

## Assembly Bill No. 2865

### CHAPTER 865

An act to amend Sections 17609, 17610, 17610.1, and 17612 of the Education Code, to amend Sections 13181, 13183, 13185, and 13186 of the Food and Agricultural Code, to amend Section 1596.845 of, and to add Section 1596.794 to the Health and Safety Code, relating to school safety.

[Approved by Governor September 30, 2006. Filed with  
Secretary of State September 30, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2865, Torrico. School safety.

Existing law, the Healthy Schools Act of 2000 requires that the preferred method of managing pests at schoolsites be to use effective, least toxic pest management practices and requires schoolsites to maintain records of all pesticides used at the schoolsite for a period of 4 years. Existing law requires schools to provide all staff and parents or guardians of pupils enrolled at a school written notification of, among other things, expected pesticide use at that site.

This bill would expand the definition of "schoolsite" as used in these provisions to also include private child day care facilities, as specified. This bill would also require property owners to notify tenants who operate a child day care facility of their pest management practices and to provide a specified notice prior to the application of pesticides. This bill would also require child day care facilities to inform contractors hired to apply pesticide at the schoolsite that the facility must comply with the act and require persons hired to apply pesticides at a child day care facility to provide specified information to the facility. This bill would require the Department of Pesticide Regulation to promote and facilitate the adoption of integrated pest management programs at child day care facilities, as specified. This bill would make other conforming changes.

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

SECTION 1. Section 17609 of the Education Code is amended to read:  
17609. The definitions set forth in this section govern the construction of this article unless the context clearly requires otherwise:

(a) "Antimicrobial" means those pesticides defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(b) "Crack and crevice treatment" means the application of small quantities of a pesticide consistent with labeling instructions in a building

into openings such as those commonly found at expansion joints, between levels of construction and between equipment and floors.

(c) “Emergency conditions” means any circumstances in which the school designee or a property owner of a property where a privately operated child day care facility is located, or the property owner’s agent, deems that the immediate use of a pesticide is necessary to protect the health and safety of pupils, staff, or other persons, or the schoolsite.

(d) “School designee” means the individual identified by a schoolsite or school district to carry out the requirements of this article at the schoolsite.

(e) “Schoolsite” means any facility used as a child day care facility, as defined in Section 1596.750 of the Health and Safety Code, or for kindergarten, elementary, or secondary school purposes. The term includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of property visited or used by pupils. “Schoolsite” does not include any postsecondary educational facility attended by secondary pupils or private kindergarten, elementary, or secondary school facilities. For child day care facilities, the State Department of Social Services shall serve as the liaison to these facilities, as needed.

SEC. 1.5. Section 17610 of the Education Code is amended to read:

17610. (a) It is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and that the state, in order to reduce children’s exposure to toxic pesticides, shall take the necessary steps, pursuant to Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code, to facilitate the adoption of effective least toxic pest management practices at schoolsites. It is the intent of the Legislature to encourage appropriate training to be provided to school personnel involved in the application of a pesticide at a schoolsite.

(b) (1) A property owner of a property where a child day care facility is located, or the property owner’s agent, who personally applies any pesticides on any area listed in paragraph (2) shall provide notice to the child day care facility as described in paragraph (3) at least 120 hours before the application, unless an emergency condition, as defined in Section 17609, exists.

An owner of property on which a child day care facility is located shall be subject to the requirement to provide notice pursuant to this subdivision 30 days after it has received notice from a child day care facility of its presence at the property, unless the property owner, or his or her agent received that notice pursuant to paragraph (1) of subdivision (d) of Section 1597.40 of the Health and Safety Code prior to the effective date of this subdivision in which case the property owner will be subject to the notice requirements on and after the effective date of this subdivision.

(2) This subdivision applies when a property owner or his or her agent intend to personally apply pesticides on any of the following:

(A) Inside the rented premises on which child day care facility is located.

(B) Upon a designated child day care facility playground designated by the property owner.

(C) Upon an area designated for use by the child day care facility.

(D) Upon an area within 10 feet of the perimeter of the child day care facility.

(3) The notice required by paragraph (1) shall include the following:

(A) The product name.

(B) The manufacturer's name.

(C) The active ingredients of each pesticide.

(D) The United States Environmental Protection Agency's product registration number.

(E) The intended date of application.

(F) Those areas of application listed in paragraph (2).

(G) The reason for application.

(4) A notice of pesticide application provided to a tenant pursuant to subdivision (d) of Section 13186 of the Food and Agricultural Code shall satisfy the notice requirements of this section.

(5) If the child day care facility ceases to operate on the property, the provisions of this act shall no longer apply to the property.

SEC. 2. Section 17610.1 of the Education Code is amended to read:

17610.1. (a) (1) The use of a pesticide on a schoolsite is prohibited if that pesticide is granted a conditional registration, an interim registration, or an experimental use permit by the Department of Pesticide Regulation, or if the pesticide is subject to an experimental registration issued by the United States Environmental Protection Agency, and either of the following is applicable:

(A) The pesticide contains a new active ingredient.

(B) The pesticide is for a new use. This paragraph does not apply to a conditionally registered pesticide that is approved for other uses that has fulfilled all registration requirements that relate to human health, including, but not limited to, the completion of mandatory health effect studies pursuant to the Birth Defect Prevention Act of 1984 (Art. 14 (commencing with Sec. 13121), Ch. 2, Div. 7, F. & A.C.). The requirements of this section are not intended to impose any new labeling requirements.

(2) The use of a pesticide on a schoolsite is prohibited if the Department of Pesticide Regulation cancels or suspends registration, or requires phase out of use, of that pesticide.

(b) Vendors or manufacturers of pesticides that are prohibited for use on a schoolsite pursuant to subdivision (a) are prohibited from furnishing those pesticides to school districts or schoolsites either by sale or by gift.

(c) This section does not apply to public health pesticides or antimicrobial pesticides registered pursuant to Section 12836 of the Food and Agricultural Code.

SEC. 3. Section 17612 of the Education Code is amended to read:

17612. (a) The school designee shall annually provide to all staff and parents or guardians of pupils enrolled at a schoolsite a written notification

of the name of all pesticide products expected to be applied at the schoolsite during the upcoming year. The notification shall identify the active ingredient or ingredients in each pesticide product. The notice shall also contain the Internet address used to access information on pesticides and pesticide use reduction developed by the Department of Pesticide Regulation pursuant to Section 13184 of the Food and Agricultural Code and may contain other information deemed necessary by the school designee. No other written notification of pesticide applications shall be required by this act except as follows:

(1) In the written notification provided pursuant to this subdivision, the school designee shall provide the opportunity for recipients to register with the schoolsite if they wish to receive notification of individual pesticide applications at the schoolsite. Persons who register for notification shall be notified of individual pesticide applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient or ingredients in the product, and the intended date of application.

(2) If a pesticide product not included in the annual notification is subsequently intended for use at the schoolsite, the school designee shall, consistent with this subdivision and at least 72 hours prior to application, provide written notification of its intended use.

(b) The school designee shall make every effort to meet the requirements of this section in the least costly manner. Annual notification by a school district to parents and guardians shall be provided pursuant to Section 48980.3. Any other notification shall, to the extent feasible and consistent with the act adding this article, be included as part of any other written communication provided to individual parents or guardians. Nothing in this section shall require the school designee to issue the notice through first-class mail, unless he or she determines that no other method is feasible.

(c) Pest control measures taken during an emergency condition as defined in Section 17609 shall not be subject to the requirements of paragraphs (1) and (2) of subdivision (a). However, the school designee or property owner shall make every effort to provide the required notification for an application of a pesticide under emergency conditions.

(d) The school designee shall post each area of the schoolsite where pesticides will be applied with a warning sign. The warning sign shall prominently display the term "Warning/Pesticide Treated Area" and shall include the product name, manufacturer's name, the United States Environmental Protection Agency's product registration number, intended date and areas of application, and reason for the pesticide application. The warning sign shall be visible to all persons entering the treated area and shall be posted 24 hours prior to the application and remain posted until 72 hours after the application. In case of a pest control emergency, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application.

(e) Subdivisions (a) and (d) shall not apply to schools operated by the Division of Juvenile Justice. The school administrator of a school operated by the Division of Juvenile Justice shall notify the chief medical officer of that facility at least 72 hours prior to application of pesticides. The chief medical officer shall take any steps necessary to protect the health of pupils in that facility.

(f) This section and Section 17611 shall not apply to activities undertaken at a school by participants in the state program of agricultural vocational education, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural vocational education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(g) Sections 17610 to 17612, inclusive, shall not apply to family day care homes or property owners of day care homes, as defined in Section 1596.78 of the Health and Safety Code, or their agents who personally apply any pesticides.

(h) If pesticide is applied by a property owner or his or her agent, or by a pest control operator, failure to provide notice pursuant to subdivision (b) of Section 17610 or subdivision (d) of Section 13186 of the Food and Agricultural Code shall relieve a privately operated child day care facility from the requirements of this section.

SEC. 3.5. Section 13181 of the Food and Agricultural Code is amended to read:

13181. Notwithstanding any other provision of law, for purposes of this article, “integrated pest management” means a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment, are used only after careful monitoring indicates they are needed according to preestablished guidelines and treatment thresholds. This definition shall apply only to integrated pest management at school facilities and child day care facilities.

SEC. 4. Section 13183 of the Food and Agricultural Code is amended to read:

13183. (a) The Department of Pesticide Regulation shall promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites, excluding privately-operated child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, that voluntarily choose to do so. For these schoolsites, the department shall do all of the following:

(1) Establish an integrated pest management program for schoolsites consistent with Section 13181. In establishing the program, the department shall:

(A) Develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite.

(B) Develop a model program guidebook that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. At a minimum, this guidebook shall include guidance on all of the following:

- (i) Adopting an IPM policy.
- (ii) Selecting and training an IPM coordinator.
- (iii) Identifying and monitoring pest populations and damage.
- (iv) Establishing a community-based school district advisory committee.
- (v) Developing a pest management plan for making least-hazardous pest control choices.
- (vi) Contracting for integrated pest management services.
- (vii) Training and licensing opportunities.
- (viii) Establishing a community-based right-to-know standard for notification and posting of pesticide applications.
- (xi) Recordkeeping and program review.

(2) Make the model program guidebook available to schoolsites and establish a process for systematically updating the guidebook and supporting documentation.

(b) The department shall promote and facilitate the voluntary adoption of integrated pest management programs at child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, through the following:

(1) Modifying the department's existing integrated pest management program for schoolsites as described in subdivision (a) of Section 13183 for the child day care setting.

(2) Creating or modifying existing educational and informational materials on integrated pest management for the child day care setting.

(3) Making the materials available to child day care facilities and establishing a process for systematically updating them.

SEC. 5. Section 13185 of the Food and Agricultural Code is amended to read:

13185. (a) The department shall establish an integrated pest management training program in order to facilitate the adoption of a model IPM program and least-hazardous pest control practices by schoolsites. In establishing the IPM training program, the department shall do all of the following:

(1) Adopt a "train-the-trainer" approach, whenever feasible, to rapidly and broadly disseminate program information.

(2) Develop curricula and promote ongoing training efforts in cooperation with the University of California and the California State University.

(3) Prioritize outreach on a regional basis first and then to school districts. For outreach to child day care facilities, the department shall participate in existing trainings that provide opportunities for disseminating program information broadly on a regional basis.

(b) Nothing in this article shall preclude a schoolsite from adopting stricter pesticide use policies.

SEC. 6. Section 13186 of the Food and Agricultural Code is amended to read:

13186. (a) The Legislature finds and declares that the Department of Pesticide Regulation, pursuant to Section 12979 of the Food and Agricultural Code and Sections 6624 and 6627 of Title 3 of the California Code of Regulations, requires persons engaged for hire in the business of pest control to maintain records of pesticide use and report a summary of that pesticide use to the county agricultural commissioner or director. The Legislature further finds and declares that it is in the interest of the state, in implementing a school integrated pest management program pursuant to this article, to collect specified information on the use of pesticides at schoolsites.

(b) The Department of Pesticide Regulation shall prepare a school pesticide use form to be used by licensed and certified pest control operators when they apply any pesticides at a schoolsite. The form shall include, for each application at a schoolsite, the name and address of the schoolsite, date and location of application, pesticide product name, and the quantity of pesticide used. Nothing in this section shall change any existing applicable pesticide use reporting requirements.

(c) Persons who are required to submit pesticide use records to the county agricultural commissioner or director shall complete and submit to the director the school pesticide use forms established pursuant to this section. The forms shall be submitted annually and may be submitted more often at the discretion of the pest control operator maintaining the forms. Child day care facilities, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, which are subject to the Healthy Schools Act of 2000, shall inform contractors hired to apply pesticides at the schoolsite that the facility must comply with the Healthy Schools Act of 2000.

(d) Any person who is hired to apply pesticides at a child day care facility, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, shall provide that facility's school designee with all of the following information at least 120 hours in advance of any pesticide application, except in the case of an emergency condition, as defined in Section 17609 of the Education Code:

- (1) The pesticide product name.
- (2) The pesticide manufacturer's name.

(3) The United States Environmental Protection Agency's product registration number.

(4) The active ingredient or ingredients in the pesticide product.

(5) The areas of application.

(6) The intended date of application.

(7) The reason for the pesticide application.

(e) If a person hired to apply pesticides contracts directly with the property owner or his or her agent rather than directly with the child day care facility, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, the property owner or his or her agent must notify the contractor that a child day care facility is being operated on the property at which the pesticides are to be applied to enable the contractor to comply with subdivision (d).

SEC. 7. Section 1596.794 is added to the Health and Safety Code, to read:

1596.794. The department shall serve as the liaison to child day care facilities for the purposes of Sections 17608 to 17613, inclusive, of the Education Code.

SEC. 8. Section 1596.845 of the Health and Safety Code is amended to read:

1596.845. Prior to the issuance of a new license or special permit pursuant to this chapter, Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) the applicant shall attend an orientation given by the department. The orientation given by the department shall outline all of the following:

(a) The rules and regulations of the department applicable to child day care facilities.

(b) The scope of operation of a child day care facility.

(c) The responsibility entailed in operating a child day care facility.

(d) Information about the Healthy Schools Act of 2000 and integrated pest management practices.