

ASSEMBLY BILL

No. 40

Introduced by Assembly Member Mansoor

December 6, 2012

An act to amend Sections 11834.02, 11834.09, and 11834.23 of the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as introduced, Mansoor. Substance abuse: recovery and treatment 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 issue a license to specified types of facilities if certain criteria are met. Under existing law, these facilities include a facility wherein separate buildings or portions of a residential facility are integral components of a single alcoholism or drug abuse recovery or treatment facility and all of the components of the facility are managed by the same licensee.

Existing law deems an alcoholism or drug abuse recovery or treatment facility that serves 6 or fewer persons to be a residential use of property for the purposes of the law relating to regulating alcoholism or drug abuse recovery or treatment facilities, whether or not unrelated persons are living together, and subject to specified conditions. In addition, the residents and operators of a facility that satisfies these conditions are considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property.

This bill would require, rather than authorize, the department to issue a license if the above criteria are met. The bill would identify facilities

with common management of separate facility components, as specified, as “integral facilities,” and would exclude these integral facilities from being considered a residential use of property for purposes of the law regulating alcoholism or drug abuse recovery or treatment facilities. The bill would authorize integral facilities to collectively serve 7 or more persons, as specified.

This bill also would make technical, nonsubstantive changes to the provisions described above.

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 11834.02 of the Health and Safety Code
 2 is amended to read:
 3 11834.02. (a) As used in this chapter, “alcoholism or drug
 4 abuse recovery or treatment ~~facility~~ or ~~facility~~ *facility,*”
 5 *“facility,” or “facilities,”* means any premises, place, or building
 6 that provides 24-hour residential nonmedical services to adults
 7 who are recovering from problems related to alcohol, drug, or
 8 alcohol and drug misuse or abuse, and who need alcohol, drug, or
 9 alcohol and drug recovery treatment or detoxification services.
 10 (b) As used in this chapter, “adults” may include, but is not
 11 limited to, all of the following:
 12 (1) Mothers over 18 years of age and their children.
 13 (2) Emancipated minors, which may include, but is not limited
 14 to, mothers under 18 years of age and their children.
 15 (c) As used in this chapter, “emancipated minors” means persons
 16 under 18 years of age who have acquired emancipation status
 17 pursuant to Section 7002 of the Family Code.
 18 (d) *As used in this chapter, “integral facilities” means any*
 19 *combination of two or more facilities, located on the same or*
 20 *different parcels, that collectively serve seven or more persons,*
 21 *not including the licensee or members of the licensee’s family or*
 22 *persons employed as facility staff, that are under the control or*
 23 *management of the same owner, operator, management company,*
 24 *or licensee, or any affiliate of any of them, and which together*
 25 *comprise one operation. Integral facilities shall include, but not*
 26 *be limited to, the provision of housing in one facility and recovery*
 27 *programming, treatment, meals, or any other service or services*

1 at another facility, or facilities, or by assigning staff, or a
2 consultant or consultants, to provide services to or in more than
3 one facility.

4 ~~(d)~~

5 (e) Notwithstanding subdivision (a), an alcoholism or drug abuse
6 recovery or treatment facility may serve adolescents upon the
7 issuance of a waiver granted by the department pursuant to
8 regulations adopted under subdivision (c) of Section 11834.50.

9 SEC. 2. Section 11834.09 of the Health and Safety Code is
10 amended to read:

11 11834.09. (a) Upon receipt of a completed written application,
12 fire clearance, and licensing fee from the prospective licensee, and
13 subject to the department’s review and determination that the
14 prospective licensee can comply with this chapter and regulations
15 adopted pursuant to this chapter, the department ~~may~~ shall issue
16 a single license to the following types of alcoholism or drug abuse
17 recovery or treatment facilities:

18 (1) A residential facility, *other than integral facilities.*

19 ~~(2) A facility wherein separate buildings or portions of a~~
20 ~~residential facility are integral components of a single alcoholism~~
21 ~~or drug abuse recovery or treatment facility and all of the~~
22 ~~components of the facility are managed by the same licensee.~~

23 (2) *Integral facilities, as defined in subdivision (d) of Section*
24 *11834.02.*

25 (b) Failure to submit a completed written application, fire
26 clearance, and payment of the required licensing fee in a timely
27 manner shall result in termination of the department’s licensure
28 review and shall require submission of a new application by the
29 prospective licensee.

30 (c) Failure of the prospective licensee to demonstrate the ability
31 to comply with this chapter or the regulations adopted pursuant to
32 this chapter shall result in departmental denial of the prospective
33 licensee’s application for licensure.

34 SEC. 3. Section 11834.23 of the Health and Safety Code is
35 amended to read:

36 11834.23. (a) Whether or not unrelated persons are living
37 together, an alcoholism or drug abuse recovery or treatment facility
38 ~~which~~ that serves six or fewer persons shall be considered a
39 residential use of property for the purposes of this article. In
40 addition, the residents and operators of ~~such a~~ the facility shall be

1 considered a family for the purposes of any law or zoning ordinance
2 ~~which~~ *that* relates to the residential use of property pursuant to
3 this article.

4 ~~For~~

5 (b) *For* the purpose of all local ordinances, an alcoholism or
6 drug abuse recovery or treatment facility ~~which~~ *that* serves six or
7 fewer persons shall not be included within the definition of a
8 boarding house, rooming house, institution, or home for the care
9 of minors, the aged, or the mentally infirm, foster care home, guest
10 home, rest home, sanitarium, mental hygiene home, or other similar
11 term ~~which~~ *that* implies that the alcoholism or drug abuse recovery
12 or treatment home is a business run for profit, or differs in any
13 other way from a single-family residence.

14 ~~This~~

15 (c) *This* section shall not be construed to forbid ~~any~~ a city,
16 county, or other local public entity from placing restrictions on
17 building heights, setback, lot dimensions, or placement of signs
18 of an alcoholism or drug abuse recovery or treatment facility ~~which~~
19 *that* serves six or fewer persons as long as the restrictions are
20 identical to those applied to other single-family residences.

21 ~~This~~

22 (d) *This* section shall not be construed to forbid the application
23 to an alcoholism or drug abuse recovery or treatment facility of
24 any local ordinance ~~which~~ *that* deals with health and safety,
25 building standards, environmental impact standards, or any other
26 matter within the jurisdiction of a local public entity. However,
27 the ordinance shall not distinguish alcoholism or drug abuse
28 recovery or treatment facilities ~~which~~ *that* serve six or fewer
29 persons from other single-family dwellings, or distinguish residents
30 of alcoholism or drug abuse recovery or treatment facilities, from
31 persons who reside in other single-family dwellings.

32 ~~No~~

33 (e) A conditional use permit, zoning variance, or other zoning
34 clearance shall *not* be required of an alcoholism or drug abuse
35 recovery or treatment facility ~~which~~ *that* serves six or fewer persons
36 that is not required of a single-family residence in the same zone.

37 ~~Use~~

38 (f) *Use* of a single-family dwelling for purposes of an alcoholism
39 or drug abuse recovery facility serving six or fewer persons shall
40 not constitute a change of occupancy for purposes of Part 1.5

1 (commencing with Section 17910) of Division 13 or local building
2 codes. However, nothing in this section is intended to supersede
3 Section 13143 or 13143.6, to the extent those sections are
4 applicable to alcoholism or drug abuse recovery or treatment
5 facilities serving six or fewer residents.

6 (g) *This section shall not apply to integral facilities, as defined*
7 *in subdivision (d) of Section 11834.02.*

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