

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JUNE 25, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1387

Introduced by Assembly Member Chu

February 27, 2015

An act to amend Sections 1548, 1568.0822, 1569.35, 1569.49, 1596.842, 1596.99, and 1597.58 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1387, as amended, Chu. Care facilities: civil penalties, deficiencies, and appeal procedures.

(1) Existing law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensing and administration of community care facilities, residential care facilities for persons with chronic life-threatening illnesses, residential care facilities for the elderly, child day care centers, and family day care homes. Existing law authorizes any person to request an inspection of a residential care facility for the elderly by transmitting to the department notice of an alleged violation of applicable requirements prescribed by statutes or regulations, including, but not limited to, a denial of access of any person statutorily authorized to

enter the facility. Under existing law, upon receipt of a complaint alleging denial of a statutory right of access to a residential facility for the elderly, the department is required to review the complaint and promptly notify the complainant of the department's proposed course of action.

This bill would instead authorize any person to request an investigation of a residential care facility for the elderly by making a complaint to the department alleging a violation of the applicable statutes or regulations. The bill would delete the department's above-described obligations relating to the denial of a statutory right of access and instead impose specified requirements on the department, including a pre-investigation interview, if a local long-term care ombudsman or the State Long-Term Care Ombudsman files a complaint alleging denial of a statutory right of access to a residential care facility for the elderly. The bill would require the department, within 10 days of completing the investigation of a complaint conducted pursuant to these provisions, to notify the complainant in writing of the department's determination as a result of the investigation.

(2) Existing law authorizes the department to impose various civil penalties for a licensing violation under the above-described provisions, as specified. Existing law generally authorizes the department to impose a larger civil penalty for a violation that the department determines resulted in the death of a resident of or a person receiving care at one of those facilities, and for a violation that the department determines constitutes physical abuse of, or results in serious bodily injury to, a resident of or a person receiving care at one of those facilities. Prior to the issuance of a citation imposing one of those death, physical abuse, or serious bodily injury civil penalties, existing law requires the approval of the Director of Social Services.

This bill would instead require the approval of the program administrator of the Community Care Licensing Division of the department prior to the issuance of a citation imposing one of the death, physical abuse, or serious bodily injury civil penalties described above.

(3) Existing law, beginning July 1, 2015, provides a licensee under the provisions described above the right to submit to the department a written request for a formal review of an assessment of the death, physical abuse, and serious bodily injury civil penalties described above by a regional manager of the Community Care Licensing Division of the department. Existing law establishes a process to appeal that review to the program administrator of the Community Care Licensing Division

of the department, to further appeal to the deputy director of the Community Care Licensing Division of the department, and, upon exhausting the deputy director review, to an administrative law judge.

This bill would revise the review process of an assessment of the death, physical abuse, and serious bodily injury civil penalties described above by, among other things, deleting the provisions relating to a regional manager of the Community Care Licensing Division of the department and the program administrator of the Community Care Licensing Division of the department. The bill would also establish a process to appeal any other civil penalty assessed pursuant to these provisions. The bill would authorize the department to implement and administer these provisions through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act, and would make conforming changes.

(4) Existing law requires the department to notify the facilities described above in writing of all deficiencies in their compliance with specified provisions of law, and requires those facilities, unless otherwise specified, to remedy the deficiencies within certain time periods. Existing law requires the department to adopt regulations setting forth the appeal procedures for deficiencies.

This bill would establish a process for a licensee to submit to the department a written request for a formal review of a finding of a deficiency, and to further appeal that review to the program administrator of the Community Care Licensing Division. The bill would also require a notification of a deficiency written by a representative of the department to include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(5) Existing law requires moneys collected from the imposition of the penalties described above relating to child day care centers and family day care homes to be deposited in the Child Health and Safety Fund and expended for certain purposes, including technical assistance, orientation, training, and education of licensed day care centers.

This bill would delete the requirement that moneys collected from the imposition of certain penalties and deposited in the Child Health and Safety Fund be used for assisting families with the identification, transportation, and enrollment of children in another day care center or

family day care home upon the revocation or suspension of the license of a day care center or family day care home.

(6) *This bill would incorporate changes to Section 1548 of the Health and Safety Code proposed by both this bill and AB 403, which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last.*

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. It is the intent of the Legislature to enact
2 legislation that would clarify the complaint process for residential
3 care facilities for the elderly and revise the appeal procedures for
4 a deficiency issued against a care facility licensed by the State
5 Department of Social Services.

6 SEC. 2. Section 1548 of the Health and Safety Code, as added
7 by Section 2 of Chapter 813 of the Statutes of 2014, is amended
8 to read:

9 1548. (a) In addition to the suspension, temporary suspension,
10 or revocation of a license issued under this chapter, the department
11 may levy a civil penalty.

12 (b) The amount of the civil penalty shall not be less than
13 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
14 for each violation of this chapter except where the nature or
15 seriousness of the violation or the frequency of the violation
16 warrants a higher penalty or an immediate civil penalty assessment,
17 or both, as determined by the department. Except as otherwise
18 provided in this chapter, a civil penalty assessment shall not exceed
19 one hundred fifty dollars (\$150) per day per violation.

20 (c) Notwithstanding Section 1534, the department shall assess
21 an immediate civil penalty of one hundred fifty dollars (\$150) per
22 day per violation for any of the following serious violations:

23 (1) (A) Fire clearance violations, including, but not limited to,
24 overcapacity, ambulatory status, inoperable smoke alarms, and
25 inoperable fire alarm systems. The civil penalty shall not be
26 assessed if the licensee has done either of the following:

27 (i) Requested the appropriate fire clearance based on ambulatory,
28 nonambulatory, or bedridden status, and the decision is pending.

29 (ii) Initiated eviction proceedings.

1 (B) A licensee denied a clearance for bedridden residents may
2 appeal to the fire authority, and, if that appeal is denied, may
3 subsequently appeal to the Office of the State Fire Marshal, and
4 shall not be assessed an immediate civil penalty until the final
5 appeal is decided, or after 60 days has passed from the date of the
6 citation, whichever is earlier.

7 (2) Absence of supervision, as required by statute or regulation.

8 (3) Accessible bodies of water when prohibited in this chapter
9 or regulations adopted pursuant to this chapter.

10 (4) Accessible firearms, ammunition, or both.

11 (5) Refused entry to a facility or any part of a facility in violation
12 of Section 1533, 1534, or 1538.

13 (6) The presence of an excluded person on the premises.

14 (d) (1) For a violation that the department determines resulted
15 in the death of a resident at an adult residential facility, social
16 rehabilitation facility, enhanced behavioral supports home, or
17 community crisis home, the civil penalty shall be fifteen thousand
18 dollars (\$15,000).

19 (2) For a violation that the department determines resulted in
20 the death of a person receiving care at an adult day program, the
21 civil penalty shall be assessed as follows:

22 (A) Seven thousand five hundred dollars (\$7,500) for a licensee
23 licensed, among all of the licensee's facilities, to care for 50 or
24 less persons.

25 (B) Ten thousand dollars (\$10,000) for a licensee licensed,
26 among all of the licensee's facilities, to care for more than 50
27 persons.

28 (3) For a violation that the department determines resulted in
29 the death of a person receiving care at a therapeutic day services
30 facility, foster family agency, community treatment facility,
31 full-service adoption agency, noncustodial adoption agency,
32 transitional shelter care facility, transitional housing placement
33 provider, or group home, the civil penalty shall be assessed as
34 follows:

35 (A) Seven thousand five hundred dollars (\$7,500) for a licensee
36 licensed, among all of the licensee's facilities, to care for 40 or
37 less children.

38 (B) Ten thousand dollars (\$10,000) for a licensee licensed,
39 among all of the licensee's facilities, to care for 41 to 100,
40 inclusive, children.

1 (C) Fifteen thousand dollars (\$15,000) for a licensee licensed,
2 among all of the licensee’s facilities, to care for more than 100
3 children.

4 (4) For a violation that the department determines resulted in
5 the death of a resident at a runaway and homeless youth shelter,
6 the civil penalty shall be five thousand dollars (\$5,000).

7 (e) (1) (A) For a violation that the department determines
8 constitutes physical abuse, as defined in Section 15610.63 of the
9 Welfare and Institutions Code, or resulted in serious bodily injury,
10 as defined in Section 243 of the Penal Code, to a resident at an
11 adult residential facility, social rehabilitation facility, enhanced
12 behavioral supports home, or community crisis home, the civil
13 penalty shall be ten thousand dollars (\$10,000).

14 (B) For a violation that the department determines constitutes
15 physical abuse, as defined in Section 15610.63 of the Welfare and
16 Institutions Code, or resulted in serious bodily injury, as defined
17 in Section 243 of the Penal Code, to a person receiving care at an
18 adult day program, the civil penalty shall be assessed as follows:

19 (i) Two thousand five hundred dollars (\$2,500) for a licensee
20 licensed, among all of the licensee’s facilities, to care for 50 or
21 less persons.

22 (ii) Five thousand dollars (\$5,000) for a licensee licensed, among
23 all of the licensee’s facilities, to care for more than 50 persons.

24 (C) For a violation that the department determines constitutes
25 physical abuse, as defined in paragraph (2), or resulted in serious
26 bodily injury, as defined in Section 243 of the Penal Code, to a
27 person receiving care at a therapeutic day services facility, foster
28 family agency, community treatment facility, full-service adoption
29 agency, noncustodial adoption agency, transitional shelter care
30 facility, transitional housing placement provider, or group home,
31 the civil penalty shall be assessed as follows:

32 (i) Two thousand five hundred dollars (\$2,500) for a licensee
33 licensed, among all of the licensee’s facilities, to care for 40 or
34 less children.

35 (ii) Five thousand dollars (\$5,000) for a licensee licensed, among
36 all of the licensee’s facilities, to care for 41 to 100, inclusive,
37 children.

38 (iii) Ten thousand dollars (\$10,000) for a licensee licensed,
39 among all of the licensee’s facilities, to care for more than 100
40 children.

1 (D) For a violation that the department determines constitutes
2 physical abuse, as defined in paragraph (2), or resulted in serious
3 bodily injury, as defined in Section 243 of the Penal Code, to a
4 resident at a runaway and homeless youth shelter, the civil penalty
5 shall be one thousand dollars (\$1,000).

6 (2) For purposes of subparagraphs (C) and (D), “physical abuse”
7 includes physical injury inflicted upon a child by another person
8 by other than accidental means, sexual abuse as defined in Section
9 11165.1 of the Penal Code, neglect as defined in Section 11165.2
10 of the Penal Code, or unlawful corporal punishment or injury as
11 defined in Section 11165.4 of the Penal Code when the person
12 responsible for the child’s welfare is a licensee, administrator, or
13 employee of any facility licensed to care for children.

14 (f) Prior to the issuance of a citation imposing a civil penalty
15 pursuant to subdivision (d) or (e), the decision shall be approved
16 by the program administrator of the Community Care Licensing
17 Division.

18 (g) Notwithstanding Section 1534, any facility that is cited for
19 repeating the same violation of this chapter within 12 months of
20 the first violation is subject to an immediate civil penalty of one
21 hundred fifty dollars (\$150) and fifty dollars (\$50) for each day
22 the violation continues until the deficiency is corrected.

23 (h) Any facility that is assessed a civil penalty pursuant to
24 subdivision (g) that repeats the same violation of this chapter within
25 12 months of the violation subject to subdivision (g) is subject to
26 an immediate civil penalty of one hundred fifty dollars (\$150) for
27 each day the violation continues until the deficiency is corrected.

28 (i) (1) The department shall adopt regulations setting forth the
29 appeal procedures for deficiencies.

30 (2) A notification of a deficiency written by a representative of
31 the department shall include a factual description of the nature of
32 the deficiency fully stating the manner in which the licensee failed
33 to comply with the specified statute or regulation, and, if
34 applicable, the particular place or area of the facility in which the
35 deficiency occurred.

36 (j) (1) A licensee shall have the right to submit to the
37 department a written request for a formal review of a civil penalty
38 assessed pursuant to subdivisions (d) and (e) within 15 business
39 days of receipt of the notice of a civil penalty assessment and shall
40 provide all available supporting documentation at that time. The

1 review shall be conducted by the deputy director of the Community
2 Care Licensing Division. The licensee may submit additional
3 supporting documentation that was unavailable at the time of
4 submitting the request for review within the first 30 business days
5 after submitting the request for review. If the department requires
6 additional information from the licensee, that information shall be
7 requested within the first 30 business days after receiving the
8 request for review. The licensee shall provide this additional
9 information within 30 business days of receiving the request from
10 the department. If the deputy director determines that the civil
11 penalty was not assessed, or the finding of the deficiency that
12 resulted in the assessment of the civil penalty was not made, in
13 accordance with applicable statutes or regulations of the
14 department, he or she may amend or dismiss the civil penalty or
15 finding of deficiency. The licensee shall be notified in writing of
16 the deputy director's decision within 60 business days of the date
17 when all necessary information has been provided to the
18 department by the licensee.

19 (2) Upon exhausting the review described in paragraph (1), a
20 licensee may further appeal that decision to an administrative law
21 judge. Proceedings shall be conducted in accordance with Chapter
22 5 (commencing with Section 11500) of Part 1 of Division 3 of
23 Title 2 of the Government Code, and the department shall have all
24 the powers granted by those provisions. In all proceedings
25 conducted in accordance with this section, the standard of proof
26 shall be by a preponderance of the evidence.

27 (3) If, in addition to an assessment of civil penalties, the
28 department elects to file an administrative action to suspend or
29 revoke the facility license that includes violations relating to the
30 assessment of the civil penalties, the department review of the
31 pending appeal shall cease and the assessment of the civil penalties
32 shall be heard as part of the administrative action process.

33 (k) (1) A licensee shall have the right to submit to the
34 department a written request for a formal review of any other civil
35 penalty or deficiency not described in subdivision (j) within 15
36 business days of receipt of the notice of a civil penalty assessment
37 or a finding of a deficiency, and shall provide all available
38 supporting documentation at that time. The review shall be
39 conducted by a regional manager of the Community Care Licensing
40 Division. The licensee may submit additional supporting

1 documentation that was unavailable at the time of submitting the
2 request for review within the first 30 business days after submitting
3 the request for review. If the department requires additional
4 information from the licensee, that information shall be requested
5 within the first 30 business days after receiving the request for
6 review. The licensee shall provide this additional information
7 within 30 business days of receiving the request from the
8 department. If the regional manager determines that the civil
9 penalty was not assessed, or the finding of the deficiency was not
10 made, in accordance with applicable statutes or regulations of the
11 department, he or she may amend or dismiss the civil penalty or
12 finding of deficiency. The licensee shall be notified in writing of
13 the regional manager's decision within 60 business days of the
14 date when all necessary information has been provided to the
15 department by the licensee.

16 (2) Upon exhausting the review described in paragraph (1), the
17 licensee may further appeal that decision to the program
18 administrator of the Community Care Licensing Division within
19 15 business days of receipt of notice of the regional manager's
20 decision. The licensee may submit additional supporting
21 documentation that was unavailable at the time of appeal to the
22 program administrator within the first 30 business days after
23 requesting that appeal. If the department requires additional
24 information from the licensee, that information shall be requested
25 within the first 30 business days after receiving the request for the
26 appeal. The licensee shall provide this additional information
27 within 30 business days of receiving the request from the
28 department. If the program administrator determines that the civil
29 penalty was not assessed, or the finding of the deficiency was not
30 made, in accordance with applicable statutes or regulations of the
31 department, he or she may amend or dismiss the civil penalty or
32 finding of deficiency. The licensee shall be notified in writing of
33 the program administrator's decision within 60 business days of
34 the date when all necessary information has been provided to the
35 department by the licensee. The program administrator's decision
36 is considered final and concludes the licensee's administrative
37 appeal rights regarding the appeal conducted pursuant to this
38 paragraph.

39 (l) The department shall adopt regulations implementing this
40 section.

1 (m) The department shall, by January 1, 2016, amend its
2 regulations to reflect the changes to this section made by Section
3 2 of Chapter 813 of the Statutes of 2014.

4 (n) As provided in Section 11466.31 of the Welfare and
5 Institutions Code, the department may offset civil penalties owed
6 by a group home against moneys to be paid by a county for the
7 care of minors after the group home has exhausted its appeal of
8 the civil penalty assessment. The department shall provide the
9 group home a reasonable opportunity to pay the civil penalty before
10 instituting the offset provision.

11 (o) Notwithstanding the Administrative Procedure Act (Chapter
12 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
13 Title 2 of the Government Code), the department may implement
14 and administer the changes made by the act that added this
15 subdivision through all-county letters or similar written instructions
16 until regulations are adopted pursuant to the Administrative
17 Procedure Act.

18 (p) This section shall become operative on July 1, 2015.

19 *SEC. 2.5. Section 1548 of the Health and Safety Code, as added*
20 *by Section 2 of Chapter 813 of the Statutes of 2014, is amended*
21 *to read:*

22 1548. (a) In addition to the suspension, temporary suspension,
23 or revocation of a license issued under this chapter, the department
24 may levy a civil penalty.

25 (b) The amount of the civil penalty shall not be less than
26 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
27 for each violation of this chapter except where the nature or
28 seriousness of the violation or the frequency of the violation
29 warrants a higher penalty or an immediate civil penalty assessment,
30 or both, as determined by the department. ~~In no event, shall~~ *Except*
31 *as otherwise provided in this chapter,* a civil penalty assessment
32 *shall not* exceed one hundred fifty dollars (\$150) per day per
33 violation.

34 (c) Notwithstanding Section 1534, the department shall assess
35 an immediate civil penalty of one hundred fifty dollars (\$150) per
36 day per violation for any of the following serious violations:

37 (1) (A) Fire clearance violations, including, but not limited to,
38 overcapacity, ambulatory status, inoperable smoke alarms, and
39 inoperable fire alarm systems. The civil penalty shall not be
40 assessed if the licensee has done either of the following:

- 1 (i) Requested the appropriate fire clearance based on ambulatory,
2 nonambulatory, or bedridden status, and the decision is pending.
- 3 (ii) Initiated eviction proceedings.
- 4 (B) A licensee denied a clearance for bedridden residents may
5 appeal to the fire authority, and, if that appeal is denied, may
6 subsequently appeal to the Office of the State Fire Marshal, and
7 shall not be assessed an immediate civil penalty until the final
8 appeal is decided, or after 60 days has passed from the date of the
9 citation, whichever is earlier.
- 10 (2) Absence of supervision, as required by statute or regulation.
- 11 (3) Accessible bodies of water when prohibited in this chapter
12 or regulations adopted pursuant to this chapter.
- 13 (4) Accessible firearms, ammunition, or both.
- 14 (5) Refused entry to a facility or any part of a facility in violation
15 of Section 1533, 1534, or 1538.
- 16 (6) The presence of an excluded person on the premises.
- 17 (d) (1) For a violation that the department determines resulted
18 in the death of a resident at an adult residential facility, social
19 rehabilitation facility, enhanced behavioral supports home, or
20 community crisis home, the civil penalty shall be fifteen thousand
21 dollars (\$15,000).
- 22 (2) For a violation that the department determines resulted in
23 the death of a person receiving care at an adult day program, the
24 civil penalty shall be assessed as follows:
- 25 (A) Seven thousand five hundred dollars (\$7,500) for a licensee
26 licensed, among all of the licensee's facilities, to care for 50 or
27 less persons.
- 28 (B) Ten thousand dollars (\$10,000) for a licensee licensed,
29 among all of the licensee's facilities, to care for more than 50
30 persons.
- 31 (3) For a violation that the department determines resulted in
32 the death of a person receiving care at a therapeutic day services
33 facility, foster family agency, community treatment facility,
34 full-service adoption agency, noncustodial adoption agency,
35 transitional shelter care facility, transitional housing placement
36 provider, ~~or~~ group home, *or short-term residential treatment center*,
37 the civil penalty shall be assessed as follows:
- 38 (A) Seven thousand five hundred dollars (\$7,500) for a licensee
39 licensed, among all of the licensee's facilities, to care for 40 or
40 less children.

1 (B) Ten thousand dollars (\$10,000) for a licensee licensed,
2 among all of the licensee’s facilities, to care for 41 to 100,
3 inclusive, children.

4 (C) Fifteen thousand dollars (\$15,000) for a licensee licensed,
5 among all of the licensee’s facilities, to care for more than 100
6 children.

7 (4) For a violation that the department determines resulted in
8 the death of a resident at a runaway and homeless youth shelter,
9 the civil penalty shall be five thousand dollars (\$5,000).

10 (e) (1) (A) For a violation that the department determines
11 constitutes physical abuse, as defined in Section 15610.63 of the
12 Welfare and Institutions Code, or resulted in serious bodily injury,
13 as defined in Section 243 of the Penal Code, to a resident at an
14 adult residential facility, social rehabilitation facility, enhanced
15 behavioral supports home, or community crisis home, the civil
16 penalty shall be ten thousand dollars (\$10,000).

17 (B) For a violation that the department determines constitutes
18 physical abuse, as defined in Section 15610.63 of the Welfare and
19 Institutions Code, or resulted in serious bodily injury, as defined
20 in Section 243 of the Penal Code, to a person receiving care at an
21 adult day program, the civil penalty shall be assessed as follows:

22 (i) Two thousand five hundred dollars (\$2,500) for a licensee
23 licensed, among all of the licensee’s facilities, to care for 50 or
24 less persons.

25 (ii) Five thousand dollars (\$5,000) for a licensee licensed, among
26 all of the licensee’s facilities, to care for more than 50 persons.

27 (C) For a violation that the department determines constitutes
28 physical abuse, as defined in paragraph (2), or resulted in serious
29 bodily injury, as defined in Section 243 of the Penal Code, to a
30 person receiving care at a therapeutic day services facility, foster
31 family agency, community treatment facility, full-service adoption
32 agency, noncustodial adoption agency, transitional shelter care
33 facility, transitional housing placement provider, ~~or~~ group home,
34 *or short-term residential treatment center*, the civil penalty shall
35 be assessed as follows:

36 (i) Two thousand five hundred dollars (\$2,500) for a licensee
37 licensed, among all of the licensee’s facilities, to care for 40 or
38 less children.

1 (ii) Five thousand dollars (\$5,000) for a licensee licensed, among
2 all of the licensee’s facilities, to care for 41 to 100, inclusive,
3 children.

4 (iii) Ten thousand dollars (\$10,000) for a licensee licensed,
5 among all of the licensee’s facilities, to care for more than 100
6 children.

7 (D) For a violation that the department determines constitutes
8 physical abuse, as defined in paragraph (2), or resulted in serious
9 bodily injury, as defined in Section 243 of the Penal Code, to a
10 resident at a runaway and homeless youth shelter, the civil penalty
11 shall be one thousand dollars (\$1,000).

12 (2) For purposes of subparagraphs (C) and (D), “physical abuse”
13 includes physical injury inflicted upon a child by another person
14 by other than accidental means, sexual abuse as defined in Section
15 11165.1 of the Penal Code, neglect as defined in Section 11165.2
16 of the Penal Code, or unlawful corporal punishment or injury as
17 defined in Section 11165.4 of the Penal Code when the person
18 responsible for the child’s welfare is a licensee, administrator, or
19 employee of any facility licensed to care for children.

20 (f) Prior to the issuance of a citation imposing a civil penalty
21 pursuant to subdivision (d) or (e), the decision shall be approved
22 by the ~~director~~ *program administrator of the Community Care*
23 *Licensing Division*.

24 (g) Notwithstanding Section 1534, any facility that is cited for
25 repeating the same violation of this chapter within 12 months of
26 the first violation is subject to an immediate civil penalty of one
27 hundred fifty dollars (\$150) and fifty dollars (\$50) for each day
28 the violation continues until the deficiency is corrected.

29 (h) Any facility that is assessed a civil penalty pursuant to
30 subdivision (g) that repeats the same violation of this chapter within
31 12 months of the violation subject to subdivision (g) is subject to
32 an immediate civil penalty of one hundred fifty dollars (\$150) for
33 each day the violation continues until the deficiency is corrected.

34 (i) (1) The department shall adopt regulations setting forth the
35 appeal procedures for deficiencies.

36 (2) *A notification of a deficiency written by a representative of*
37 *the department shall include a factual description of the nature of*
38 *the deficiency fully stating the manner in which the licensee failed*
39 *to comply with the specified statute or regulation, and, if*

1 applicable, the particular place or area of the facility in which the
 2 deficiency occurred.

3 ~~(2)~~

4 (j) (1) A licensee shall have the right to submit to the
 5 department a written request for a formal review of a civil penalty
 6 assessed pursuant to subdivisions (d) and (e) within ~~10~~ 15 business
 7 days of receipt of the notice of a civil penalty assessment and shall
 8 provide all *available* supporting documentation at that time. The
 9 review shall be conducted by ~~a regional manager~~ the deputy
 10 director of the Community Care Licensing Division. ~~If the regional~~
 11 ~~manager~~ The licensee may submit additional supporting
 12 documentation that was unavailable at the time of submitting the
 13 request for review within the first 30 business days after submitting
 14 the request for review. If the department requires additional
 15 information from the licensee, that information shall be requested
 16 within the first 30 business days after receiving the request for
 17 review. The licensee shall provide this additional information
 18 within 30 business days of receiving the request from the
 19 department. If the deputy director determines that the civil penalty
 20 was not ~~assessed~~ assessed, or the finding of deficiency was not
 21 made, in accordance with applicable statutes or regulations of the
 22 department, he or she may amend or dismiss the civil ~~penalty.~~
 23 ~~penalty or finding of deficiency.~~ The licensee shall be notified in
 24 writing of the ~~regional manager's~~ deputy director's decision within
 25 60 business days of the ~~request to review the assessment of the~~
 26 ~~civil penalty.~~ date when all necessary information has been
 27 provided to the department by the licensee.

28 ~~(3) The licensee may further appeal to the program administrator~~
 29 ~~of the Community Care Licensing Division within 10 days of~~
 30 ~~receipt of the notice of the regional manager's decision and shall~~
 31 ~~provide all supporting documentation at that time. If the program~~
 32 ~~administrator determines that the civil penalty was not assessed~~
 33 ~~in accordance with applicable statutes or regulations of the~~
 34 ~~department, he or she may amend or dismiss the civil penalty. The~~
 35 ~~licensee shall be notified in writing of the program administrator's~~
 36 ~~decision within 60 days of the request to review the regional~~
 37 ~~manager's decision.~~

38 (4) The licensee may further appeal to the deputy director of
 39 the Community Care Licensing Division within 10 days of receipt
 40 of the notice of the program director's decision and shall provide

1 ~~all supporting documentation at that time. If the deputy director~~
2 ~~determines that the civil penalty was not assessed in accordance~~
3 ~~with applicable statutes or regulations of the department, he or she~~
4 ~~may amend or dismiss the civil penalty. The licensee shall be~~
5 ~~notified in writing of the deputy director's decision within 60 days~~
6 ~~of the request to review the program administrator's decision.~~

7 ~~(5)~~

8 (2) Upon exhausting the ~~deputy director review~~, *review*
9 *described in paragraph (1)*, a licensee may ~~further appeal a civil~~
10 ~~penalty assessed pursuant to subdivision (d) or (e) that decision~~
11 to an administrative law judge. Proceedings shall be conducted in
12 accordance with Chapter 5 (commencing with Section 11500) of
13 Part 1 of Division 3 of Title 2 of the Government Code, and the
14 department shall have all the powers granted by those provisions.
15 In all proceedings conducted in accordance with this section, the
16 standard of proof shall be by a preponderance of the evidence.

17 ~~(6)~~

18 (3) If, in addition to an assessment of civil penalties, the
19 department elects to file an administrative action to suspend or
20 revoke the facility license that includes violations relating to the
21 assessment of the civil penalties, the department review of the
22 pending appeal shall cease and the assessment of the civil penalties
23 shall be heard as part of the administrative action process.

24 *(k) (1) A licensee shall have the right to submit to the*
25 *department a written request for a formal review of any other civil*
26 *penalty or deficiency not described in subdivision (j) within 15*
27 *business days of receipt of the notice of a civil penalty assessment*
28 *or a finding of a deficiency, and shall provide all available*
29 *supporting documentation at that time. The review shall be*
30 *conducted by a regional manager of the Community Care Licensing*
31 *Division. The licensee may submit additional supporting*
32 *documentation that was unavailable at the time of submitting the*
33 *request for review within the first 30 business days after submitting*
34 *the request for review. If the department requires additional*
35 *information from the licensee, that information shall be requested*
36 *within the first 30 business days after receiving the request for*
37 *review. The licensee shall provide this additional information*
38 *within 30 business days of receiving the request from the*
39 *department. If the regional manager determines that the civil*
40 *penalty was not assessed, or the finding of the deficiency was not*

1 *made, in accordance with applicable statutes or regulations of the*
2 *department, he or she may amend or dismiss the civil penalty or*
3 *finding of deficiency. The licensee shall be notified in writing of*
4 *the regional manager's decision within 60 business days of the*
5 *date when all necessary information has been provided to the*
6 *department by the licensee.*

7 (2) *Upon exhausting the review described in paragraph (1), the*
8 *licensee may further appeal that decision to the program*
9 *administrator of the Community Care Licensing Division within*
10 *15 business days of receipt of notice of the regional manager's*
11 *decision. The licensee may submit additional supporting*
12 *documentation that was unavailable at the time of appeal to the*
13 *program administrator within the first 30 business days after*
14 *requesting that appeal. If the department requires additional*
15 *information from the licensee, that information shall be requested*
16 *within the first 30 business days after receiving the request for the*
17 *appeal. The licensee shall provide this additional information*
18 *within 30 business days of receiving the request from the*
19 *department. If the program administrator determines that the civil*
20 *penalty was not assessed, or the finding of the deficiency was not*
21 *made, in accordance with applicable statutes or regulations of the*
22 *department, he or she may amend or dismiss the civil penalty or*
23 *finding of deficiency. The licensee shall be notified in writing of*
24 *the program administrator's decision within 60 business days of*
25 *the date when all necessary information has been provided to the*
26 *department by the licensee. The program administrator's decision*
27 *is considered final and concludes the licensee's administrative*
28 *appeal rights regarding the appeal conducted pursuant to this*
29 *paragraph.*

30 (j)

31 (l) The department shall adopt regulations implementing this
32 section.

33 (k)

34 (m) The department shall, by January 1, 2016, amend its
35 regulations to reflect the changes to this section made by the act
36 ~~that added this subdivision. Section 2 of Chapter 813 of the Statutes~~
37 ~~of 2014.~~

38 (t)

39 (n) As provided in Section 11466.31 of the Welfare and
40 Institutions Code, the department may offset civil penalties owed

1 by a group home *or short-term residential treatment center* against
2 moneys to be paid by a county for the care of minors after the
3 group home *or short-term residential treatment center* has
4 exhausted its appeal of the civil penalty assessment. The
5 department shall provide the group home *or short-term residential*
6 *treatment center* a reasonable opportunity to pay the civil penalty
7 before instituting the offset provision.

8 (o) *Notwithstanding the Administrative Procedure Act (Chapter*
9 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
10 *Title 2 of the Government Code), the department may implement*
11 *and administer the changes made by the act that added this*
12 *subdivision through all-county letters or similar written*
13 *instructions until regulations are adopted pursuant to the*
14 *Administrative Procedure Act.*

15 (~~m~~)

16 (p) This section shall become operative on July 1, 2015.

17 SEC. 3. Section 1568.0822 of the Health and Safety Code, as
18 added by Section 4 of Chapter 813 of the Statutes of 2014, is
19 amended to read:

20 1568.0822. (a) In addition to the suspension, temporary
21 suspension, or revocation of a license issued under this chapter,
22 the department may levy a civil penalty.

23 (b) The amount of the civil penalty shall not be less than
24 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
25 for each violation of this chapter, except where the nature or
26 seriousness of the violation or the frequency of the violation
27 warrants a higher penalty or an immediate civil penalty assessment,
28 or both, as determined by the department. Except as otherwise
29 provided in this chapter, a civil penalty assessment shall not exceed
30 one hundred fifty dollars (\$150) per day per violation.

31 (c) Notwithstanding Section 1568.07, the department shall assess
32 an immediate civil penalty of one hundred fifty dollars (\$150) per
33 day per violation for any of the following serious violations:

34 (1) (A) Fire clearance violations, including, but not limited to,
35 overcapacity, ambulatory status, inoperable smoke alarms, and
36 inoperable fire alarm systems. The civil penalty shall not be
37 assessed if the licensee has done either of the following:

38 (i) Requested the appropriate fire clearance based on ambulatory,
39 nonambulatory, or bedridden status, and the decision is pending.

40 (ii) Initiated eviction proceedings.

- 1 (B) A licensee denied a clearance for bedridden residents may
2 appeal to the fire authority, and, if that appeal is denied, may
3 subsequently appeal to the Office of the State Fire Marshal, and
4 shall not be assessed an immediate civil penalty until the final
5 appeal is decided, or after 60 days has passed from the date of the
6 citation, whichever is earlier.
- 7 (2) Absence of supervision, as required by statute and regulation.
- 8 (3) Accessible bodies of water, when prohibited in this chapter
9 or regulations adopted pursuant to this chapter.
- 10 (4) Accessible firearms, ammunition, or both.
- 11 (5) Refused entry to a facility or any part of a facility in violation
12 of Section 1568.07 or 1568.071.
- 13 (6) The presence of an excluded person on the premises.
- 14 (d) For a violation that the department determines resulted in
15 the death of a resident, the civil penalty shall be fifteen thousand
16 dollars (\$15,000).
- 17 (e) For a violation that the department determines constitutes
18 physical abuse, as defined in Section 15610.63 of the Welfare and
19 Institutions Code, or resulted in serious bodily injury, as defined
20 in Section 243 of the Penal Code, to a resident, the civil penalty
21 shall be ten thousand dollars (\$10,000).
- 22 (f) Prior to the issuance of a citation imposing a civil penalty
23 pursuant to subdivision (d) or (e), the decision shall be approved
24 by the program administrator of the Community Care Licensing
25 Division.
- 26 (g) Notwithstanding Section 1568.07, any residential care
27 facility that is cited for repeating the same violation of this chapter
28 within 12 months of the first violation is subject to an immediate
29 civil penalty of one hundred fifty dollars (\$150) and fifty dollars
30 (\$50) for each day the violation continues until the deficiency is
31 corrected.
- 32 (h) Any residential care facility that is assessed a civil penalty
33 pursuant to subdivision (g) that repeats the same violation of this
34 chapter within 12 months of the violation subject to subdivision
35 (g) shall be assessed an immediate civil penalty of one thousand
36 dollars (\$1,000) and one hundred dollars (\$100) for each day the
37 violation continues until the deficiency is corrected, provided that
38 the violation is a serious violation.
- 39 (i) (1) The department shall adopt regulations setting forth the
40 appeal procedures for deficiencies.

1 (2) A notification of a deficiency written by a representative of
2 the department shall include a factual description of the nature of
3 the deficiency fully stating the manner in which the licensee failed
4 to comply with the specified statute or regulation, and, if
5 applicable, the particular place or area of the facility in which the
6 deficiency occurred.

7 (j) (1) A licensee shall have the right to submit to the
8 department a written request for a formal review of a civil penalty
9 assessed pursuant to subdivisions (d) and (e) within 15 business
10 days of receipt of the notice of a civil penalty assessment and shall
11 provide all available supporting documentation at that time. The
12 review shall be conducted by the deputy director of the Community
13 Care Licensing Division. The licensee may submit additional
14 supporting documentation that was unavailable at the time of
15 submitting the request for review within the first 30 business days
16 after submitting the request for review. If the department requires
17 additional information from the licensee, that information shall be
18 requested within the first 30 business days after receiving the
19 request for review. The licensee shall provide this additional
20 information within 30 business days of receiving the request from
21 the department. If the deputy director determines that the civil
22 penalty was not assessed, or the finding of deficiency that resulted
23 in the assessment of the civil penalty was not made, in accordance
24 with applicable statutes or regulations of the department, he or she
25 may amend or dismiss the civil penalty or finding of deficiency.
26 The licensee shall be notified in writing of the deputy director's
27 decision within 60 business days of the date when all necessary
28 information has been provided to the department by the licensee.

29 (2) Upon exhausting the review described in paragraph (1), a
30 licensee may further appeal that decision to an administrative law
31 judge. Proceedings shall be conducted in accordance with Chapter
32 5 (commencing with Section 11500) of Part 1 of Division 3 of
33 Title 2 of the Government Code, and the department shall have all
34 the powers granted by those provisions. In all proceedings
35 conducted in accordance with this section, the standard of proof
36 shall be by a preponderance of the evidence.

37 (3) If, in addition to an assessment of civil penalties, the
38 department elects to file an administrative action to suspend or
39 revoke the facility license that includes violations relating to the
40 assessment of the civil penalties, the department review of the

1 pending appeal shall cease and the assessment of the civil penalties
2 shall be heard as part of the administrative action process.

3 (k) (1) A licensee shall have the right to submit to the
4 department a written request for a formal review of any other civil
5 penalty or deficiency not described in subdivision (j) within 15
6 business days of receipt of the notice of a civil penalty assessment
7 or a finding of a deficiency, and shall provide all available
8 supporting documentation at that time. The review shall be
9 conducted by a regional manager of the Community Care Licensing
10 Division. The licensee may submit additional supporting
11 documentation that was unavailable at the time of submitting the
12 request for review within the first 30 business days after submitting
13 the request for review. If the department requires additional
14 information from the licensee, that information shall be requested
15 within the first 30 business days after receiving the request for
16 review. The licensee shall provide this additional information
17 within 30 business days of receiving the request from the
18 department. If the regional manager determines that the civil
19 penalty was not assessed, or the finding of the deficiency was not
20 made, in accordance with applicable statutes or regulations of the
21 department, he or she may amend or dismiss the civil penalty or
22 finding of deficiency. The licensee shall be notified in writing of
23 the regional manager's decision within 60 business days of the
24 date when all necessary information has been provided to the
25 department by the licensee.

26 (2) Upon exhausting the review described in paragraph (1), the
27 licensee may further appeal that decision to the program
28 administrator of the Community Care Licensing Division within
29 15 business days of receipt of notice of the regional manager's
30 decision. The licensee may submit additional supporting
31 documentation that was unavailable at the time of appeal to the
32 program administrator within the first 30 business days after
33 requesting that appeal. If the department requires additional
34 information from the licensee, that information shall be requested
35 within the first 30 business days after receiving the request for the
36 appeal. The licensee shall provide this additional information
37 within 30 business days of receiving the request from the
38 department. If the program administrator determines that the civil
39 penalty was not assessed, or the finding of the deficiency was not
40 made, in accordance with applicable statutes or regulations of the

1 department, he or she may amend or dismiss the civil penalty or
2 finding of deficiency. The licensee shall be notified in writing of
3 the program administrator's decision within 60 business days of
4 the date when all necessary information has been provided to the
5 department by the licensee. The program administrator's decision
6 is considered final and concludes the licensee's administrative
7 appeal rights regarding the appeal conducted pursuant to this
8 paragraph.

9 (l) The department shall adopt regulations implementing this
10 section.

11 (m) The department shall, by January 1, 2016, amend its
12 regulations to reflect the changes to this section made by Section
13 4 of Chapter 813 of the Statutes of 2014.

14 (n) Notwithstanding the Administrative Procedure Act (Chapter
15 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
16 Title 2 of the Government Code), the department may implement
17 and administer the changes made by the act that added this
18 subdivision through all-county letters or similar written instructions
19 until regulations are adopted pursuant to the Administrative
20 Procedure Act.

21 (o) This section shall become operative on July 1, 2015.

22 SEC. 4. Section 1569.35 of the Health and Safety Code is
23 amended to read:

24 1569.35. (a) Any person may request an investigation of a
25 residential care facility for the elderly in accordance with this
26 chapter by making a complaint to the department alleging a
27 violation of applicable requirements prescribed by statutes or
28 regulations of this state, including, but not limited to, a denial of
29 access of any person authorized to enter the facility pursuant to
30 Section 9722 of the Welfare and Institutions Code. A complaint
31 may be made either orally or in writing.

32 (b) The substance of the complaint shall be provided to the
33 licensee no earlier than at the time of the inspection. Unless the
34 complainant specifically requests otherwise, neither the substance
35 of the complaint provided the licensee nor any copy of the
36 complaint or any record published, released, or otherwise made
37 available to the licensee shall disclose the name of any person
38 mentioned in the complaint except the name of any duly authorized
39 officer, employee, or agent of the department conducting the
40 investigation or inspection pursuant to this chapter.

1 (c) (1) Upon receipt of a complaint, other than a complaint
 2 alleging denial of a statutory right of access to a residential care
 3 facility for the elderly, the department shall make a preliminary
 4 review and, unless the department determines that the complaint
 5 is willfully intended to harass a licensee or is without any
 6 reasonable basis, it shall make an onsite inspection within 10 days
 7 after receiving the complaint except where the visit would
 8 adversely affect the licensing investigation or the investigation of
 9 other agencies, including, but not limited to, law enforcement
 10 agencies. In either event, the complainant shall be promptly
 11 informed of the department’s proposed course of action.

12 (2) If a local long-term care ombudsman or the State Long-Term
 13 Care Ombudsman files a complaint alleging denial of a statutory
 14 right of access to a residential care facility for the elderly under
 15 Section 9722 of the Welfare and Institutions Code, the department
 16 shall give priority to the complaint pursuant to Section 9721 of
 17 the Welfare and Institutions Code and notify the Office of the State
 18 Long-Term Care Ombudsman that an investigation has been
 19 initiated pursuant to this section.

20 (3) Prior to conducting an onsite investigation pursuant to this
 21 section, the department shall make a good faith effort, documented
 22 in writing, to contact and interview the complainant and inform
 23 the complainant of the department’s proposed course of action and
 24 the relevant deadline for the department to complete its
 25 investigation. To the extent practicable, the officer, employee, or
 26 agent of the department who will conduct the investigation shall
 27 be the representative who interviews and makes contact with the
 28 complainant.

29 (d) Within 10 business days of completing the investigation of
 30 a complaint under this section, the department shall notify the
 31 complainant in writing of the department’s determination as a
 32 result of the investigation.

33 SEC. 5. Section 1569.49 of the Health and Safety Code, as
 34 added by Section 6 of Chapter 813 of the Statutes of 2014, is
 35 amended to read:

36 1569.49. (a) In addition to the suspension, temporary
 37 suspension, or revocation of a license issued under this chapter,
 38 the department may levy a civil penalty.

39 (b) The amount of the civil penalty shall not be less than
 40 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day

1 for each violation of this chapter except where the nature or
2 seriousness of the violation or the frequency of the violation
3 warrants a higher penalty or an immediate civil penalty assessment,
4 or both, as determined by the department. Except as otherwise
5 provided in this chapter, a civil penalty assessment shall not exceed
6 one hundred fifty dollars (\$150) per day per violation.

7 (c) Notwithstanding Section 1569.33, the department shall assess
8 an immediate civil penalty of one hundred fifty dollars (\$150) per
9 day per violation for any of the following serious violations:

10 (1) (A) Fire clearance violations, including, but not limited to,
11 overcapacity, ambulatory status, inoperable smoke alarms, and
12 inoperable fire alarm systems. The civil penalty shall not be
13 assessed if the licensee has done either of the following:

14 (i) Requested the appropriate fire clearance based on ambulatory,
15 nonambulatory, or bedridden status, and the decision is pending.

16 (ii) Initiated eviction proceedings.

17 (B) A licensee denied a clearance for bedridden residents may
18 appeal to the fire authority, and, if that appeal is denied, may
19 subsequently appeal to the Office of the State Fire Marshal, and
20 shall not be assessed an immediate civil penalty until the final
21 appeal is decided, or after 60 days has passed from the date of the
22 citation, whichever is earlier.

23 (2) Absence of supervision as required by statute or regulation.

24 (3) Accessible bodies of water, when prohibited in this chapter
25 or regulations adopted pursuant to this chapter.

26 (4) Accessible firearms, ammunition, or both.

27 (5) Refused entry to a facility or any part of a facility in violation
28 of Section 1569.32, 1569.33, or 1569.35.

29 (6) The presence of an excluded person on the premises.

30 (d) For a violation that the department determines resulted in
31 the death of a resident, the civil penalty shall be fifteen thousand
32 dollars (\$15,000).

33 (e) For a violation that the department determines constitutes
34 physical abuse, as defined in Section 15610.63 of the Welfare and
35 Institutions Code, or resulted in serious bodily injury, as defined
36 in Section 15610.67 of the Welfare and Institutions Code, to a
37 resident, the civil penalty shall be ten thousand dollars (\$10,000).

38 (f) Prior to the issuance of a citation imposing a civil penalty
39 pursuant to subdivision (d) or (e), the decision shall be approved

1 by the program administrator of the Community Care Licensing
2 Division.

3 (g) Notwithstanding Section 1569.33, any residential care
4 facility for the elderly that is cited for repeating the same violation
5 of this chapter within 12 months of the first violation is subject to
6 an immediate civil penalty of one hundred fifty dollars (\$150) and
7 fifty dollars (\$50) for each day the violation continues until the
8 deficiency is corrected.

9 (h) Any residential care facility for the elderly that is assessed
10 a civil penalty pursuant to subdivision (g) that repeats the same
11 violation of this chapter within 12 months of the violation subject
12 to subdivision (g) shall be assessed an immediate civil penalty of
13 one thousand dollars (\$1,000) and one hundred dollars (\$100) for
14 each day the violation continues until the deficiency is corrected.

15 (i) (1) The department shall adopt regulations setting forth the
16 appeal procedures for deficiencies.

17 (2) A notification of a deficiency written by a representative of
18 the department shall include a factual description of the nature of
19 the deficiency fully stating the manner in which the licensee failed
20 to comply with the specified statute or regulation, and, if
21 applicable, the particular place or area of the facility in which the
22 deficiency occurred.

23 (j) (1) A licensee shall have the right to submit to the
24 department a written request for a formal review of a civil penalty
25 assessed pursuant to subdivisions (d) and (e) within 15 business
26 days of receipt of the notice of a civil penalty assessment and shall
27 provide all available supporting documentation at that time. The
28 review shall be conducted by the deputy director of the Community
29 Care Licensing Division. The licensee may submit additional
30 supporting documentation that was unavailable at the time of
31 submitting the request for review within the first 30 business days
32 after submitting the request for review. If the department requires
33 additional information from the licensee, that information shall be
34 requested within the first 30 business days after receiving the
35 request for review. The licensee shall provide this additional
36 information within 30 business days of receiving the request from
37 the department. If the deputy director determines that the civil
38 penalty was not assessed, or the finding of the deficiency that
39 resulted in the assessment of the civil penalty was not made, in
40 accordance with applicable statutes or regulations of the

1 department, he or she may amend or dismiss the civil penalty or
2 finding of deficiency. The licensee shall be notified in writing of
3 the deputy director's decision within 60 business days of the date
4 when all necessary information has been provided to the
5 department by the licensee.

6 (2) Upon exhausting the review described in paragraph (1), a
7 licensee may further appeal that decision to an administrative law
8 judge. Proceedings shall be conducted in accordance with Chapter
9 5 (commencing with Section 11500) of Part 1 of Division 3 of
10 Title 2 of the Government Code, and the department shall have all
11 the powers granted by those provisions. In all proceedings
12 conducted in accordance with this section, the standard of proof
13 shall be by a preponderance of the evidence.

14 (3) If, in addition to an assessment of civil penalties, the
15 department elects to file an administrative action to suspend or
16 revoke the facility license that includes violations relating to the
17 assessment of the civil penalties, the department review of the
18 pending appeal shall cease and the assessment of the civil penalties
19 shall be heard as part of the administrative action process.

20 (k) (1) A licensee shall have the right to submit to the
21 department a written request for a formal review of any other civil
22 penalty or deficiency not described in subdivision (j) within 15
23 business days of receipt of the notice of a civil penalty assessment
24 or a finding of a deficiency, and shall provide all available
25 supporting documentation at that time. The review shall be
26 conducted by a regional manager of the Community Care Licensing
27 Division. The licensee may submit additional supporting
28 documentation that was unavailable at the time of submitting the
29 request for review within the first 30 business days after submitting
30 the request for review. If the department requires additional
31 information from the licensee, that information shall be requested
32 within the first 30 business days after receiving the request for
33 review. The licensee shall provide this additional information
34 within 30 business days of receiving the request from the
35 department. If the regional manager determines that the civil
36 penalty was not assessed, or the finding of the deficiency was not
37 made, in accordance with applicable statutes or regulations of the
38 department, he or she may amend or dismiss the civil penalty or
39 finding of deficiency. The licensee shall be notified in writing of
40 the regional manager's decision within 60 business days of the

1 date when all necessary information has been provided to the
2 department by the licensee.

3 (2) Upon exhausting the review described in paragraph (1), the
4 licensee may further appeal that decision to the program
5 administrator of the Community Care Licensing Division within
6 15 business days of receipt of notice of the regional manager's
7 decision. The licensee may submit additional supporting
8 documentation that was unavailable at the time of appeal to the
9 program administrator within the first 30 business days after
10 requesting that appeal. If the department requires additional
11 information from the licensee, that information shall be requested
12 within the first 30 business days after receiving the request for the
13 appeal. The licensee shall provide this additional information
14 within 30 business days of receiving the request from the
15 department. If the program administrator determines that the civil
16 penalty was not assessed, or the finding of the deficiency was not
17 made, in accordance with applicable statutes or regulations of the
18 department, he or she may amend or dismiss the civil penalty or
19 finding of deficiency. The licensee shall be notified in writing of
20 the program administrator's decision within 60 business days of
21 the date when all necessary information has been provided to the
22 department by the licensee. The program administrator's decision
23 is considered final and concludes the licensee's administrative
24 appeal rights regarding the appeal conducted pursuant to this
25 paragraph.

26 (l) The department shall adopt regulations implementing this
27 section.

28 (m) The department shall, by January 1, 2016, amend its
29 regulations to reflect the changes to this section made by Section
30 6 of Chapter 813 of the Statutes of 2014.

31 (n) Notwithstanding the Administrative Procedure Act (Chapter
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
33 Title 2 of the Government Code), the department may implement
34 and administer the changes made by the act that added this
35 subdivision through all-county letters or similar written instructions
36 until regulations are adopted pursuant to the Administrative
37 Procedure Act.

38 (o) This section shall become operative on July 1, 2015.

39 SEC. 6. Section 1596.842 of the Health and Safety Code is
40 amended to read:

1 1596.842. Following approval by the department of a list of
2 provider rights, the Community Care Licensing Division shall
3 print and distribute in person, to individuals or to groups, and by
4 other appropriate methods of distribution, a list of provider rights
5 which shall include, but not be limited to, the following:

6 (a) Site visit rights:

7 (1) The right to require licensing field staff to identify
8 themselves.

9 (2) The right to be advised of the type of the visit, whether
10 complaint, plan of correction, prelicensing, or some other type.
11 When a site visit is made to investigate a complaint, the site visit
12 rights described in paragraphs (4) and (9) shall be applicable at
13 the completion of the investigation.

14 (3) The right to be treated as a professional and with dignity
15 and respect.

16 (4) The right to receive an accurate report of the evaluator's
17 findings listing each observed deficiency. Each deficiency shall
18 be separately numbered, so as to clearly indicate the number of
19 deficiencies, shall be accompanied by a number that corresponds
20 to a section of law or licensing regulation, and shall include a
21 description of the evaluator's observation that led to the finding
22 of a deficiency. The description of the evaluator's observation
23 shall include a clear explanation of why the existing condition
24 constitutes a deficiency, unless the description of the observation
25 provides the explanation.

26 (5) The right to review licensing laws, regulations, and policy.

27 (6) The right to an impartial investigation of all complaints.

28 (7) The right, at the time of the visit, to determine and develop
29 a plan of correction for deficiencies cited.

30 (8) The right to use the licensing report (LIC 809) as a means
31 to agree or disagree with cited deficiencies.

32 (9) The right to an exit interview upon completion of the visit
33 and to receive a signed copy of the LIC 809.

34 (10) The right to be informed on the LIC 809 of the evaluator's
35 supervisor and his or her telephone number.

36 (11) The right of access to the public file on any facility and the
37 right to purchase a copy at a reasonable cost.

38 (b) Initial appeal rights:

39 (1) The right, without prejudice, to appeal any decision, any
40 failure to act according to law or regulation, or any failure to act

1 within any specified timeline, through the licensing agency as
2 specified in Sections 1596.99 and 1597.58.

3 (2) The right to request a meeting with district office
4 administrators to discuss any licensing issue and with notice to
5 bring any person to the meeting.

6 (3) The right to due process and the option of bringing a
7 representative to any administrative action.

8 (c) The right to file a formal complaint, and receive a written
9 response to that complaint within 30 days, for any licensing issue
10 not covered by subdivision (b), including, but not limited to,
11 inappropriate behavior of department employees.

12 (d) The department shall, by June 30, 1992, mail to all licensees
13 a copy of this section and a full and complete copy of the appeals
14 procedure developed to implement subdivision (b).

15 (e) The department shall, on all forms it requires or recommends
16 that providers use, all notices of regulations or departmental policy,
17 and all notices to implement this section, clearly label the
18 department as the source of the material, including the name of
19 the department, the name of the division responsible for
20 implementing this chapter, and the address of that division.

21 SEC. 7. Section 1596.99 of the Health and Safety Code, as
22 added by Section 8 of Chapter 813 of the Statutes of 2014, is
23 amended to read:

24 1596.99. (a) In addition to the suspension, temporary
25 suspension, or revocation of a license issued under this chapter or
26 Chapter 3.4 (commencing with Section 1596.70), the department
27 may levy a civil penalty.

28 (b) The amount of the civil penalty shall not be less than
29 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
30 for each violation of this chapter except where the nature or
31 seriousness of the violation or the frequency of the violation
32 warrants a higher penalty or an immediate civil penalty assessment,
33 or both, as determined by the department. Except as otherwise
34 provided in this chapter, a civil penalty assessment shall not exceed
35 one hundred fifty dollars (\$150) per day per violation.

36 (c) Notwithstanding Sections 1596.893a, 1596.893b, and
37 1596.98, the department shall assess an immediate civil penalty
38 of one hundred fifty dollars (\$150) per day per violation for any
39 of the following serious violations:

1 (1) Fire clearance violations, including, but not limited to,
2 overcapacity, inoperable smoke alarms, and inoperable fire alarm
3 systems.

4 (2) Absence of supervision, including, but not limited to, a child
5 left unattended, supervision of a child by a person under 18 years
6 of age, and lack of supervision resulting in a child wandering away.

7 (3) Accessible bodies of water.

8 (4) Accessible firearms, ammunition, or both.

9 (5) Refused entry to a facility or any part of a facility in violation
10 of Section 1596.852, 1596.853, or 1597.09.

11 (6) The presence of an excluded person on the premises.

12 (d) For a violation that the department determines resulted in
13 the death of a child, the civil penalty shall be assessed as follows:

14 (1) Seven thousand five hundred dollars (\$7,500) for a licensee
15 licensed, among all of the licensee’s facilities, to care for 30 or
16 less children.

17 (2) Ten thousand dollars (\$10,000) for a licensee licensed,
18 among all of the licensee’s facilities, to care for 31 to 100,
19 inclusive, children.

20 (3) Fifteen thousand dollars (\$15,000) for a licensee licensed,
21 among all of the licensee’s facilities, to care for more than 100
22 children.

23 (e) (1) For a violation that the department determines constitutes
24 physical abuse or resulted in serious injury, as defined in Section
25 1596.8865, to a child, the civil penalty shall be assessed as follows:

26 (A) Two thousand five hundred dollars (\$2,500) for a licensee
27 licensed, among all of the licensee’s facilities, to care for 30 or
28 less children.

29 (B) Five thousand dollars (\$5,000) for a licensee licensed,
30 among all of the licensee’s facilities, to care for 31 to 100,
31 inclusive, children.

32 (C) Ten thousand dollars (\$10,000) for a licensee licensed,
33 among all of the licensee’s facilities, to care for more than 100
34 children.

35 (2) For purposes of this subdivision, “physical abuse” includes
36 physical injury inflicted upon a child by another person by other
37 than accidental means, sexual abuse as defined in Section 11165.1
38 of the Penal Code, neglect as defined in Section 11165.2 of the
39 Penal Code, or unlawful corporal punishment or injury as defined
40 in Section 11165.4 of the Penal Code when the person responsible

1 for the child's welfare is a licensee, administrator, or employee of
2 any facility licensed to care for children, or an administrator or
3 employee of a public or private school or other institution or
4 agency.

5 (f) Before the issuance of a citation imposing a civil penalty
6 pursuant to subdivision (d) or (e), the decision shall be approved
7 by the program administrator of the Community Care Licensing
8 Division.

9 (g) Notwithstanding Sections 1596.893a, 1596.893b, and
10 1596.98, any day care center that is cited for repeating the same
11 violation of this chapter or Chapter 3.4 (commencing with Section
12 1596.70) within 12 months of the first violation is subject to an
13 immediate civil penalty of one hundred fifty dollars (\$150) for
14 each day the violation continues until the deficiency is corrected.

15 (h) Any day care center that is assessed a civil penalty under
16 subdivision (g) and that repeats the same violation of this chapter
17 within 12 months of the violation subject to subdivision (g) shall
18 be assessed an immediate civil penalty of one hundred fifty dollars
19 (\$150) for each day the violation continues until the deficiency is
20 corrected.

21 (i) Notwithstanding any other law, revenues received by the
22 state from the payment of civil penalties imposed on licensed child
23 care centers pursuant to this chapter or Chapter 3.4 (commencing
24 with Section 1596.70), shall be deposited in the Child Health and
25 Safety Fund, created pursuant to Chapter 4.6 (commencing with
26 Section 18285) of Part 6 of Division 9 of the Welfare and
27 Institutions Code, and shall be expended, upon appropriation by
28 the Legislature, pursuant to subdivision (f) of Section 18285 of
29 the Welfare and Institutions Code exclusively for the technical
30 assistance, orientation, training, and education of licensed day care
31 center providers.

32 (j) (1) The department shall adopt regulations setting forth the
33 appeal procedures for deficiencies.

34 (2) A notification of a deficiency written by a representative of
35 the department shall include a factual description of the nature of
36 the deficiency fully stating the manner in which the licensee failed
37 to comply with the specified statute or regulation, and, if
38 applicable, the particular place or area of the facility in which the
39 deficiency occurred.

1 (k) (1) A licensee shall have the right to submit to the
2 department a written request for a formal review of a civil penalty
3 assessed pursuant to subdivisions (d) and (e) within 15 business
4 days of receipt of the notice of a civil penalty assessment and shall
5 provide all available supporting documentation at that time. The
6 review shall be conducted by the deputy director of the Community
7 Care Licensing Division. The licensee may submit additional
8 supporting documentation that was unavailable at the time of
9 submitting the request for review within the first 30 business days
10 after submitting the request for review. If the department requires
11 additional information from the licensee, that information shall be
12 requested within the first 30 business days after receiving the
13 request for review. The licensee shall provide this additional
14 information within 30 business days of receiving the request from
15 the department. If the deputy director determines that the civil
16 penalty was not assessed, or the finding of the deficiency that
17 resulted in the assessment of the civil penalty was not made, in
18 accordance with applicable statutes or regulations of the
19 department, he or she may amend or dismiss the civil penalty or
20 finding of deficiency. The licensee shall be notified in writing of
21 the deputy director's decision within 60 business days of the date
22 when all necessary information has been provided to the
23 department by the licensee.

24 (2) Upon exhausting the review described in paragraph (1), a
25 licensee may further appeal that decision to an administrative law
26 judge. Proceedings shall be conducted in accordance with Chapter
27 5 (commencing with Section 11500) of Part 1 of Division 3 of
28 Title 2 of the Government Code, and the department shall have all
29 the powers granted by those provisions. In all proceedings
30 conducted in accordance with this section, the standard of proof
31 shall be by a preponderance of the evidence.

32 (3) If, in addition to an assessment of civil penalties, the
33 department elects to file an administrative action to suspend or
34 revoke the facility license that includes violations relating to the
35 assessment of the civil penalties, the department review of the
36 pending appeal shall cease and the assessment of the civil penalties
37 shall be heard as part of the administrative action process.

38 (l) (1) A licensee shall have the right to submit to the
39 department a written request for a formal review of any other civil
40 penalty or deficiency not described in subdivision (k) within 15

1 business days of receipt of the notice of a civil penalty assessment
2 or a finding of a deficiency, and shall provide all available
3 supporting documentation at that time. The review shall be
4 conducted by a regional manager of the Community Care Licensing
5 Division. The licensee may submit additional supporting
6 documentation that was unavailable at the time of submitting the
7 request for review within the first 30 business days after submitting
8 the request for review. If the department requires additional
9 information from the licensee, that information shall be requested
10 within the first 30 business days after receiving the request for
11 review. The licensee shall provide this additional information
12 within 30 business days of receiving the request from the
13 department. If the regional manager determines that the civil
14 penalty was not assessed, or the finding of the deficiency was not
15 made, in accordance with applicable statutes or regulations of the
16 department, he or she may amend or dismiss the civil penalty or
17 finding of deficiency. The licensee shall be notified in writing of
18 the regional manager's decision within 60 business days of the
19 date when all necessary information has been provided to the
20 department by the licensee.

21 (2) Upon exhausting the review described in paragraph (1), the
22 licensee may further appeal that decision to the program
23 administrator of the Community Care Licensing Division within
24 15 business days of receipt of notice of the regional manager's
25 decision. The licensee may submit additional supporting
26 documentation that was unavailable at the time of appeal to the
27 program administrator within the first 30 business days after
28 requesting that appeal. If the department requires additional
29 information from the licensee, that information shall be requested
30 within the first 30 business days after receiving the request for the
31 appeal. The licensee shall provide this additional information
32 within 30 business days of receiving the request from the
33 department. If the program administrator determines that the civil
34 penalty was not assessed, or the finding of the deficiency was not
35 made, in accordance with applicable statutes or regulations of the
36 department, he or she may amend or dismiss the civil penalty or
37 finding of deficiency. The licensee shall be notified in writing of
38 the program administrator's decision within 60 business days of
39 the date when all necessary information has been provided to the
40 department by the licensee. The program administrator's decision

1 is considered final and concludes the licensee’s administrative
2 appeal rights regarding the appeal conducted pursuant to this
3 paragraph.

4 (m) The department shall, by January 1, 2016, amend its
5 regulations to reflect the changes to this section made by Section
6 8 of Chapter 813 of the Statutes of 2014.

7 (n) Notwithstanding the Administrative Procedure Act (Chapter
8 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
9 Title 2 of the Government Code), the department may implement
10 and administer the changes made by the act that added this
11 subdivision through all-county letters or similar written instructions
12 until regulations are adopted pursuant to the Administrative
13 Procedure Act.

14 (o) This section shall become operative on July 1, 2015.

15 SEC. 8. Section 1597.58 of the Health and Safety Code, as
16 added by Section 10 of Chapter 813 of the Statutes of 2014, is
17 amended to read:

18 1597.58. (a) In addition to the suspension, temporary
19 suspension, or revocation of a license issued under this chapter,
20 the department may levy a civil penalty.

21 (b) The amount of the civil penalty shall not be less than
22 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
23 for each violation of this chapter except where the nature or
24 seriousness of the violation or the frequency of the violation
25 warrants a higher penalty or an immediate civil penalty assessment
26 or both, as determined by the department. Except as otherwise
27 provided in this chapter, a civil penalty assessment shall not exceed
28 one hundred fifty dollars (\$150) per day per violation.

29 (c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,
30 and 1597.62, the department shall assess an immediate civil penalty
31 of one hundred fifty dollars (\$150) per day per violation for any
32 of the following serious violations:

33 (1) Any violation that results in the injury, illness, or death of
34 a child.

35 (2) Absence of supervision, including, but not limited to, a child
36 left unattended, a child left alone with a person under 18 years of
37 age, and lack of supervision resulting in a child wandering away.

38 (3) Accessible bodies of water.

39 (4) Accessible firearms, ammunition, or both.

- 1 (5) Refused entry to a facility or any part of a facility in violation
2 of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.
- 3 (6) The presence of an excluded person on the premises.
- 4 (d) For a violation that the department determines resulted in
5 the death of a child, the civil penalty shall be assessed as follows:
- 6 (1) Five thousand dollars (\$5,000) for a small family day care
7 home, as described in Section 1597.44.
- 8 (2) Seven thousand five hundred dollars (\$7,500) for a large
9 family day care home, as described in Section 1597.465.
- 10 (e) (1) For a violation that the department determines constitutes
11 physical abuse or resulted in serious injury, as defined in Section
12 1596.8865, to a child, the civil penalty shall be assessed as follows:
- 13 (A) One thousand dollars (\$1,000) for a small family day care
14 home, as described in Section 1597.44.
- 15 (B) Two thousand dollars (\$2,000) for a large family day care
16 home, as described in Section 1597.465.
- 17 (2) For purposes of this subdivision, “physical abuse” includes
18 physical injury inflicted upon a child by another person by other
19 than accidental means, sexual abuse as defined in Section 11165.1
20 of the Penal Code, neglect as defined in Section 11165.2 of the
21 Penal Code, or unlawful corporal punishment or injury as defined
22 in Section 11165.4 of the Penal Code when the person responsible
23 for the child’s welfare is a licensee, administrator, or employee of
24 any facility licensed to care for children, or an administrator or
25 employee of a public or private school or other institution or
26 agency.
- 27 (f) Before the issuance of a citation imposing a civil penalty
28 pursuant to subdivision (d) or (e), the decision shall be approved
29 by the program administrator of the Community Care Licensing
30 Division.
- 31 (g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,
32 and 1597.62, any family day care home that is cited for repeating
33 the same violation of this chapter or Chapter 3.4 (commencing
34 with Section 1596.70), within 12 months of the first violation, is
35 subject to an immediate civil penalty assessment of up to one
36 hundred fifty dollars (\$150) and may be assessed up to fifty dollars
37 (\$50) for each day the violation continues until the deficiency is
38 corrected.
- 39 (h) Any family day care home that is assessed a civil penalty
40 under subdivision (g) that repeats the same violation of this chapter

1 within 12 months of the violation subject to subdivision (g) shall
2 be assessed an immediate assessment of up to one hundred fifty
3 dollars (\$150) and may be assessed up to one hundred fifty dollars
4 (\$150) for each day the violation continues until the deficiency is
5 corrected.

6 (i) Notwithstanding any other law, revenues received by the
7 state from the payment of civil penalties imposed on licensed
8 family day care homes pursuant to this chapter or Chapter 3.4
9 (commencing with Section 1596.70), shall be deposited in the
10 Child Health and Safety Fund, created pursuant to Chapter 4.6
11 (commencing with Section 18285) of Part 6 of Division 9 of the
12 Welfare and Institutions Code, and shall be expended, upon
13 appropriation by the Legislature, pursuant to subdivision (f) of
14 Section 18285 of the Welfare and Institutions Code exclusively
15 for the technical assistance, orientation, training, and education of
16 licensed family day care home providers.

17 (j) (1) The department shall adopt regulations setting forth the
18 appeal procedures for deficiencies.

19 (2) A notification of a deficiency written by a representative of
20 the department shall include a factual description of the nature of
21 the deficiency fully stating the manner in which the licensee failed
22 to comply with the specified statute or regulation, and, if
23 applicable, the particular place or area of the facility in which the
24 deficiency occurred.

25 (k) (1) A licensee shall have the right to submit to the
26 department a written request for a formal review of a civil penalty
27 assessed pursuant to subdivisions (d) and (e) within 15 business
28 days of receipt of the notice of a civil penalty assessment and shall
29 provide all available supporting documentation at that time. The
30 review shall be conducted by the deputy director of the Community
31 Care Licensing Division. The licensee may submit additional
32 supporting documentation that was unavailable at the time of
33 submitting the request for review within the first 30 business days
34 after submitting the request for review. If the department requires
35 additional information from the licensee, that information shall be
36 requested within the first 30 business days after receiving the
37 request for review. The licensee shall provide this additional
38 information within 30 business days of receiving the request from
39 the department. If the deputy director determines that the civil
40 penalty was not assessed, or the finding of the deficiency that

1 resulted in the assessment of the civil penalty was not made, in
2 accordance with applicable statutes or regulations of the
3 department, he or she may amend or dismiss the civil penalty or
4 finding of deficiency. The licensee shall be notified in writing of
5 the deputy director’s decision within 60 business days of the date
6 when all necessary information has been provided to the
7 department by the licensee.

8 (2) Upon exhausting the review described in paragraph (1), a
9 licensee may further appeal that decision to an administrative law
10 judge. Proceedings shall be conducted in accordance with Chapter
11 5 (commencing with Section 11500) of Part 1 of Division 3 of
12 Title 2 of the Government Code, and the department shall have all
13 the powers granted by those provisions. In all proceedings
14 conducted in accordance with this section, the standard of proof
15 shall be by a preponderance of the evidence.

16 (3) If, in addition to an assessment of civil penalties, the
17 department elects to file an administrative action to suspend or
18 revoke the facility license that includes violations relating to the
19 assessment of the civil penalties, the department review of the
20 pending appeal shall cease and the assessment of the civil penalties
21 shall be heard as part of the administrative action process.

22 (l) (1) A licensee shall have the right to submit to the
23 department a written request for a formal review of any other civil
24 penalty or deficiency not described in subdivision (k) within 15
25 business days of receipt of the notice of a civil penalty assessment
26 or a finding of a deficiency, and shall provide all available
27 supporting documentation at that time. The review shall be
28 conducted by a regional manager of the Community Care Licensing
29 Division. The licensee may submit additional supporting
30 documentation that was unavailable at the time of submitting the
31 request for review within the first 30 business days after submitting
32 the request for review. If the department requires additional
33 information from the licensee, that information shall be requested
34 within the first 30 business days after receiving the request for
35 review. The licensee shall provide this additional information
36 within 30 business days of receiving the request from the
37 department. If the regional manager determines that the civil
38 penalty was not assessed, or the finding of the deficiency was not
39 made, in accordance with applicable statutes or regulations of the
40 department, he or she may amend or dismiss the civil penalty or

1 finding of deficiency. The licensee shall be notified in writing of
2 the regional manager’s decision within 60 business days of the
3 date when all necessary information has been provided to the
4 department by the licensee.

5 (2) Upon exhausting the review described in paragraph (1), the
6 licensee may further appeal that decision to the program
7 administrator of the Community Care Licensing Division within
8 15 business days of receipt of notice of the regional manager’s
9 decision. The licensee may submit additional supporting
10 documentation that was unavailable at the time of appeal to the
11 program administrator within the first 30 business days after
12 requesting that appeal. If the department requires additional
13 information from the licensee, that information shall be requested
14 within the first 30 business days after receiving the request for the
15 appeal. The licensee shall provide this additional information
16 within 30 business days of receiving the request from the
17 department. If the program administrator determines that the civil
18 penalty was not assessed, or the finding of the deficiency was not
19 made, in accordance with applicable statutes or regulations of the
20 department, he or she may amend or dismiss the civil penalty or
21 finding of deficiency. The licensee shall be notified in writing of
22 the program administrator’s decision within 60 business days of
23 the date when all necessary information has been provided to the
24 department by the licensee. The program administrator’s decision
25 is considered final and concludes the licensee’s administrative
26 appeal rights regarding the appeal conducted pursuant to this
27 paragraph.

28 (m) The department shall, by January 1, 2016, amend its
29 regulations to reflect the changes to this section made by Section
30 10 of Chapter 813 of the Statutes of 2014.

31 (n) Notwithstanding the Administrative Procedure Act (Chapter
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
33 Title 2 of the Government Code), the department may implement
34 and administer the changes made by the act that added this
35 subdivision through all-county letters or similar written instructions
36 until regulations are adopted pursuant to the Administrative
37 Procedure Act.

38 (o) This section shall become operative on July 1, 2015.

39 *SEC. 9. Section 2.5 of this bill incorporates amendments to*
40 *Section 1548 of the Health and Safety Code proposed by both this*

1 *bill and Assembly Bill 403. It shall only become operative if (1)*
2 *both bills are enacted and become effective on or before January*
3 *1, 2016, (2) each bill amends Section 1548 of the Health and Safety*
4 *Code, and (3) this bill is enacted after Assembly Bill 403, in which*
5 *case Section 2 of this bill shall not become operative.*

O