

AMENDED IN SENATE JUNE 26, 2014

AMENDED IN ASSEMBLY MAY 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2386**

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**Introduced by Assembly Member Mullin**

February 21, 2014

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An act to amend Sections 1569.150, 1596.95, 1597.45, 1597.46, and 1597.54 of, and to add Sections 1503.2, *1568.043*, and 1569.311 to, the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2386, as amended, Mullin. 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 *and residential care facilities for persons with chronic, life-threatening illness*, by the State Department of Social Services. Violation of the provisions relating to residential care facilities for the elderly *and residential care facilities for persons with chronic, life-threatening illness* is a misdemeanor. Existing law also provides for the licensing and regulation of day care centers and family day care homes by the 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, *residential care facilities for persons with chronic, life-threatening illness*, 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 *and residential care facilities for persons with chronic, life-threatening illness*, 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: 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 *or certified* pursuant to this  
4 chapter shall have one or more carbon monoxide detectors in the  
5 facility that meet the standards established in Chapter 8  
6 (commencing with Section 13260) of Part 2 of Division 12. The  
7 department shall account for the presence of these detectors during  
8 inspections.

9 *SEC. 2. Section 1568.043 is added to the Health and Safety*  
10 *Code, to read:*

11 *1568.043. A residential care facility for persons with chronic,*  
12 *life-threatening illness shall have one or more carbon monoxide*  
13 *detectors in the facility that meet the standards established on*  
14 *Chapter 8 (commencing with Section 13260) of Part 2 of Division*  
15 *12. The department shall account for the presence of these*  
16 *detectors during inspections.*

17 ~~SEC. 2.~~

18 *SEC. 3.* Section 1569.150 of the Health and Safety Code is  
19 amended to read:

20 1569.150. (a) The department and the licensing agencies with  
21 which it contracts for licensing shall review and make a final  
22 determination within 60 days of an applicant's submission of a  
23 complete application on all applications for a license to operate a

1 residential care facility for the elderly if the applicant possesses a  
2 current valid license to operate a residential care facility for the  
3 elderly at another site. Applicants shall note on the application, or  
4 in a cover letter ~~to~~ *with* the application, that they possess a current  
5 valid license at another site, and the number of that license.

6 (b) The department shall request a fire safety clearance from  
7 the appropriate fire marshal within five days of receipt of an  
8 application described in subdivision (a). The applicant shall be  
9 responsible for requesting and obtaining the required criminal  
10 record clearances. The applicant shall also provide evidence  
11 satisfactory to the department that there is one or more functioning  
12 carbon monoxide detectors in the facility that meet the standards  
13 established in Chapter 8 (commencing with Section 13260) of Part  
14 2 of Division 12.

15 (c) If the department for any reason is unable to comply with  
16 subdivision (a), it shall, within 60 days of receipt of the application  
17 described in subdivision (a), grant a provisional license to the  
18 applicant to operate for a period not to exceed six months, except  
19 as provided in subdivision (d). While the provisional license is in  
20 effect, the department shall continue its investigation and make a  
21 final determination on the application before the provisional license  
22 expires. The provisional license shall be granted, provided the  
23 department knows of no life safety risks, the criminal records  
24 clearances, if applicable, are complete, and the fire safety clearance  
25 is complete. The director may extend the term of a provisional  
26 license for an additional six months at the time of the application,  
27 if the director determines that more than six months will be  
28 required to achieve full compliance with licensing standards due  
29 to circumstances beyond the control of the applicant, and if all  
30 other requirements for a license have been met.

31 (d) If the department does not issue a provisional license  
32 pursuant to subdivision (c), the department shall issue a notice to  
33 the applicant identifying whether the provisional license has not  
34 been issued due to the existence of a life safety risk, lack of a fire  
35 safety clearance, lack of a criminal records clearance, failure to  
36 complete the application, or any combination of these reasons. If  
37 a life safety risk is identified, the risk preventing the issuance of  
38 the provisional license shall be clearly explained. If a lack of the  
39 fire safety clearance is identified, the notice shall include the dates  
40 on which the department requested the clearance and the current

1 status of that request, and the fire marshal's name and telephone  
2 number to whom a fire safety clearance request was sent. The  
3 department shall identify the names of individuals for whom  
4 criminal records clearances are lacking. If failure to complete the  
5 application is identified, the notice shall list all of the forms or  
6 attachments that are missing or incorrect. This notice shall be sent  
7 to the applicant no later than 60 days after the applicant filed the  
8 application. If the reasons identified in the notice are corrected,  
9 the department shall issue the provisional license within five days  
10 after the corrections are made.

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

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

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 1569.311 is added to the Health and Safety  
19 Code, to read:

20 1569.311. Every residential care facility for the elderly shall  
21 have one or more carbon monoxide detectors in the facility that  
22 meet the standards established in Chapter 8 (commencing with  
23 Section 13260) of Part 2 of Division 12. The department shall  
24 account for the presence of these detectors during inspections.

25 ~~SEC. 4.~~

26 *SEC. 5.* Section 1596.95 of the Health and Safety Code is  
27 amended to read:

28 1596.95. Any person desiring issuance of a license for a day  
29 care center or a special permit for specialized services in a day  
30 care center under this chapter shall file with the department  
31 pursuant to regulations, an application on forms, furnished by the  
32 department, that shall include, but not be limited to, all of the  
33 following:

34 (a) Evidence satisfactory to the department of the ability of the  
35 applicant to comply with this act and rules and regulations adopted  
36 pursuant to this act by the department.

37 (b) Evidence satisfactory to the department that the applicant  
38 is a reputable and responsible character. This evidence shall  
39 include, but not be limited to, a criminal record clearance pursuant  
40 to Section 1596.871, employment history, and character references.

1 If the applicant is a firm, association, organization, partnership,  
2 business trust, corporation, or company, evidence of reputable and  
3 responsible character shall be submitted as to the members or  
4 shareholders thereof, and the person in charge of the day care  
5 center for which application for issuance of a license or special  
6 permit is made.

7 (c) Evidence satisfactory to the department that the applicant  
8 has sufficient financial resources to maintain the standards of  
9 service required by regulations adopted pursuant to this act. The  
10 information shall be required only upon initial application for  
11 licensure, and when requested by the department, in writing,  
12 explaining the need for the evidence as part of the department's  
13 investigative function.

14 (d) Disclosure of the applicant's prior or present service as an  
15 administrator, general partner, corporate officer, or director of, or  
16 as a person who has held or holds a beneficial ownership of 10  
17 percent or more in a child day care facility or in a facility licensed  
18 pursuant to Chapter 1 (commencing with Section 1200), 2  
19 (commencing with Section 1250), or 3 (commencing with Section  
20 1500).

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

24 (f) Evidence satisfactory to the department that there is a fire  
25 escape and disaster plan for the facility and that fire drills and  
26 disaster drills will be conducted at least once every six months.  
27 The documentation of these drills shall be maintained at the facility  
28 on a form prepared by the department and shall include the date  
29 and time of the drills.

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

35 (h) Evidence satisfactory to the department that the applicant  
36 has posted signs at the point of entry to the facility that provide  
37 the telephone number of the local health department and state all  
38 of the following:

39 (1) Protect your child—it is the law.

1 (2) All the information specified in Sections 27360 and 27360.5  
2 of the Vehicle Code regarding child passenger restraint systems.

3 (3) Call your local health department for more information.

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

6 (j) Failure of the applicant to cooperate with the licensing agency  
7 in the completion of the application shall result in the denial of the  
8 application. Failure to cooperate means that the information  
9 described in this section and in regulations of the department has  
10 not been provided, or not provided in the form requested by the  
11 licensing agency, or both.

12 ~~SEC. 5.~~

13 *SEC. 6.* Section 1597.45 of the Health and Safety Code is  
14 amended to read:

15 1597.45. All of the following shall apply to small family day  
16 care homes:

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

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

22 (c) Use of a single-family dwelling for purposes of a small  
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 codes.

27 (d) A small family day care home shall not be subject to Article  
28 1 (commencing with Section 13100) or Article 2 (commencing  
29 with Section 13140) of Chapter 1 of Part 2 of Division ~~2~~ 12, except  
30 that a small family day care home shall contain a fire extinguisher  
31 and smoke detector device that meet standards established by the  
32 State Fire Marshal and one or more functioning carbon monoxide  
33 detectors that meet the requirements of Chapter 8 (commencing  
34 with Section 13260) of Part 2 of Division 12. The department shall  
35 account for the presence of the carbon monoxide detectors during  
36 inspections.

37 ~~SEC. 6.~~

38 *SEC. 7.* Section 1597.46 of the Health and Safety Code is  
39 amended to read:

1 1597.46. All of the following shall apply to large family day  
2 care homes:

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

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

8 (2) Grant a nondiscretionary permit to use a lot zoned for a  
9 single-family dwelling to a large family day care home that  
10 complies with local ordinances prescribing reasonable standards,  
11 restrictions, and requirements concerning spacing and  
12 concentration, traffic control, parking, and noise control relating  
13 to those homes, and complies with subdivision (e) and regulations  
14 adopted by the State Fire Marshal pursuant to that subdivision.  
15 Noise standards shall be consistent with local noise ordinances  
16 implementing the noise element of the general plan and shall take  
17 into consideration the noise level generated by children. The permit  
18 issued pursuant to this paragraph shall be granted by the zoning  
19 administrator or, if there is no zoning administrator, by the person  
20 or persons designated by the planning agency to grant these  
21 permits, upon the certification without a hearing.

22 (3) Require a large family day care home to apply for a permit  
23 to use a lot zoned for single-family dwellings. The zoning  
24 administrator or, if there is no zoning administrator, the person or  
25 persons designated by the planning agency to handle the use  
26 permits, shall review and decide the applications. The use permit  
27 shall be granted if the large family day care home complies with  
28 local ordinances, if any, prescribing reasonable standards,  
29 restrictions, and requirements concerning the following factors:  
30 spacing and concentration, traffic control, parking, and noise  
31 control relating to those homes, and complies with subdivision (e)  
32 and regulations adopted by the State Fire Marshal pursuant to that  
33 subdivision. Noise standards shall be consistent with local noise  
34 ordinances implementing the noise element of the general plan  
35 and shall take into consideration the noise levels generated by  
36 children. The local government shall process a required permit as  
37 economically as possible.

38 Fees charged for review shall not exceed the costs of the review  
39 and permit process. An applicant may request a verification of  
40 fees, and the city, county, or city and county shall provide the

1 applicant with a written breakdown within 45 days of the request.  
 2 Beginning July 1, 2007, the application form for large family day  
 3 care home permits shall include a statement of the applicant’s right  
 4 to request the written fee verification.

5 Not less than 10 days prior to the date on which the decision  
 6 will be made on the application, the zoning administrator or person  
 7 designated to handle the use permits shall give notice of the  
 8 proposed use by mail or delivery to all owners shown on the last  
 9 equalized assessment roll as owning real property within a 100-foot  
 10 radius of the exterior boundaries of the proposed large family day  
 11 care home. A hearing on the application for a permit issued  
 12 pursuant to this paragraph shall not be held before a decision is  
 13 made unless a hearing is requested by the applicant or other  
 14 affected person. The applicant or other affected person may appeal  
 15 the decision. The appellant shall pay the cost, if any, of the appeal.

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

19 (1) Upon the request of an applicant, provide a list of the permits  
 20 and fees that are required by the city, county, or city and county,  
 21 including information about other permits that may be required  
 22 by other departments in the city, county, or city and county, or by  
 23 other public agencies. The city, county, or city and county shall,  
 24 upon request of an applicant, also provide information about the  
 25 anticipated length of time for reviewing and processing the permit  
 26 application.

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

30 (3) If a deposit is required to cover the cost of the permit,  
 31 provide information to the applicant about the estimated final cost  
 32 to the applicant of the permit, and procedures for receiving a refund  
 33 from the portion of the deposit not used.

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

37 (d) Use of a single-family dwelling for the purposes of a large  
 38 family day care home shall not constitute a change of occupancy  
 39 for purposes of Part 1.5 (commencing with Section 17910) of

1 Division 13 (State Housing Law), or for purposes of local building  
2 and fire codes.

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

8 (f) Large family day care homes shall be considered as  
9 single-family residences for the purposes of the State Uniform  
10 Building Standards Code and local building and fire codes, except  
11 with respect to any additional standards specifically designed to  
12 promote the fire and life safety of the children in these homes  
13 adopted by the State Fire Marshal pursuant to this subdivision.  
14 The State Fire Marshal shall adopt separate building standards  
15 specifically relating to the subject of fire and life safety in large  
16 family day care homes, which shall be published in Title 24 of the  
17 California Code of Regulations. These standards shall apply  
18 uniformly throughout the state and shall include, but not be limited  
19 to: (1) the requirement that a large family day care home contain  
20 a fire extinguisher or smoke detector device, or both, that meets  
21 standards established by the State Fire Marshal; (2) specification  
22 as to the number of required exits from the home; and (3)  
23 specification as to the floor or floors on which day care may be  
24 provided. Enforcement of these provisions shall be in accordance  
25 with Sections 13145 and 13146. No city, county, city and county,  
26 or district shall adopt or enforce a building ordinance or local rule  
27 or regulation relating to the subject of fire and life safety in large  
28 family day care homes that is inconsistent with those standards  
29 adopted by the State Fire Marshal, except to the extent the building  
30 ordinance or local rule or regulation applies to single-family  
31 residences in which day care is not provided.

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

35 ~~SEC. 7.~~

36 *SEC. 8.* Section 1597.54 of the Health and Safety Code is  
37 amended to read:

38 1597.54. All family day care homes for children, shall apply  
39 for a license under this chapter, except that a home that on June  
40 28, 1981, had a valid and unexpired license to operate as a family

1 day care home for children under other provisions of law shall be  
2 deemed to have a license under this chapter for the unexpired term  
3 of the license at which time a new license may be issued upon  
4 fulfilling the requirements of this chapter.

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

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

13 (b) (1) Evidence that the small family day care home contains  
14 a fire extinguisher or smoke detector device, or both, that meets  
15 standards established by the State Fire Marshal under subdivision  
16 (d) of Section 1597.45, or evidence that the large family day care  
17 home meets the standards established by the State Fire Marshal  
18 under subdivision (d) of Section 1597.46.

19 (2) Evidence satisfactory to the department that there is a fire  
20 escape and disaster plan for the facility and that fire drills and  
21 disaster drills will be conducted at least once every six months.  
22 The documentation of these drills shall be maintained at the facility  
23 on a form prepared by the department and shall include the date  
24 and time of the drills.

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

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

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

36 (e) Evidence satisfactory to the department of the ability of the  
37 applicant to comply with this chapter and Chapter 3.4 (commencing  
38 with Section 1596.70) and the regulations adopted pursuant to  
39 those chapters.

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

6 (g) Failure of the applicant to cooperate with the licensing  
7 agency in the completion of the application shall result in the denial  
8 of the application. Failure to cooperate means that the information  
9 described in this section and in regulations of the department has  
10 not been provided, or not provided in the form requested by the  
11 licensing agency, or both.

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

14 ~~SEC. 8:~~

15 *SEC. 9.* No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.