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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2] (*Division 8 added by Stats. 1941, Ch. 44.*)

CHAPTER 42. Grocery and Pharmacy Establishment Closures [22949.92 - 22949.92.2] (*Chapter 42 added by Stats. 2024, Ch. 625, Sec. 2.*)

[22949.92.](#) For purposes of this chapter, the following definitions apply:

(a) (1) "Covered establishment" includes a grocery establishment or a pharmacy establishment.

(A) "Grocery establishment" means a retail store operating in this state that meets both of the following requirements:

(i) The retail store sells primarily household foodstuffs for offsite consumption, including, but not limited to, the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods.

(ii) The sale of any other household supplies or other products by the retail store is secondary to the primary purpose of food sales.

(B) "Pharmacy establishment" means a pharmacy as defined in Section 4037 that meets all of the following requirements:

(i) The pharmacy is a chain community pharmacy or an independent community pharmacy as defined in Section 4001.

(ii) The pharmacy is open to the public.

(iii) The pharmacy is not owned by a health facility as defined in Section 1250 of the Health and Safety Code.

(iv) The pharmacy is not a part of a fully integrated delivery system. For purposes of this clause, a "fully integrated delivery system" means a system that includes a physician organization, health facility or health system, and a nonprofit health care service plan that provides health care services to enrollees in a specific geographic region of the state through an affiliate hospital system and an exclusive contract between the nonprofit health care service plan and a single physician organization in each geographic region to provide those medical services.

(2) Nothing in clause (iii) or (iv) of subparagraph (B) of paragraph (1) shall be construed as exempting a chain community pharmacy as defined in Section 4001 from this chapter. However, a pharmacy location owned and operated by a physician organization, health facility or health system, and a nonprofit health care service plan that is part of a fully integrated delivery system is not a store as described in Section 4001.

(b) "Closure" means the cessation or substantial cessation of industrial or commercial operations by a covered establishment.

(*Added by Stats. 2024, Ch. 625, Sec. 2. (SB 1089) Effective January 1, 2025.*)

[22949.92.1.](#) (a) A covered establishment shall, no later than 45 days before a closure of the covered establishment takes effect, perform all of the following acts:

(1) (A) Provide written notice of the closure to all of the following persons or entities:

(i) (I) The employees of the covered establishment affected by the closure and their authorized representatives if the covered establishment employs more than five employees.

(II) Notwithstanding any other provision of this subdivision, a covered establishment that employs five or fewer employees shall, no later than 30 days before a closure of the covered establishment takes effect, provide written notice of the closure to the employees of the covered establishment affected by the closure.

(ii) The Employment Development Department.

(iii) The State Department of Social Services.

(iv) The local workforce development board of any city and county government within which the closure occurs.

(v) The chief elected official of each city and county government within which the closure occurs.

(vi) The California State Board of Pharmacy, if the covered establishment is a pharmacy establishment.

(B) Notwithstanding any other provision of this subdivision, a covered establishment that is a pharmacy as defined in Section 4037, is owned by a person or entity who owns 15 or fewer pharmacies nationwide, and is not a covered establishment as defined in subdivision (a) of Section 1400.5 of the Labor Code shall not be required to provide written notice pursuant to subparagraph (A) to any of the following persons or entities:

(i) The Employment Development Department.

(ii) The State Department of Social Services.

(iii) The local workforce development board of any city and county government within which the covered establishment is located.

(iv) The chief elected official of each city and county government within which the covered establishment is located.

(C) Notwithstanding any other provision of this subdivision, a covered establishment that is a grocery establishment as defined in subdivision (a) of Section 22949.92, is owned by a person or entity who owns 15 or fewer grocery establishments nationwide, and is not a covered establishment as defined in subdivision (a) of Section 1400.5 of the Labor Code shall not be required to provide written notice pursuant to subparagraph (A) to any of the following persons or entities:

(i) The Employment Development Department.

(ii) The local workforce development board of any city and county government within which the covered establishment is located.

(iii) The chief elected official of each city and county government within which the covered establishment is located.

(D) Notwithstanding any other provision of this subdivision, a covered establishment that is also a covered establishment as defined in subdivision (a) of Section 1400.5 of the Labor Code shall only be considered in compliance with the requirements of clauses (ii), (iv), and (v) of subparagraph (A) if the covered establishment provides a written notice as required and pursuant to the timeframe specified in Section 1401 of the Labor Code.

(2) (A) Post a written notice of the closure in a conspicuous location at the entrance to the covered establishment's premises that includes the planned closure date of the covered establishment.

(B) If the covered establishment is a pharmacy establishment regardless of the number of employees, the written notice described in subparagraph (A) shall also include both of the following:

(i) The name, address, and contact information of the pharmacy establishment where any prescriptions will be transferred.

(ii) The phone number, email address, or internet website where patients may obtain information regarding the process of transferring the prescription to a pharmacy establishment of the patient's choosing.

(3) Take reasonable steps to provide a written notice of the closure in at least one form other than the forms described in paragraphs (1) and (2) that is in a form in which the covered establishment regularly communicates or advertises to its consumers, if the covered establishment is a grocery establishment, or to its patients, if the covered establishment is a pharmacy establishment.

(b) Except as otherwise required under Section 1401 of the Labor Code or any other provision of the law, a covered establishment shall not be required to provide notice pursuant to this section if either of the following circumstances applies:

(1) A closure is necessitated by a physical calamity or act of war.

(2) The closure is caused by business circumstances that were not reasonably foreseeable at the time that notice would have been required.

(c) (1) A covered establishment that violates this section shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each closure, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney where the covered establishment was located.

(A) In assessing the amount of the civil penalty, the court shall consider relevant circumstances presented by the parties to the case, including, but not limited to, the following circumstances:

(i) The nature and severity of the misconduct.

(ii) The number of violations.

(iii) The length of time over which the misconduct occurred, and the persistence of the misconduct.

(iv) The willfulness of the misconduct.

(v) The defendant's assets, liabilities, and net worth.

(vi) The number of employees employed by the defendant.

(B) (i) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half shall be paid to the General Fund.

(ii) If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered.

(iii) If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half shall be paid to the treasurer of the county in which the judgment was entered.

(C) The court shall grant a prevailing plaintiff reasonable attorney's fees and costs.

(2) (A) An employee that does not receive written notice by a covered establishment in violation of this section is entitled to recover in a civil action an additional sum payable as liquidated damages in the amount of one hundred dollars (\$100) per employee for each day the rights of an employee under this section are violated and continuing until the violation is cured.

(B) An employee shall only be entitled to either recover the liquidated damages provided for in this paragraph or to enforce a civil penalty as set forth in Section 1403 of the Labor Code, but not both, for the same violation.

(3) Notwithstanding any other provision of this subdivision, a person shall have no right to bring a private cause of action against a covered establishment for a violation of paragraph (3) of subdivision (a).

(d) Except as provided in subparagraph (B) of paragraph (2) of subdivision (c), this section does not preempt or alter any other rights or remedies, including any causes of action, available under any other federal or state law.

(Added by Stats. 2024, Ch. 625, Sec. 2. (SB 1089) Effective January 1, 2025.)

22949.92.2. (a) (1) After receiving a written notice described in Section 22949.92.1 from a covered establishment, the county in which that covered establishment is located shall provide the local workforce development board of the county in which the covered establishment is located with information about safety net programs, including, but not limited to, unemployment insurance, the CalWORKs program, the CalFresh program, and the Medi-Cal program. The local workforce development board of the county in which that covered establishment is located shall provide the covered establishment with information about safety net programs and the availability of local workforce training services.

(2) A covered establishment that receives information from a county or a local workforce development board pursuant to paragraph (1) shall, no later than 30 days before a closure of the covered establishment takes effect, provide any information that it receives from the county and local workforce development board to each employee of the covered establishment.

(b) After receiving a written notice described in Section 22949.92.1 from a grocery establishment, the State Department of Social Services shall transmit to the Food and Nutrition Service of the United States Department of Agriculture information stating that the grocery establishment is closing and the closure date.

(Added by Stats. 2024, Ch. 625, Sec. 2. (SB 1089) Effective January 1, 2025.)