

AMENDED IN ASSEMBLY MAY 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2386

Introduced by Assembly Member Mullin

February 21, 2014

An act to amend Sections 1569.150, 1596.95, 1597.45, 1597.46, and 1597.54 of, and to add Sections 1503.2 and 1569.311 to, the Health and Safety Code, relating to ~~child care~~: care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2386, as amended, Mullin. ~~Child care~~ Care facilities: carbon monoxide detectors.

Existing law provides for the licensing and regulation of community care facilities, including residential facilities, adult day programs, foster family homes, community treatment facilities, and others, and for the licensing and regulation of residential care facilities for the elderly, by the State Department of Social Services. Violation of the provisions relating to residential care facilities for the elderly is a misdemeanor. Existing law also provides for the licensing and regulation of day care centers and family day care homes by the State Department of Social Services department. Existing law requires day care centers and family day care homes to have specified fire prevention devices.

This bill would require community care facilities, residential care facilities for the elderly, and day care centers and family day care homes to have one or more functioning carbon monoxide detectors that meet specified statutory requirements in the facility and would require the department to account for the presence of the detectors during inspections. By creating a new crime, with respect to residential care

facilities for the elderly, 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 1503.2 is added to the Health and Safety
 2 Code, to read:

3 1503.2. Every facility licensed pursuant to this chapter shall
 4 have one or more carbon monoxide detectors in the facility that
 5 meet the standards established in Chapter 8 (commencing with
 6 Section 13260) of Part 2 of Division 12. The department shall
 7 account for the presence of these detectors during inspections.

8 SEC. 2. Section 1569.150 of the Health and Safety Code is
 9 amended to read:

10 1569.150. (a) The department and the licensing agencies with
 11 which it contracts for licensing shall review and make a final
 12 determination within 60 days of an applicant’s submission of a
 13 complete application on all applications for a license to operate a
 14 residential care facility for the elderly if the applicant possesses a
 15 current valid license to operate a residential care facility for the
 16 elderly at another site. Applicants shall note on the application, or
 17 in a cover letter to the application, that they possess a current valid
 18 license at another site, and the number of that license.

19 (b) The department shall request a fire safety clearance from
 20 the appropriate fire marshal within five days of receipt of an
 21 application described in subdivision (a). The applicant shall be
 22 responsible for requesting and obtaining the required criminal
 23 record clearances. *The applicant shall also provide evidence*
 24 *satisfactory to the department that there is one or more functioning*
 25 *carbon monoxide detectors in the facility that meet the standards*
 26 *established in Chapter 8 (commencing with Section 13260) of Part*
 27 *2 of Division 12.*

1 (c) If the department for any reason is unable to comply with
2 subdivision (a), it shall, within 60 days of receipt of the application
3 described in subdivision (a), grant a provisional license to the
4 applicant to operate for a period not to exceed six months, except
5 as provided in subdivision (d). While the provisional license is in
6 effect, the department shall continue its investigation and make a
7 final determination on the application before the provisional license
8 expires. The provisional license shall be granted, provided the
9 department knows of no life safety risks, the criminal records
10 clearances, if applicable, are complete, and the fire safety clearance
11 is complete. The director may extend the term of a provisional
12 license for an additional six months at the time of the application,
13 if the director determines that more than six months will be
14 required to achieve full compliance with licensing standards due
15 to circumstances beyond the control of the applicant, and if all
16 other requirements for a license have been met.

17 (d) If the department does not issue a provisional license
18 pursuant to subdivision (c), the department shall issue a notice to
19 the applicant identifying whether the provisional license has not
20 been issued due to the existence of a life safety risk, lack of a fire
21 safety clearance, lack of a criminal records clearance, failure to
22 complete the application, or any combination of these reasons. If
23 a life safety risk is identified, the risk preventing the issuance of
24 the provisional license shall be clearly explained. If a lack of the
25 fire safety clearance is identified, the notice shall include the dates
26 on which the department requested the clearance and the current
27 status of that request, and the fire marshal's name and telephone
28 number to whom a fire safety clearance request was sent. The
29 department shall identify the names of individuals for whom
30 criminal records clearances are lacking. If failure to complete the
31 application is identified, the notice shall list all of the forms or
32 attachments that are missing or incorrect. This notice shall be sent
33 to the applicant no later than 60 days after the applicant filed the
34 application. If the reasons identified in the notice are corrected,
35 the department shall issue the provisional license within five days
36 after the corrections are made.

37 (e) The department shall, immediately after January 1, 1993,
38 develop expedited procedures necessary to implement subdivisions
39 (a), (b), (c), and (d).

1 (f) The department shall, immediately after January 1, 1993,
2 develop an appeal procedure for applicants under this section for
3 both denial of licenses and delay in processing applications.

4 SEC. 3. Section 1569.311 is added to the Health and Safety
5 Code, to read:

6 1569.311. Every residential care facility for the elderly shall
7 have one or more carbon monoxide detectors in the facility that
8 meet the standards established in Chapter 8 (commencing with
9 Section 13260) of Part 2 of Division 12. The department shall
10 account for the presence of these detectors during inspections.

11 SECTION 4.

12 SEC. 4. Section 1596.95 of the Health and Safety Code is
13 amended to read:

14 1596.95. Any person desiring issuance of a license for a day
15 care center or a special permit for specialized services in a day
16 care center under this chapter shall file with the department
17 pursuant to regulations, an application on forms, furnished by the
18 department, that shall include, but not be limited to, all of the
19 following:

20 (a) Evidence satisfactory to the department of the ability of the
21 applicant to comply with this act and rules and regulations adopted
22 pursuant to this act by the department.

23 (b) Evidence satisfactory to the department that the applicant
24 is a reputable and responsible character. This evidence shall
25 include, but not be limited to, a criminal record clearance pursuant
26 to Section 1596.871, employment history, and character references.
27 If the applicant is a firm, association, organization, partnership,
28 business trust, corporation, or company, evidence of reputable and
29 responsible character shall be submitted as to the members or
30 shareholders thereof, and the person in charge of the day care
31 center for which application for issuance of license or special
32 permit is made.

33 (c) Evidence satisfactory to the department that the applicant
34 has sufficient financial resources to maintain the standards of
35 service required by regulations adopted pursuant to this act. The
36 information shall be required only upon initial application for
37 licensure, and when requested by the department, in writing,
38 explaining the need for the evidence as part of the department's
39 investigative function.

1 (d) Disclosure of the applicant’s prior or present service as an
2 administrator, general partner, corporate officer, or director of, or
3 as a person who has held or holds a beneficial ownership of 10
4 percent or more in a child day care facility or in a facility licensed
5 pursuant to Chapter 1 (commencing with Section 1200), 2
6 (commencing with Section 1250), or 3 (commencing with Section
7 1500).

8 (e) Disclosure of a revocation or other disciplinary action taken,
9 or in the process of being taken, against a license held or previously
10 held by the entities specified in subdivision (d).

11 (f) Evidence satisfactory to the department that there is a fire
12 escape and disaster plan for the facility and that fire drills and
13 disaster drills will be conducted at least once every six months.
14 The documentation of these drills shall be maintained at the facility
15 on a form prepared by the department and shall include the date
16 and time of the drills.

17 (g) Evidence satisfactory to the department that there is one or
18 more functioning carbon monoxide detectors in the facility that
19 meet the standards established in Chapter 8 (commencing with
20 Section 13260) of Part 2 of Division 12. The department shall
21 account for the presence of the detectors during inspections.

22 (h) Evidence satisfactory to the department that the applicant
23 has posted signs at the point of entry to the facility that provide
24 the telephone number of the local health department and state all
25 of the following:

- 26 (1) Protect your child—it is the law.
- 27 (2) All the information specified in Sections 27360 and 27360.5
28 of the Vehicle Code regarding child passenger restraint systems.
- 29 (3) Call your local health department for more information.

30 (i) Any other information required by the department for the
31 proper administration and enforcement of this act.

32 (j) Failure of the applicant to cooperate with the licensing agency
33 in the completion of the application shall result in the denial of the
34 application. Failure to cooperate means that the information
35 described in this section and in regulations of the department has
36 not been provided, or not provided in the form requested by the
37 licensing agency, or both.

38 ~~SEC. 2.~~

39 *SEC. 5.* Section 1597.45 of the Health and Safety Code is
40 amended to read:

1 1597.45. All of the following shall apply to small family day
2 care homes:

3 (a) The use of single-family residence as a small family day
4 care home shall be considered a residential use of property for the
5 purposes of all local ordinances.

6 (b) No local jurisdiction shall impose a business license, fee,
7 or tax for the privilege of operating a small family day care home.

8 (c) Use of a single-family dwelling for purposes of a small
9 family day care home shall not constitute a change of occupancy
10 for purposes of Part 1.5 (commencing with Section 17910) of
11 Division 13 (State Housing Law) or for purposes of local building
12 codes.

13 (d) A small family day care home shall not be subject to Article
14 1 (commencing with Section 13100) or Article 2 (commencing
15 with Section 13140) of Chapter 1 of Part 2 of Division 2, except
16 that a small family day care home shall contain a fire extinguisher
17 and smoke detector device that meet standards established by the
18 State Fire Marshal and one or more functioning carbon monoxide
19 detectors that meet the requirements of Chapter 8 (commencing
20 with Section 13260) of Part 2 of Division 12. The department shall
21 account for the presence of the carbon monoxide detectors during
22 inspections.

23 ~~SEC. 3.~~

24 *SEC. 6.* Section 1597.46 of the Health and Safety Code is
25 amended to read:

26 1597.46. All of the following shall apply to large family day
27 care homes:

28 (a) A city, county, or city and county shall not prohibit large
29 family day care homes on lots zoned for single-family dwellings,
30 but shall do one of the following:

31 (1) Classify these homes as a permitted use of residential
32 property for zoning purposes.

33 (2) Grant a nondiscretionary permit to use a lot zoned for a
34 single-family dwelling to a large family day care home that
35 complies with local ordinances prescribing reasonable standards,
36 restrictions, and requirements concerning spacing and
37 concentration, traffic control, parking, and noise control relating
38 to those homes, and complies with subdivision (e) and regulations
39 adopted by the State Fire Marshal pursuant to that subdivision.
40 Noise standards shall be consistent with local noise ordinances

1 implementing the noise element of the general plan and shall take
2 into consideration the noise level generated by children. The permit
3 issued pursuant to this paragraph shall be granted by the zoning
4 administrator or, if there is no zoning administrator, by the person
5 or persons designated by the planning agency to grant these
6 permits, upon the certification without a hearing.

7 (3) Require a large family day care home to apply for a permit
8 to use a lot zoned for single-family dwellings. The zoning
9 administrator or, if there is no zoning administrator, the person or
10 persons designated by the planning agency to handle the use
11 permits, shall review and decide the applications. The use permit
12 shall be granted if the large family day care home complies with
13 local ordinances, if any, prescribing reasonable standards,
14 restrictions, and requirements concerning the following factors:
15 spacing and concentration, traffic control, parking, and noise
16 control relating to those homes, and complies with subdivision (e)
17 and regulations adopted by the State Fire Marshal pursuant to that
18 subdivision. Noise standards shall be consistent with local noise
19 ordinances implementing the noise element of the general plan
20 and shall take into consideration the noise levels generated by
21 children. The local government shall process a required permit as
22 economically as possible.

23 Fees charged for review shall not exceed the costs of the review
24 and permit process. An applicant may request a verification of
25 fees, and the city, county, or city and county shall provide the
26 applicant with a written breakdown within 45 days of the request.
27 Beginning July 1, 2007, the application form for large family day
28 care home permits shall include a statement of the applicant's right
29 to request the written fee verification.

30 Not less than 10 days prior to the date on which the decision
31 will be made on the application, the zoning administrator or person
32 designated to handle the use permits shall give notice of the
33 proposed use by mail or delivery to all owners shown on the last
34 equalized assessment roll as owning real property within a 100-foot
35 radius of the exterior boundaries of the proposed large family day
36 care home. A hearing on the application for a permit issued
37 pursuant to this paragraph shall not be held before a decision is
38 made unless a hearing is requested by the applicant or other
39 affected person. The applicant or other affected person may appeal
40 the decision. The appellant shall pay the cost, if any, of the appeal.

1 (b) In connection with an action taken pursuant to paragraph
2 (2) or (3) of subdivision (a), a city, county, or city and county shall
3 do all of the following:

4 (1) Upon the request of an applicant, provide a list of the permits
5 and fees that are required by the city, county, or city and county,
6 including information about other permits that may be required
7 by other departments in the city, county, or city and county, or by
8 other public agencies. The city, county, or city and county shall,
9 upon request of an applicant, also provide information about the
10 anticipated length of time for reviewing and processing the permit
11 application.

12 (2) Upon the request of an applicant, provide information on
13 the breakdown of any individual fees charged in connection with
14 the issuance of the permit.

15 (3) If a deposit is required to cover the cost of the permit,
16 provide information to the applicant about the estimated final cost
17 to the applicant of the permit, and procedures for receiving a refund
18 from the portion of the deposit not used.

19 (c) A large family day care home shall not be subject to the
20 provisions of Division 13 (commencing with Section 21000) of
21 the Public Resources Code.

22 (d) Use of a single-family dwelling for the purposes of a large
23 family day care home shall not constitute a change of occupancy
24 for purposes of Part 1.5 (commencing with Section 17910) of
25 Division 13 (State Housing Law), or for purposes of local building
26 and fire codes.

27 (e) A large family day care home shall have one or more
28 functioning carbon monoxide detectors that meet the requirements
29 of Chapter 8 (commencing with Section 13260) of Part 2 of
30 Division 12. The department shall account for the presence of the
31 carbon monoxide detectors during inspections.

32 (f) Large family day care homes shall be considered as
33 single-family residences for the purposes of the State Uniform
34 Building Standards Code and local building and fire codes, except
35 with respect to any additional standards specifically designed to
36 promote the fire and life safety of the children in these homes
37 adopted by the State Fire Marshal pursuant to this subdivision.
38 The State Fire Marshal shall adopt separate building standards
39 specifically relating to the subject of fire and life safety in large
40 family day care homes, which shall be published in Title 24 of the

1 California Code of Regulations. These standards shall apply
2 uniformly throughout the state and shall include, but not be limited
3 to: (1) the requirement that a large family day care home contain
4 a fire extinguisher or smoke detector device, or both, that meets
5 standards established by the State Fire Marshal; (2) specification
6 as to the number of required exits from the home; and (3)
7 specification as to the floor or floors on which day care may be
8 provided. Enforcement of these provisions shall be in accordance
9 with Sections 13145 and 13146. No city, county, city and county,
10 or district shall adopt or enforce a building ordinance or local rule
11 or regulation relating to the subject of fire and life safety in large
12 family day care homes that is inconsistent with those standards
13 adopted by the State Fire Marshal, except to the extent the building
14 ordinance or local rule or regulation applies to single-family
15 residences in which day care is not provided.

16 (g) The State Fire Marshal shall adopt the building standards
17 required in subdivision (d) and any other regulations necessary to
18 implement this section.

19 ~~SEC. 4.~~

20 *SEC. 7.* Section 1597.54 of the Health and Safety Code is
21 amended to read:

22 1597.54. All family day care homes for children, shall apply
23 for a license under this chapter, except that a home that on June
24 28, 1981, had a valid and unexpired license to operate as a family
25 day care home for children under other provisions of law shall be
26 deemed to have a license under this chapter for the unexpired term
27 of the license at which time a new license may be issued upon
28 fulfilling the requirements of this chapter.

29 An applicant for licensure as a family day care home for children
30 shall file with the department, pursuant to its regulations, an
31 application on forms furnished by the department, that shall
32 include, but not be limited to, all of the following:

33 (a) A brief statement confirming that the applicant is financially
34 secure to operate a family day care home for children. The
35 department shall not require any other specific or detailed financial
36 disclosure.

37 (b) (1) Evidence that the small family day care home contains
38 a fire extinguisher or smoke detector device, or both, that meets
39 standards established by the State Fire Marshal under subdivision
40 (d) of Section 1597.45, or evidence that the large family day care

1 home meets the standards established by the State Fire Marshal
2 under subdivision (d) of Section 1597.46.

3 (2) Evidence satisfactory to the department that there is a fire
4 escape and disaster plan for the facility and that fire drills and
5 disaster drills will be conducted at least once every six months.
6 The documentation of these drills shall be maintained at the facility
7 on a form prepared by the department and shall include the date
8 and time of the drills.

9 (3) Evidence satisfactory to the department that there is one or
10 more functioning carbon monoxide detectors in the facility that
11 meet the standards of Chapter 8 (commencing with Section 13260)
12 of Part 2 of Division 12. The department shall account for the
13 presence of the detectors during inspections.

14 (c) The fingerprints of any applicant of a family day care home
15 license, and any other adult, as required under subdivision (b) of
16 Section 1596.871.

17 (d) Evidence of a current tuberculosis clearance, as defined in
18 regulations that the department shall adopt, for any adult in the
19 home during the time that children are under care.

20 (e) Evidence satisfactory to the department of the ability of the
21 applicant to comply with this chapter and Chapter 3.4 (commencing
22 with Section 1596.70) and the regulations adopted pursuant to
23 those chapters.

24 (f) Evidence satisfactory to the department that the applicant
25 and all other persons residing in the home are of reputable and
26 responsible character. The evidence shall include, but not be limited
27 to, a criminal record clearance pursuant to Section 1596.871,
28 employment history, and character references.

29 (g) Failure of the applicant to cooperate with the licensing
30 agency in the completion of the application shall result in the denial
31 of the application. Failure to cooperate means that the information
32 described in this section and in regulations of the department has
33 not been provided, or not provided in the form requested by the
34 licensing agency, or both.

35 (h) Other information as may be required by the department
36 for the proper administration and enforcement of the act.

37 *SEC. 8. No reimbursement is required by this act pursuant to*
38 *Section 6 of Article XIII B of the California Constitution because*
39 *the only costs that may be incurred by a local agency or school*
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

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