

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1312

Introduced by Assembly Member Smyth

February 18, 2011

An act to amend Section 1596.792 of the Health and Safety Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1312, as amended, Smyth. Child care: exemption from licensure: public recreation programs.

Existing law, the California Child Day Care Facilities Act, prescribes licensure requirements for the operation of child day care facilities, day care centers, and family day care homes. The act exempts specified facilities and arrangements, including public recreation programs that meet specified criteria, from its provisions.

Under existing law, ~~an~~ any exempt public recreation program *operated as prescribed for kindergarten and grades 1 to 12, inclusive*, must operate for under 16 hours per week, ~~except that specified programs are limited to 12 hours per week or less, and an exempt program must operate~~ and for a total of 12 weeks or less during a 12-month period.

This bill would authorize any exempt public recreation program *operated for kindergarten and grades 1 to 12, inclusive*, to operate for under 20 hours per week and for a total of 14 weeks or less during a 12-month period.

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

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

SECTION 1. Section 1596.792 of the Health and Safety Code, as amended by Section 4 of Chapter 519 of the Statutes of 2010, is amended to read:

1596.792. This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the

1 public school district where the program is located, or operated
2 only during periods when students in kindergarten and grades 1
3 to 12, inclusive, are normally not in session in the public school
4 district where the program is located, for either of the following
5 periods:

6 (A) For under 20 hours per week.

7 (B) For a total of 14 weeks or less during a 12-month period.
8 This total applies to any 14 weeks within any 12-month period,
9 without regard to whether the weeks are consecutive.

10 In determining “normal school hours” or periods when students
11 are “normally not in session,” the State Department of Social
12 Services shall, when appropriate, consider the normal school hours
13 or periods when students are normally not in session for students
14 attending a year-round school.

15 (2) The program is provided to children who are over the age
16 of four years and nine months and not yet enrolled in school and
17 the program is operated during either of the following periods:

18 (A) For under ~~20~~ 16 hours per week.

19 (B) For a total of ~~14~~ 12 weeks or less during a 12-month period.
20 This total applies to any ~~14~~ 12 weeks within any 12-month period,
21 without regard to whether the weeks are consecutive.

22 (3) The program is provided to children under the age of four
23 years and nine months with sessions that run ~~20~~ 12 hours per week
24 or less and are ~~14~~ 12 weeks or less in duration. A program subject
25 to this paragraph may permit children to be enrolled in consecutive
26 sessions throughout the year. However, the program shall not
27 permit children to be enrolled in a combination of sessions that
28 total more than ~~20~~ 12 hours per week for each child.

29 (h) Extended day care programs operated by public or private
30 schools.

31 (i) Any school parenting program or adult education child care
32 program that satisfies both of the following:

33 (1) Is operated by a public school district or operated by an
34 individual or organization pursuant to a contract with a public
35 school district.

36 (2) Is not operated by an organization specified in Section
37 1596.793.

38 (j) Any child day care program that operates only one day per
39 week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 2. Section 1596.792 of the Health and Safety Code, as amended by Section 5 of Chapter 519 of the Statutes of 2010, is amended to read:

1596.792. This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

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(b) Any clinic, as defined by Section 1202.

1 (c) Any community care facility, as defined by Section 1502.

2 (d) Any family day care home providing care for the children
3 of only one family in addition to the operator's own children.

4 (e) Any cooperative arrangement between parents for the care
5 of their children when no payment is involved and the arrangement
6 meets all of the following conditions:

7 (1) In a cooperative arrangement, parents shall combine their
8 efforts so that each parent, or set of parents, rotates as the
9 responsible caregiver with respect to all the children in the
10 cooperative.

11 (2) Any person caring for children shall be a parent, legal
12 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of
13 at least one of the children in the cooperative.

14 (3) There can be no payment of money or receipt of in-kind
15 income in exchange for the provision of care. This does not prohibit
16 in-kind contributions of snacks, games, toys, blankets for napping,
17 pillows, and other materials parents deem appropriate for their
18 children. It is not the intent of this paragraph to prohibit payment
19 for outside activities, the amount of which may not exceed the
20 actual cost of the activity.

21 (4) No more than 12 children are receiving care in the same
22 place at the same time.

23 (f) Any arrangement for the receiving and care of children by
24 a relative.

25 (g) Any public recreation program. "Public recreation program"
26 means a program operated by the state, city, county, special district,
27 school district, community college district, chartered city, or
28 chartered city and county that meets either of the following criteria:

29 (1) The program is operated only during hours other than normal
30 school hours for kindergarten and grades 1 to 12, inclusive, in the
31 public school district where the program is located, or operated
32 only during periods when students in kindergarten and grades 1
33 to 12, inclusive, are normally not in session in the public school
34 district where the program is located, for either of the following
35 periods:

36 (A) For under 20 hours per week.

37 (B) For a total of 14 weeks or less during a 12-month period.
38 This total applies to any 14 weeks within any 12-month period,
39 without regard to whether the weeks are consecutive.

1 In determining “normal school hours” or periods when students
2 are “normally not in session,” the State Department of Social
3 Services shall, when appropriate, consider the normal school hours
4 or periods when students are normally not in session for students
5 attending a year-round school.

6 (2) The program is provided to children who are over the age
7 of four years and nine months and not yet enrolled in school and
8 the program is operated during either of the following periods:

9 (A) For under-20 16 hours per week.

10 (B) For a total of ~~14~~ 12 weeks or less during a 12-month period.
11 This total applies to any ~~14~~ 12 weeks within any 12-month period,
12 without regard to whether the weeks are consecutive.

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14 years and nine months with sessions that run ~~20~~ 12 hours per week
15 or less and are ~~14~~ 12 weeks or less in duration. A program subject
16 to this paragraph may permit children to be enrolled in consecutive
17 sessions throughout the year. However, the program shall not
18 permit children to be enrolled in a combination of sessions that
19 total more than ~~20~~ 12 hours per week for each child.

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21 schools.

22 (i) Any school parenting program or adult education child care
23 program that satisfies both of the following:

24 (1) Is operated by a public school district or operated by an
25 individual or organization pursuant to a contract with a public
26 school district.

27 (2) Is not operated by an organization specified in Section
28 1596.793.

29 (j) Any child day care program that operates only one day per
30 week for no more than four hours on that one day.

31 (k) Any child day care program that offers temporary child care
32 services to parents and that satisfies both of the following:

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34 are on the same premises as the site of the child day care program.

35 (2) The child day care program is not operated on the site of a
36 ski facility, shopping mall, department store, or any other similar
37 site identified by the department by regulation.

38 (l) Any program that provides activities for children of an
39 instructional nature in a classroom-like setting and satisfies both
40 of the following:

1 (1) Is operated only during periods of the year when students
2 in kindergarten and grades 1 to 12, inclusive, are normally not in
3 session in the public school district where the program is located
4 due to regularly scheduled vacations.

5 (2) Offers any number of sessions during the period specified
6 in paragraph (1) that when added together do not exceed a total of
7 30 days when only schoolage children are enrolled in the program
8 or 15 days when children younger than schoolage are enrolled in
9 the program.

10 (m) A program facility administered by the Department of
11 Corrections that (1) houses both women and their children, and
12 (2) is specifically designated for the purpose of providing substance
13 abuse treatment and maintaining and strengthening the family unit
14 pursuant to Chapter 4 (commencing with Section 3410) of Title 2
15 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with
16 Section 1174) of Title 7 of Part 2 of that code.

17 (n) This section shall become operative on January 1, 2014.