

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 2, 2015

AMENDED IN ASSEMBLY JUNE 22, 2015

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 7, 2015

**SENATE BILL**

**No. 792**

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**Introduced by Senator Mendoza**

February 27, 2015

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An act to amend Sections 1597.055 and 1597.54 of, and to add Sections 1596.7995 and 1597.622 to, the Health and Safety Code, relating to day care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 792, as amended, Mendoza. Day care facilities: immunizations: exemptions.

Existing law, the California Child Day Care Facilities Act, provides for the licensure and regulation of day care centers, as defined, and family day care homes, as defined, by the State Department of Social Services. A violation of the act is a crime. Existing law requires a child to be immunized prior to admission to a day care center or family day care home. Existing law authorizes an exemption from those provisions for medical reasons or because of personal beliefs, if specified forms are submitted to the day care center or family day care home.

This bill, commencing September 1, 2016, would prohibit a day care center or a family day care home from employing any person who has not been immunized against influenza, pertussis, and measles. The bill would specify circumstances under which a person would be exempt

from the immunization requirement, based on medical safety, current immunity, declining the influenza vaccination, or the date upon which he or she was hired, as specified. The bill would make conforming changes to provisions that set forth qualifications for day care center teachers and applicants for licensure as a family day care home. ~~Because the bill would extend the application of a crime under the act, the bill would impose a state-mandated local program. The bill would provide that a violation of these provisions would not be subject to a crime.~~

~~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-no*.

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

- 1 SECTION 1. Section 1596.7995 is added to the Health and
- 2 Safety Code, to read:
- 3 1596.7995. (a) Commencing September 1, 2016, a person
- 4 shall not be employed at a day care center if he or she has not been
- 5 immunized against influenza, pertussis, and measles. An employee
- 6 shall receive an influenza vaccination between August 1 and
- 7 December 1 of each year.
- 8 (b) A person is exempt from the requirements of this section
- 9 only under any of the following circumstances:
- 10 (1) The person submits a written statement from a licensed
- 11 physician declaring that because of the person's physical condition
- 12 or medical circumstances, immunization is not safe.
- 13 (2) The person submits a written statement from a licensed
- 14 physician providing that the person has evidence of current
- 15 immunity to the diseases described in subdivision (a).
- 16 (3) The person submits a written declaration that he or she has
- 17 declined the influenza vaccination. This exemption applies only
- 18 to the influenza vaccine.
- 19 (4) The person was hired after December 1 of the previous year
- 20 and before August 1 of the current year. This exemption applies
- 21 only to the influenza vaccine.
- 22 (c) *Section 1596.890 does not apply to a violation of this section.*

1 SEC. 2. Section 1597.055 of the Health and Safety Code is  
2 amended to read:

3 1597.055. (a) Notwithstanding any other educational  
4 requirements, a person may be hired as a teacher in a day care  
5 center if he or she satisfies all of the following conditions:

6 (1) Is 18 years of age or older.

7 (2) Possesses a regional occupation program certificate of  
8 training in child care occupations issued by a regional occupational  
9 program which is accredited by the Western Association of Schools  
10 and Colleges.

11 (3) Has completed at least 95 hours of classroom instruction  
12 in child care and development and child care occupations and at  
13 least 150 hours in supervised field experience in a licensed day  
14 care center or comparable group child care program.

15 (4) Commencing September 1, 2016, has provided evidence of  
16 current immunity, as described in Section 1596.7995.

17 (b) Subsequent to being hired pursuant to subdivision (a), a  
18 teacher shall make satisfactory progress towards meeting the  
19 educational requirement for a fully qualified teacher, as specified  
20 in departmental regulations. For purposes of this section,  
21 “satisfactory progress” shall mean completion, with passing grades,  
22 of a minimum of two units each semester or the equivalent number  
23 of units each quarter until the educational requirement is satisfied.  
24 Six of the required semester or equivalent number of quarter units  
25 of early childhood education from an accredited university or  
26 college shall be completed during the next two consecutive regular  
27 semesters or equivalent quarters.

28 (c) A teacher hired pursuant to this section shall not be exempt  
29 from satisfying any other noneducation requirements imposed by  
30 law on teachers in day care centers and shall have onsite  
31 supervision by a fully qualified teacher until six of the units  
32 specified in subdivision (b) are completed.

33 SEC. 3. Section 1597.54 of the Health and Safety Code is  
34 amended to read:

35 1597.54. All family day care homes for children, shall apply  
36 for a license under this chapter, except that any home which on  
37 June 28, 1981, had a valid and unexpired license to operate as a  
38 family day care home for children under other provisions of law  
39 shall be deemed to have a license under this chapter for the

1 unexpired term of the license at which time a new license may be  
2 issued upon fulfilling the requirements of this chapter.

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

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

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

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

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

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

29 (e) Commencing September 1, 2016, evidence of current  
30 immunity, as described in Section 1597.622, for the applicant and  
31 any other person who provides care and supervision to the children.

32 (f) Evidence satisfactory to the department of the ability of the  
33 applicant to comply with this chapter and Chapter 3.4 (commencing  
34 with Section 1596.70) and the regulations adopted pursuant to  
35 those chapters.

36 (g) Evidence satisfactory to the department that the applicant  
37 and all other persons residing in the home are of reputable and  
38 responsible character. The evidence shall include, but not be limited  
39 to, a criminal record clearance pursuant to Section 1596.871,  
40 employment history, and character references.

1 (h) Failure of the applicant to cooperate with the licensing  
2 agency in the completion of the application shall result in the denial  
3 of the application. Failure to cooperate means that the information  
4 described in this section and in regulations of the department has  
5 not been provided, or not provided in the form requested by the  
6 licensing agency, or both.

7 (i) Other information as may be required by the department for  
8 the proper administration and enforcement of the act.

9 SEC. 4. Section 1597.622 is added to the Health and Safety  
10 Code, to read:

11 1597.622. (a) Commencing September 1, 2016, a person shall  
12 not be employed at a family day care home if he or she has not  
13 been immunized against influenza, pertussis, and measles. An  
14 employee shall receive an influenza vaccination between August  
15 1 and December 1 of each year.

16 (b) A person is exempt from the requirements of this section  
17 only under any of the following circumstances:

18 (1) The person submits a written statement from a licensed  
19 physician declaring that because of the person's physical condition  
20 or medical circumstances, immunization is not safe.

21 (2) The person submits a written statement by a licensed  
22 physician providing that the person has evidence of current  
23 immunity to ~~one or more of~~ the diseases described in subdivision  
24 (a).

25 (3) The person submits a written declaration that he or she has  
26 declined the influenza vaccination. This exemption applies only  
27 to the influenza vaccine.

28 (4) The person was hired after December 1 of the previous year  
29 and before August 1 of the current year. This exemption applies  
30 only to the influenza vaccine.

31 ~~SEC. 5. No reimbursement is required by this act pursuant to~~  
32 ~~Section 6 of Article XIII B of the California Constitution because~~  
33 ~~the only costs that may be incurred by a local agency or school~~  
34 ~~district will be incurred because this act creates a new crime or~~  
35 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
36 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
37 ~~the Government Code, or changes the definition of a crime within~~

1 ~~the meaning of Section 6 of Article XIII B of the California~~  
2 ~~Constitution.~~

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