

SECOND REGULAR SESSION

HOUSE BILL NO. 2353

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALSH (Sponsor), FALLERT, WILDBERGER, ZIMMERMAN, DONNELLY, BRINGER, ROORDA, MEADOWS, SCHNEIDER, JOHNSON, DARROUGH, KUESSNER, LeVOTA, HOLSMAN, SCAVUZZO, ROBINSON, STORCH, LAMPE, GEORGE, LOWE (44), FRAME, BURNETT, LIESE, CASEY, DAUS, VILLA, KRATKY, MEINERS, SATER, MOORE, CURLS, CHAPPELLE-NADAL, JONES (117), FAITH, POLLOCK, WRIGHT-JONES, HUGHES, CORCORAN, NORR, McCLANAHAN AND WITTE (Co-sponsors).

Read 1st time March 5, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5431L.011

AN ACT

To repeal sections 210.221, RSMo, and to enact in lieu thereof one new section relating to licensing of 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Section A. Section 210.221, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.221, to read as follows: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

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.

12 of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and
13 regulations made by the department of health and senior services. The director also may revoke
14 or suspend a license when the licensee fails to renew or surrenders the license;

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. No rule or regulation promulgated by the division shall in any manner restrict or
18 interfere with any religious instruction, philosophies or ministries provided by the facility and
19 shall not apply to facilities operated by religious organizations which are not required to be
20 licensed; [and]

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

24 **(5) To deny, suspend, place on probation, or revoke a license for any child care**
25 **facility that does not obtain and maintain a local license or permit for the operation of a**
26 **child care facility, if required by local law.**

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

34 3. The department shall deny, suspend, place on probation or revoke a license if:

35 (1) It receives official written notice that the local governing body has found that license
36 is prohibited by any local law related to the health and safety of children. The department may,
37 after inspection, find the licensure, denial of licensure, suspension or revocation to be in the best
38 interest of the state; **or**

39 (2) **It receives official written notice from the local governing body that the local**
40 **license or permit for the child care facility has been denied, suspended, placed on**
41 **probation, or revoked.**

42 4. **For any child care facility required to obtain and maintain a local license or**
43 **permit issued by a political subdivision of this state and the requirements of such local**
44 **license or permit are consistent with but more restrictive than the child care facility**
45 **licensure requirements of the state, the child care facility shall be required to meet the**
46 **requirements for the local license or permit in order to maintain the facility's state**
47 **licensure. Any child care facility that does not obtain or maintain the required local license**

48 **or permit shall be subject to state licensure sanction in accordance with subsection 3 of this**
49 **section.**

50 **5.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
51 is created under the authority delegated in sections 210.201 to 210.245 shall become effective
52 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
53 applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28,
54 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal
55 or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
56 with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and
57 if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review,
58 to delay the effective date or to disapprove and annul a rule are subsequently held
59 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
60 August 28, 1999, shall be invalid and void.

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