by this*
19 *chapter or by any other law for the duties imposed by this section.*

20 ~~(g)~~
21 (h) The requirements imposed by this section are in addition to,
22 and are not intended to replace, the requirements prescribed by
23 Section 1596.808.