

SECOND REGULAR SESSION

HOUSE BILL NO. 1768

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PORTWOOD.

Read 1st time February 15, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5086L.01I

AN ACT

To repeal section 210.221, RSMo, and to enact in lieu thereof one new section relating to safety regulations for child care facilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 210.221, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.221, to read as follows:

210.221. 1. The department of health and senior services shall have the following powers and duties:

(1) After inspection, to grant licenses to persons to operate child-care facilities if satisfied as to the good character and intent of the applicant and that such applicant is qualified and equipped to render care or service conducive to the welfare of children, and to renew the same when expired. No license shall be granted for a term exceeding two years. Each license shall specify the kind of child-care services the licensee is authorized to perform, the number of children that can be received or maintained, and their ages and sex;

(2) To inspect the conditions of the homes and other places in which the applicant operates a child-care facility, inspect their books and records, premises and children being served, examine their officers and agents, deny, suspend, place on probation or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health and senior services. The director also may revoke or suspend a license when the licensee fails to renew or surrenders the license;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (3) To promulgate and issue rules and regulations the department deems necessary or
16 proper in order to establish standards of service and care to be rendered by such licensees to
17 children. **Such rules shall include, but not be limited to, a prohibition on the use of blinds**
18 **on the windows in any child care facility operated by a licensee.** No rule or regulation
19 promulgated by the division shall in any manner restrict or interfere with any religious
20 instruction, philosophies or ministries provided by the facility and shall not apply to facilities
21 operated by religious organizations which are not required to be licensed; and

22 (4) To determine what records shall be kept by such persons and the form thereof, and
23 the methods to be used in keeping such records, and to require reports to be made to the
24 department at regular intervals.

25 2. Any child-care facility may request a variance from a rule or regulation promulgated
26 pursuant to this section. The request for a variance shall be made in writing to the department
27 of health and senior services and shall include the reasons the facility is requesting the variance.
28 The department shall approve any variance request that does not endanger the health or safety
29 of the children served by the facility. The burden of proof at any appeal of a disapproval of a
30 variance application shall be with the department of health and senior services. Local inspectors
31 may grant a variance, subject to approval by the department of health and senior services.

32 3. The department shall deny, suspend, place on probation or revoke a license if it
33 receives official written notice that the local governing body has found that license is prohibited
34 by any local law related to the health and safety of children. The department may, after
35 inspection, find the licensure, denial of licensure, suspension or revocation to be in the best
36 interest of the state.

37 4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
38 is created under the authority delegated in sections 210.201 to 210.245 shall become effective
39 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
40 applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28,
41 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal
42 or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
43 with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and
44 if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review,
45 to delay the effective date or to disapprove and annul a rule are subsequently held
46 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
47 August 28, 1999, shall be invalid and void.

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