

FIRST REGULAR SESSION

HOUSE BILL NO. 1368

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SEITZ.

2730H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.203, 210.211, 210.221, 210.231, 210.245, 210.252, and 210.256, RSMo, and to enact in lieu thereof eight new sections relating to summer camps, with penalty provisions.

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

Section A. Sections 210.203, 210.211, 210.221, 210.231, 210.245, 210.252, and
2 210.256, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as
3 sections 210.203, 210.211, 210.212, 210.221, 210.231, 210.245, 210.252, and 210.256, to
4 read as follows:

210.203. The department of elementary and secondary education shall maintain a
2 record of substantiated, signed parental complaints against child care facilities **or summer**
3 **camp**s licensed pursuant to this chapter, and shall make such complaints and findings
4 available to the public upon request.

210.211. 1. It shall be unlawful for any person to establish, maintain, or operate a
2 child-care facility, **or for any person or organization to establish, maintain, or operate a**
3 **summer camp**, for children, or to advertise or hold himself or herself out as being able to
4 perform any of the services as defined in section 210.201, without having in effect a written
5 license granted by the department of elementary and secondary education; except that nothing
6 in sections 210.203 to 210.245 shall apply to:

7 (1) Any person who is caring for six or fewer children, including a maximum of three
8 children under the age of two, at the same physical address. For purposes of this subdivision,
9 children who live in the caregiver's home and who are eligible for enrollment in a public

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.

10 kindergarten, elementary, or high school shall not be considered in the total number of
11 children being cared for;

12 (2) Any person who receives free of charge, and not as a business, for periods not
13 exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or
14 children of personal friends of such person, and who receives custody of no other unrelated
15 child or children;

16 (3) Any graded boarding school that is conducted in good faith primarily to provide
17 education;

18 (4) Any ~~summer or~~ day camp that is conducted in good faith primarily to provide
19 recreation;

20 (5) Any hospital, sanitarium, or home that is conducted in good faith primarily to
21 provide medical treatment or nursing or convalescent care for children;

22 (6) Any residential facility or day program licensed by the department of mental
23 health under sections 630.705 to 630.760 that provides care, treatment, and habilitation
24 exclusively to children who have a primary diagnosis of mental disorder, mental illness,
25 intellectual disability, or developmental disability, as those terms are defined in section
26 630.005;

27 (7) Any school system as defined in section 210.201;

28 (8) Any Montessori school as defined in section 210.201;

29 (9) Any business that operates a child care program for the convenience of its
30 customers or its employees if the following conditions are met:

31 (a) The business provides child care for customers' or employees' children for no
32 more than four hours per day; and

33 (b) Customers or employees remain on site while their children are being cared for by
34 the business establishment;

35 (10) Any home school as defined in section 167.031;

36 (11) Any religious organization academic preschool or kindergarten for four- and
37 five-year-old children;

38 (12) Any weekly Sunday or Sabbath school, a vacation bible school, or child care
39 made available while the parents or guardians are attending worship services or other
40 meetings and activities conducted or sponsored by a religious organization;

41 (13) Any neighborhood youth development program under section 210.278;

42 (14) Any religious organization elementary or secondary school;

43 (15) Any private organization elementary or secondary school system providing child
44 care to children younger than school age. If a facility or program is exempt from licensure
45 based upon this exception, such facility or program shall submit documentation annually to
46 the department to verify its licensure-exempt status;

47 (16) Any nursery school as defined in section 210.201; and

48 (17) Any child care facility maintained or operated under the exclusive control of a
49 religious organization. If a nonreligious organization having as its principal purpose the
50 provision of child care services enters into an arrangement with a religious organization for
51 the maintenance or operation of a child care facility, the facility is not under the exclusive
52 control of the religious organization.

53 2. Notwithstanding the provisions of subsection 1 of this section, no child-care
54 facility shall be exempt from licensure if such facility receives any state or federal funds for
55 providing care for children, except for federal funds for those programs which meet the
56 requirements for participation in the Child and Adult Care Food Program pursuant to 42
57 U.S.C. Section 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257
58 shall not be construed to be funds received by a person or facility listed in subdivisions (1)
59 and (17) of subsection 1 of this section.

60 3. Every child care facility **or summer camp** shall disclose the licensure status of the
61 facility **or camp** to the parents or guardians of children for which the facility provides care **or**
62 **for which the camp provides recreation in the summer**. No child care facility exempt
63 from licensure shall represent to any parent or guardian of children for which the facility
64 provides care that the facility is licensed when such facility is in fact not licensed. A parent or
65 guardian utilizing an unlicensed child care facility shall sign a written notice indicating he or
66 she is aware of the unlicensed status of the facility. The facility shall keep a copy of this
67 signed written notice on file. All child care facilities shall provide the parent or guardian
68 enrolling a child in the facility with a written explanation of the disciplinary philosophy and
69 policies of the child care facility.

70 4. Up to two children who are five years of age or older and who are related within
71 the third degree of consanguinity or affinity to, adopted by, or under court appointed
72 guardianship or legal custody of a child care provider who is responsible for the daily
73 operation of a licensed family child care home that is organized as a corporation, association,
74 firm, partnership, limited liability company, sole proprietorship, or any other type of business
75 entity in this state shall not be included in the number of children counted toward the
76 maximum number of children for which the family child care home is licensed under section
77 210.221. If more than one member of the corporation, association, firm, partnership, limited
78 liability company, or other business entity is responsible for the daily operation of the
79 licensed family child care home, then the related children of only one such member shall be
80 excluded. A family child care home caring for children not counted in the maximum number
81 of children, as permitted under this subsection, shall disclose this to parents or guardians on
82 the written notice required under subsection 3 of this section. If a family child care home
83 begins caring for children not counted in the maximum number of children after a parent or

84 guardian has signed the written notice required under subsection 3 of this section, the family
85 child care home shall provide a separate notice to the parent or guardian that the family child
86 care home is caring for children not counted in the maximum number of children for which
87 the family child care home is licensed and shall keep a copy of the signed notice on file.

88 5. Nothing in this section shall prevent the department from enforcing licensing
89 regulations promulgated under this chapter, including, but not limited to, supervision
90 requirements and capacity limitations based on the amount of child care space available.

91 6. **Nothing in this section shall prevent the department from promulgating rules**
92 **or regulations relating to supervision requirements and capacity limitations for summer**
93 **camp.**

210.212. 1. As used in this section, the following terms mean:

2 (1) "Camp counselor", an employee of a summer camp who interacts with and is
3 responsible for the supervision and safety of children at a summer camp and engages in
4 activities including, but not limited to, planning and leading group events, maintaining a
5 schedule of activities for children at the camp, and responding to safety or behavioral
6 incidents;

7 (2) "Medical emergency", an injury or the sudden and, at the time, unexpected
8 onset of a health condition that manifests itself by symptoms of sufficient severity that
9 would lead a prudent layperson, possessing an average knowledge of health and
10 medicine, to believe that the absence of immediate medical care could result in:

- 11 (a) Placing the person's health in significant jeopardy;
12 (b) Serious impairment to a bodily function;
13 (c) Serious dysfunction of any bodily organ or part; or
14 (d) Inadequately controlled pain;

15 (3) "Specialized recreational activity", an activity that may expose a child to a
16 risk of serious injury because of the inherent danger of the activity and includes, but is
17 not limited to, diving, boating, canoeing, and aquatic activities involving a pool or other
18 body of water.

19 2. Any person or organization operating a summer camp in this state shall
20 ensure that employees of the summer camp who will be involved in the operation of
21 aquatic equipment are certified in operating equipment used in a specialized
22 recreational activity offered by the summer camp.

23 3. (1) Any person or organization operating a summer camp in this state shall
24 establish and retain onsite a written site-specific emergency plan, which shall be
25 approved by the director of the summer camp, outlining procedures that address the
26 following emergency situations:

- 27 (a) Natural disasters;

- 28 **(b) A lost child or children;**
29 **(c) Fires;**
30 **(d) Transportation emergencies;**
31 **(e) Medical emergencies;**
32 **(f) Unauthorized persons on or near the premises of the summer camp;**
33 **(g) Aquatic emergencies, as appropriate for the site; and**
34 **(h) Other emergency situations, as appropriate for the site.**
35 **(2) Summer camp employees, including the director and camp counselors, shall**
36 **be trained in implementing the emergency plan procedures provided for under**
37 **subdivision (1) of this subsection.**
38 **4. All camp counselors and any director employed by a summer camp shall be**
39 **trained in cardiopulmonary resuscitation.**

210.221. 1. The department of elementary and secondary education shall have the
2 following powers and duties:

- 3 (1) After inspection, to grant licenses to persons to operate child-care facilities **or to**
4 **grant licenses to persons or organizations to operate summer camps** if satisfied as to the
5 good character and intent of the applicant and that such applicant is qualified and equipped to
6 render care or service conducive to the welfare of children **or to render recreational**
7 **activities to children in the summer.** Each license shall specify the kind of child-care
8 services the licensee is authorized to perform, the number of children that can be received or
9 maintained, and their ages;
- 10 (2) To inspect the conditions of the homes and other places in which the applicant
11 operates a child-care facility **or to inspect the conditions of the property in which the**
12 **person or organization operates a summer camp,** inspect their books and records, premises
13 and children being served, examine their officers and agents, deny, suspend, place on
14 probation or revoke the license of such persons as fail to obey the provisions of sections
15 210.201 to 210.245 or the rules and regulations made by the department of elementary and
16 secondary education. The commissioner also may revoke or suspend a license when the
17 licensee surrenders the license;
- 18 (3) To promulgate and issue rules and regulations the department deems necessary or
19 proper in order to establish standards of service and care to be rendered by such licensees to
20 children. No rule or regulation promulgated by the department shall in any manner restrict or
21 interfere with any religious instruction, philosophies or ministries provided by the facility and
22 shall not apply to facilities operated by religious organizations which are not required to be
23 licensed;
- 24 (4) To approve training concerning the safe sleep recommendations of the American
25 Academy of Pediatrics in accordance with section 210.223; and

26 (5) To determine what records shall be kept by such persons **or organizations** and the
27 form thereof, and the methods to be used in keeping such records, and to require reports to be
28 made to the department at regular intervals.

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

38 3. The department shall deny, suspend, place on probation or revoke a license if it
39 receives official written notice that the local governing body has found that license is
40 prohibited by any local law related to the health and safety of children. The department may
41 deny an application for a license if the department determines that a home or other place in
42 which an applicant would operate a child-care facility **or summer camp** is located within one
43 thousand feet of any location where a person required to register under sections 589.400 to
44 589.425 either resides, as that term is defined in subsection 3 of section 566.147, or regularly
45 receives treatment or services, excluding any treatment or services delivered in a hospital, as
46 that term is defined in section 197.020, or in facilities owned or operated by a hospital system.
47 The department may, after inspection, find the licensure, denial of licensure, suspension or
48 revocation to be in the best interest of the state.

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

210.231. The department of elementary and secondary education may designate to act
2 for it, with full authority of law, any instrumentality of any political subdivision of the state of
3 Missouri deemed by the department of elementary and secondary education to be competent,

4 to investigate and inspect licensees and applicants for a license. Local inspection of child
5 care facilities **or summer camps** may be accomplished if the standards employed by local
6 personnel are substantially equivalent to state standards and local personnel are available for
7 enforcement of such standards.

210.245. 1. Any person who violates any provision of sections 210.201 to 210.245,
2 or who for such person or for any other person makes materially false statements in order to
3 obtain a license or the renewal thereof pursuant to sections 210.201 to 210.245, shall be guilty
4 of a class C misdemeanor for the first offense and shall be assessed a fine not to exceed seven
5 hundred fifty dollars and shall be guilty of a class A misdemeanor and shall be assessed a fine
6 of up to two thousand dollars per day, not to exceed a total of ten thousand dollars for
7 subsequent offenses. In case such guilty person is a corporation, association, institution or
8 society, the officers thereof who participate in such misdemeanor shall be subject to the
9 penalties provided by law.

10 2. If the department of elementary and secondary education proposes to deny,
11 suspend, place on probation or revoke a license, the department of elementary and secondary
12 education shall serve upon the applicant or licensee written notice of the proposed action to be
13 taken. The notice shall contain a statement of the type of action proposed, the basis for it, the
14 date the action will become effective, and a statement that the applicant or licensee shall have
15 thirty days to request in writing a hearing before the administrative hearing commission and
16 that such request shall be made to the department of elementary and secondary education. If
17 no written request for a hearing is received by the department of elementary and secondary
18 education within thirty days of the delivery or mailing by certified mail of the notice to the
19 applicant or licensee, the proposed discipline shall take effect on the thirty-first day after such
20 delivery or mailing of the notice to the applicant or licensee. If the applicant or licensee
21 makes a written request for a hearing, the department of elementary and secondary education
22 shall file a complaint with the administrative hearing commission within ninety days of
23 receipt of the request for a hearing.

24 3. The department of elementary and secondary education may issue letters of
25 censure or warning without formal notice or hearing. Additionally, the department of
26 elementary and secondary education may place a licensee on probation pursuant to chapter
27 621.

28 4. The department of elementary and secondary education may suspend any license
29 simultaneously with the notice of the proposed action to be taken in subsection 2 of this
30 section, if the department of elementary and secondary education finds that there is a threat of
31 imminent bodily harm to the children in care. The notice of suspension shall include the basis
32 of the suspension and the appeal rights of the licensee pursuant to this section. The licensee
33 may appeal the decision to suspend the license to the department of elementary and secondary

34 education. The appeal shall be filed within ten days from the delivery or mailing by certified
35 mail of the notice of appeal. A hearing shall be conducted by the department of elementary
36 and secondary education within ten days from the date the appeal is filed. The suspension
37 shall continue in effect until the conclusion of the proceedings, including review thereof,
38 unless sooner withdrawn by the department of elementary and secondary education, dissolved
39 by a court of competent jurisdiction or stayed by the administrative hearing commission. Any
40 person aggrieved by a final decision of the department made pursuant to this section shall be
41 entitled to judicial review in accordance with chapter 536.

42 5. In addition to initiating proceedings pursuant to subsection 1 of this section, or in
43 lieu thereof, the prosecuting attorney of the county where the child-care facility **or summer**
44 **camp** is located may file suit for a preliminary and permanent order overseeing or preventing
45 the operation of a child-care facility **or summer camp** for violating any provision of sections
46 210.201 to 210.245. The order shall remain in force until such a time as the court determines
47 that the child-care facility **or summer camp** is in substantial compliance. If the prosecuting
48 attorney refuses to act or fails to act after receipt of notice from the department of elementary
49 and secondary education, the department of elementary and secondary education may request
50 that the attorney general seek an injunction of the operation of such child-care facility **or**
51 **summer camp**.

52 6. In cases of imminent bodily harm to children in the care of a child-care facility **or**
53 **summer camp**, including an unlicensed, nonexempt facility, the department may file suit in
54 the circuit court of the county in which the child-care facility **or summer camp** is located for
55 injunctive relief, which may include removing the children from the facility **or camp**,
56 overseeing the operation of the facility **or camp**, or closing the facility **or camp**. Failure by
57 the department to file suit under the provisions of this subsection shall not be construed as
58 creating any liability in tort or incurring other obligations or duties except as otherwise
59 specified.

60 7. Any person who operates an unlicensed, nonexempt child-care facility **or summer**
61 **camp** in violation of the provisions of sections 210.201 to 210.245 shall be liable for a civil
62 penalty of not less than seven hundred fifty dollars and not more than two thousand dollars.
63 The department shall serve upon such person written notice of the department's findings as to
64 the child-care facility's unlicensed, nonexempt status, along with educational materials about
65 Missouri's child-care facility laws and regulations, how a facility may become exempt or
66 licensed, and penalties for operating an unlicensed, nonexempt child-care facility. The notice
67 shall contain a statement that the person shall have thirty days to become compliant with
68 sections 210.201 to 210.245, including attaining exempt status or becoming licensed. The
69 person's failure to do so shall result in a civil action in the circuit court of Cole County or
70 criminal charges under this section. If, following the receipt of the written notice, the person

71 operating the child-care facility fails to become compliant with sections 210.201 to 210.245,
72 the department may bring a civil action in the circuit court of Cole County against such
73 person. The department may, but shall not be required to, request that the attorney general
74 bring the action in place of the department. No civil action provided by this subsection shall
75 be brought if the criminal penalties under subsection 1 of this section have been previously
76 ordered against the person for the same violation. Failure by the department to file suit under
77 the provisions of this subsection shall not be construed as creating any liability in tort or
78 incurring other obligations or duties except as otherwise specified.

79 8. There shall be established the "Family Child Care Provider Fund" in the state
80 treasury, which shall consist of such funds as appropriated by the general assembly. The state
81 treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the
82 state treasurer may approve disbursements. The fund shall be a dedicated fund and moneys in
83 the fund shall be used solely by the department for the dissemination of information
84 concerning compliance with child-care facility **or summer camp** laws and regulations,
85 including licensed or exempt status; educational initiatives relating to, inter alia, child care,
86 safe sleep practices, and child nutrition; and the provision of financial assistance on the basis
87 of need for family child-care homes to become licensed, as determined by the department and
88 subject to available moneys in the fund. Notwithstanding the provisions of section 33.080 to
89 the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to
90 the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in
91 the same manner as other funds are invested. Any interest and moneys earned on such
92 investments shall be credited to the fund.

210.252. 1. All buildings and premises used by a child-care facility to care for more
2 than six children except those exempted from the licensing provisions of the department of
3 elementary and secondary education pursuant to subdivisions (1) to (15) of subsection 1 of
4 section 210.211[~~]~~ **or all buildings and premises used by a summer camp** shall be inspected
5 annually for fire and safety by the state fire marshal, the marshal's designee or officials of a
6 local fire district and for health and sanitation by the department of elementary and secondary
7 education or the department's designee, including officials of the department of health and
8 senior services, or officials of the local health department. Evidence of compliance with the
9 inspections required by this section shall be kept on file and available to parents of children
10 enrolling in the child-care facility.

11 2. Local inspection of child-care facilities **or summer camps** may be accomplished if
12 the standards employed by local personnel are substantially equivalent to state standards and
13 local personnel are available for enforcement of such standards.

14 3. Any child-care facility **or summer camp** may request a variance from a rule or
15 regulation promulgated pursuant to this section. The request for a variance shall be made in

16 writing to the department of elementary and secondary education and shall include the
17 reasons the facility **or camp** is requesting the variance. The department shall approve any
18 variance request that does not endanger the health or safety of the children served by the
19 facility **or camp**. The burden of proof at any appeal of a disapproval of a variance application
20 shall be with the department of elementary and secondary education. Local inspectors may
21 grant a variance, subject to approval by the department of elementary and secondary
22 education.

23 4. The department of elementary and secondary education shall administer the
24 provisions of sections 210.252 to 210.256, with the cooperation of the state fire marshal, the
25 department of health and senior services, local fire departments and local health agencies.

26 5. The department of elementary and secondary education shall promulgate rules and
27 regulations to implement and administer the provisions of sections 210.252 to 210.256. Such
28 rules and regulations shall provide for the protection of children in all child-care facilities **or**
29 **summer camps** whether or not such facility **or camp** is subject to the licensing provisions of
30 sections 210.201 to 210.245.

31 6. The department of health and senior services, after consultation with the
32 department of elementary and secondary education, may promulgate rules and regulations to
33 implement and administer the provisions of this section related to sanitation requirements.
34 Such rules and regulations shall provide for the protection of children in all child-care
35 facilities **or summer camps** whether or not such facility **or camp** is subject to the licensing
36 provisions of sections 210.201 to 210.245.

37 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is
38 created under the authority delegated in sections 210.252 to 210.256 shall become effective
39 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
40 section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force
41 and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the
42 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all
43 applicable provisions of law. This section and chapter 536 are nonseverable and if any of the
44 powers vested with the general assembly pursuant to chapter 536 to review, to delay the
45 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
46 the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999,
47 shall be invalid and void.

210.256. 1. Any person who violates any provision of sections 210.252 to 210.255,
2 or who for such person or for any other person makes a materially false statement in the
3 notice of parental responsibility required by sections 210.254 and 210.255, shall be guilty of
4 an infraction for the first offense and shall be assessed a fine not to exceed two hundred
5 dollars and shall be guilty of a class A misdemeanor for subsequent offenses. In case such

6 guilty person is a corporation, association, institution, or society, the officers thereof who
7 participate in such violation shall be subject to the same penalties.

8 2. In addition to initiating proceedings pursuant to subsection 1 of this section, or in
9 lieu thereof, the prosecuting attorney of the county where the child-care facility **or summer**
10 **camp** is located may file suit for a preliminary and permanent order overseeing or preventing
11 the operation of a child-care facility **or summer camp** for violating any provision of section
12 210.252. The injunction shall remain in force until such time as the court determines that the
13 child-care facility **or summer camp** is in substantial compliance.

14 3. In cases of imminent bodily harm to children in the care of a child-care facility **or**
15 **summer camp**, the department of elementary and secondary education may apply to the
16 circuit court of the county in which the child-care facility **or summer camp** is located for
17 injunctive relief, which may include removing the children from the facility **or camp**,
18 overseeing the operation of the facility **or camp**, or closing the facility **or camp**.

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