

FIRST REGULAR SESSION

HOUSE BILL NO. 850

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHMIDT.

2039H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 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Section A. Section 210.221, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.221, to read as follows: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 elementary and secondary education 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. Each license shall specify **the effective date and whether the license is temporary**, 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 ;

(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 elementary and secondary education. The commissioner also may revoke or suspend a license when the licensee surrenders the license;

(3) To promulgate and issue rules and regulations the department deems necessary or proper in order to establish standards of service and care to be rendered by such licensees to children. No rule or regulation promulgated by the department shall in any manner restrict or

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.

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;

21 (4) To approve training concerning the safe sleep recommendations of the American
22 Academy of Pediatrics in accordance with section 210.223; ~~and~~

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

26 **(6) To grant a temporary child care license to a child care provider who is not on**
27 **probation or has a current letter of censure, upon submittal of a complete license**
28 **application to the department of elementary and secondary education, to expand an**
29 **existing site or to add a new location, provided that the child care provider completes**
30 **any background check required for licensure and also submits an approved fire safety**
31 **and sanitation inspection approved for the site being expanded or added. Temporary**
32 **licenses shall be valid for a duration of no longer than twelve months from the date of**
33 **issuance or until the department makes a final determination on full licensure.**

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

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

53 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
54 created under the authority delegated in sections 210.201 to 210.245 shall become effective

55 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
56 section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force
57 and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the
58 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all
59 applicable provisions of law. This section and chapter 536 are nonseverable and if any of the
60 powers vested with the general assembly pursuant to chapter 536 to review, to delay the
61 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
62 the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999,
63 shall be invalid and void.

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