

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN ASSEMBLY APRIL 17, 2012

AMENDED IN ASSEMBLY MARCH 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1513

Introduced by Assembly Member Allen

January 13, 2012

An act to amend Sections 114257 and 115725 of the Health and Safety Code, relating to playgrounds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1513, as amended, Allen. Playgrounds: retail food facilities.

Existing law subjects certain outdoor playgrounds to specified regulations, including requiring outdoor playgrounds to conform to designated standards set by the American Society for Testing and Materials and guidelines set by the United States Consumer Product Safety Commission.

This bill would subject indoor playgrounds to these regulations.

Existing law, the California Retail Food Code, regulates retail food facilities to safeguard public health and requires local enforcement to enforce its provisions. Existing law requires that all premises of a food facility be kept clean, fully operative, and in good repair. A violation of these provisions is punishable as a misdemeanor.

This bill would include food facility playgrounds, as defined, within the requirement that the food facilities be kept clean, fully operative, and in good repair, and would require a food facility with an indoor playground to develop a plan to keep the playground area clean and free of hazards to children. By *requiring the local enforcement agency*

to also inspect food facility playgrounds, and therefore increasing the duties of local officials, this bill would impose a state-mandated local program.

This bill would also require a retail food facility with a playground to display or provide on request a record of the playground's maintenance policy and inspection record and to post a sign prohibiting customers from taking food into the playground structures.

By creating a new crime, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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 reasons.

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

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

- 1 SECTION 1. Section 114257 of the Health and Safety Code
- 2 is amended to read:
- 3 114257. (a) All premises of a food facility, including indoor
- 4 and outdoor playgrounds, shall be kept clean, fully operative, and
- 5 in good repair.
- 6 (b) For purposes of subdivision (a), a playground on the
- 7 premises of a food facility shall meet the same standard of
- 8 cleanliness that exists for all other areas of the food facility, except
- 9 food handling and preparation areas.
- 10 (c) A retail food facility with a playground shall do all of the
- 11 following:

1 (1) Develop a plan for ensuring that indoor playground areas
2 are kept clean and free of conditions that may be hazardous to
3 children, including, but not limited to, cracked or broken
4 playground structures.

5 (2) Display, or provide upon request, the retail food facility's
6 policy on playground maintenance and dates on which the
7 playground was last inspected and cleaned.

8 (3) Post a sign prohibiting customers from taking food into or
9 on, or eating food on, playground structures, including, but not
10 limited to, climbing structures and slides, except that food may be
11 taken to and consumed within rest or observation areas within or
12 adjoining a playground area.

13 (d) For purposes of this section, "playground" has the same
14 meaning as defined in Section 115725.

15 SEC. 2. Section 115725 of the Health and Safety Code is
16 amended to read:

17 115725. (a) All new playgrounds open to the public built by
18 a public agency or any other entity shall conform to the
19 playground-related standards set forth by the American Society
20 for Testing and Materials and the playground-related guidelines
21 set forth by the United States Consumer Product Safety
22 Commission.

23 (b) Replacement of equipment or modification of components
24 inside existing playgrounds shall conform to the playground-related
25 standards set forth by the American Society for Testing and
26 Materials and the playground-related guidelines set forth by the
27 United States Consumer Product Safety Commission.

28 (c) All public agencies operating playgrounds and all other
29 entities operating playgrounds open to the public shall have a
30 playground safety inspector, certified by the National Playground
31 Safety Institute, conduct an initial inspection for the purpose of
32 aiding compliance with the requirements set forth in subdivision
33 (a) or (b), as applicable. Any inspection report may serve as a
34 reference when the upgrades are made, but is not intended for any
35 other use.

36 (d) Playgrounds installed between January 1, 1994, and
37 December 31, 1999, shall conform to the playground-related
38 standards set forth by the American Society for Testing and
39 Materials and the playground-related guidelines set forth by the

1 United States Consumer Product Safety Commission not later than
2 15 years after the date those playgrounds were installed.

3 (e) For purposes of this section, all of the following shall apply:

4 (1) An “entity operating a playground open to the public”
5 includes, but is not limited to, a church, subdivision, hotel, motel,
6 resort, camp, office, hospital, shopping center, day care setting,
7 and restaurant. An “entity operating a playground open to the
8 public” shall not include a foster family home, certified family
9 home, small family home, group home, or family day care home,
10 which is licensed and regulated to meet child safety requirements
11 enforced by the State Department of Social Services.

12 (2) “Playground” means an improved area designed, equipped,
13 and set aside for children’s play that is not intended for use as an
14 athletic playing field or athletic court, and shall include any
15 playground equipment, fall zones, surface materials, access ramps,
16 and all areas within and including the designated enclosure and
17 barriers.

18 (f) Operators of playgrounds in child care centers regulated by
19 the California Department of Social Services (CDSS) pursuant to
20 Title 22 of Division 12 of Chapter 1 of the California Code of
21 Regulations and facilities operated for the developmentally
22 disabled, shall comply with the requirements established in this
23 section.

24 (g) (1) No state funding shall be available for the planning,
25 development, or redevelopment of any playground, unless the
26 playground, after completion of the state-funded project, will
27 conform to the requirements of subdivision (a) or (b), as applicable.
28 However, where state funds have been appropriated to, or allocated
29 for, a playground project prior to the effective date of this section
30 but the section becomes effective prior to the completion of the
31 project, that funding shall be maintained, as long as the playground
32 is altered to conform to the requirements of subdivision (a) or (b),
33 as applicable, to the extent the alterations can be made without
34 adding significantly to the project cost.

35 (2) After the date by which an entity is required to conform its
36 playground to satisfy requirements of this section, no state funding
37 shall be available for the operation, maintenance, or supervision
38 of the playground unless the playground conforms to the applicable
39 requirements of ~~the~~ *this* section.

1 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution for certain~~
3 ~~costs that may be incurred by a local agency or school district~~
4 ~~because, in that regard, this act creates a new crime or infraction,~~
5 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
6 ~~or infraction, within the meaning of Section 17556 of the~~
7 ~~Government Code, or changes the definition of a crime within the~~
8 ~~meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

10 However, if the Commission on State Mandates determines that
11 this act contains other costs mandated by the state, reimbursement
12 to local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.

15 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
16 ~~Section 6 of Article XIII B of the California Constitution because~~
17 ~~a local agency or school district has the authority to levy service~~
18 ~~charges, fees, or assessments sufficient to pay for the program or~~
19 ~~level of service mandated by this act or because costs that may be~~
20 ~~incurred by a local agency or school district will be incurred~~
21 ~~because this act creates a new crime or infraction, eliminates a~~
22 ~~crime or infraction, or changes the penalty for a crime or~~
23 ~~infraction, within the meaning of Section 17556 of the Government~~
24 ~~Code, or changes the definition of a crime within the meaning of~~
25 ~~Section 6 of Article XIII B of the California Constitution.~~