

IN THE SENATE

SENATE BILL NO. 1112, As Amended, As Amended in the House

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO BASIC DAYCARE LICENSE; AMENDING SECTION 39-1101, IDAHO  
2 CODE, TO REVISE POLICY AND TO PROVIDE CORRECT TERMINOLOGY;  
3 AMENDING SECTION 39-1102, IDAHO CODE, TO REMOVE A DEFINITION, TO  
4 DEFINE TERMS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING  
5 SECTION 39-1103, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND  
6 TO REVISE AN EXCEPTION; AMENDING SECTION 39-1104, IDAHO CODE, TO  
7 PROVIDE A MINIMUM DAYCARE OPERATOR AGE, TO PROVIDE FOR HEALTH  
8 AND SAFETY INSPECTIONS, TO REVISE WHO CONDUCTS THE INSPECTION,  
9 TO PROVIDE A CODE REFERENCE, TO MAKE TECHNICAL CORRECTIONS AND  
10 TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1105, IDAHO  
11 CODE, TO REVISE AN AGE FOR CRIMINAL HISTORY CHECKS FOR SPECIFIED  
12 INDIVIDUALS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING  
13 SECTION 39-1106, IDAHO CODE, TO REMOVE A PROVISION NOT REQUIRING  
14 CRIMINAL HISTORY CHECKS ON LICENSE RENEWAL, TO PROVIDE FOR  
15 CERTAIN LICENSE RENEWAL PROCEDURES, TO REQUIRE SPECIFIED  
16 CRIMINAL HISTORY CHECKS ON LICENSE RENEWAL, TO REQUIRE CERTAIN  
17 CRIMINAL HISTORY CHECKS ON PERSONS UNDER EIGHTEEN YEARS OF  
18 AGE, TO PROVIDE FOR A CERTAIN ENTITLEMENT FOLLOWING CERTAIN  
19 SUBMISSIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING  
20 SECTION 39-1107, IDAHO CODE, TO REVISE AUTHORITY FOR RULEMAKING,  
21 TO REMOVE A LICENSE FEE AND A RENEWAL FEE, TO PROVIDE FOR  
22 CERTAIN LICENSE FEES FOR DAYCARE CENTERS AND GROUP DAYCARE  
23 FACILITIES, TO PROVIDE FOR AN ADDITIONAL CRIMINAL HISTORY CHECK  
24 FEE, TO PROVIDE FOR CALCULATION AND ALLOCATION FOR A LICENSE  
25 FEE AND A RENEWAL FEE, TO REMOVE CERTAIN ADJUSTMENTS TO  
26 LICENSE FEES, TO REVISE ALLOCATIONS OF LICENSE FEES, TO PROVIDE  
27 FOR PROVIDER COVERAGE OF A LICENSE FEE WITH AN EXCEPTION, TO  
28 AUTHORIZE THE DEPARTMENT OF HEALTH AND WELFARE TO UTILIZE  
29 CERTAIN FUNDS FOR CERTAIN PURPOSES, TO STATE LEGISLATIVE INTENT  
30 AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1108,  
31 IDAHO CODE, TO REMOVE FIRE STANDARDS COMPLIANCE REQUIREMENTS  
32 AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1109,  
33 IDAHO CODE, TO REMOVE COMPLIANCE WITH FIRE STANDARDS, TO REVISE  
34 SAFETY STANDARDS REQUIRED IN THE AREA OF THE DAYCARE FACILITY,  
35 TO REQUIRE AN ADULT BE PRESENT ON DAYCARE FACILITY PREMISES  
36 AT CERTAIN TIMES, TO PROVIDE FOR AND REVISE CERTAIN CHILD-STAFF  
37 RATIOS AND REQUIREMENTS AND TO PROVIDE CORRECT TERMINOLOGY;  
38 AMENDING SECTION 39-1110, IDAHO CODE, TO REVISE HEALTH STANDARDS  
39 AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1111,  
40 IDAHO CODE, TO REVISE RULEMAKING AUTHORITY AND TO MAKE  
41

1 TECHNICAL CORRECTIONS; AMENDING CHAPTER 11, TITLE 39, IDAHO CODE,  
 2 BY THE ADDITION OF A NEW SECTION 39-1112A, IDAHO CODE, TO PROVIDE  
 3 FOR ACCESS TO INFORMATION; AMENDING SECTION 39-1113, IDAHO CODE,  
 4 TO REVISE CRIMES PRECLUDING ELIGIBILITY FOR A LICENSE, TO PROVIDE  
 5 FOR LICENSE INELIGIBILITY FOR A PERSON WHO HAS PLEADED GUILTY  
 6 TO, BEEN FOUND GUILTY OF OR RECEIVED A WITHHELD JUDGMENT FOR  
 7 CERTAIN CRIMES WITHIN A SPECIFIED TIME PERIOD, TO PROVIDE GROUNDS  
 8 FOR DISCRETIONAL DENIAL, SUSPENSION OR REVOCATION OF A DAYCARE  
 9 FACILITY LICENSE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE  
 10 GROUNDS FOR MANDATORY DENIAL OR REVOCATION OF DAYCARE  
 11 FACILITY LICENSE OR PRIVILEGE TO OPERATE A FAMILY DAYCARE HOME  
 12 AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1114,  
 13 IDAHO CODE, TO REVISE A CRIMINAL HISTORY CHECK REQUIREMENT,  
 14 TO REMOVE A FIRE INSPECTION CERTIFICATE REQUIREMENT, TO REVISE  
 15 WHO IS TO PERFORM SAFETY INSPECTIONS, TO PERMIT INSPECTION OF  
 16 FAMILY DAYCARE HOMES, TO REVISE AN ELECTION FOR COMPLIANCE  
 17 WITH CHAPTER PROVISIONS, TO MAKE TECHNICAL CORRECTIONS AND  
 18 TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1115,  
 19 IDAHO CODE, TO PROVIDE A DAYCARE FACILITY A CERTAIN GRACE  
 20 PERIOD TO OBTAIN A LICENSE, TO REVISE A CODE REFERENCE, TO  
 21 REVISE CRIMINAL SANCTIONS AND TO PROVIDE CORRECT TERMINOLOGY;  
 22 AMENDING SECTION 39-1116, IDAHO CODE, TO REVISE THE DUTY OF THE  
 23 COUNTY PROSECUTING ATTORNEY TO PROSECUTE VIOLATIONS AND TO  
 24 PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1117, IDAHO  
 25 CODE, TO REVISE A PROVISION REGARDING AFFIRMANCE WITH CHAPTER  
 26 PROVISIONS, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE  
 27 CORRECT TERMINOLOGY; AMENDING SECTION 39-1118, IDAHO CODE, TO  
 28 REVISE WHO SHALL SIGN A CERTAIN CERTIFICATE, TO PROVIDE CORRECT  
 29 TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
 30 CHAPTER 11, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
 31 39-1120, IDAHO CODE, TO PROVIDE FOR NONDELEGABLE DUTIES AND  
 32 RESPONSIBILITIES; AND PROVIDING AN EFFECTIVE DATE.

33 Be It Enacted by the Legislature of the State of Idaho:

34 SECTION 1. That Section 39-1101, Idaho Code, be, and the same is hereby amended to  
 35 read as follows:

36 39-1101. POLICY. It is hereby declared to be the policy of this state to establish  
 37 a minimum statewide system for the protection of children in ~~day care centers~~ daycare  
 38 facilities. This system is intended to establish minimum standards, while still leaving primary  
 39 responsibility for evaluation and selection of ~~day care~~ daycare services with parents. The  
 40 minimum standards established by this chapter shall not be construed as preempting more  
 41 stringent regulation by county or city ordinance.

42 SECTION 2. That Section 39-1102, Idaho Code, be, and the same is hereby amended to  
 43 read as follows:

1 39-1102. DEFINITIONS. As used in this chapter:

2 (1) "Board" means the Idaho board of health and welfare.

3 (2) "Child" means a person less than ~~twelve~~ thirteen (13) years of age.

4 (3) "~~Day care~~ Daycare" means care and supervision provided for compensation during  
5 part of a twenty-four (24) hour day, for a child or children not related by blood, ~~or marriage or~~  
6 legal guardianship to the person or persons providing the care, in a place other than the child's  
7 or children's own home or homes.

8 (4) "~~Day care~~ Daycare center" means a place or facility providing ~~day care~~ daycare for  
9 compensation for thirteen (13) or more children.

10 (5) "Daycare facility" means a place or facility providing daycare services for  
11 compensation to seven (7) or more children not related to the provider.

12 (6) "Department" means the Idaho department of health and welfare.

13 (6) "~~District health board~~" means the ~~district health boards of the respective public~~  
14 ~~health districts as established in chapter 4, title 39, Idaho Code.~~

15 (7) "~~District health department~~" means the ~~district health departments of the respective~~  
16 ~~districts, created in section 39-409, Idaho Code.~~

17 (8) "Employee" means any person working for compensation in a facility that provides  
18 ~~day care~~ daycare.

19 (98) "Family ~~day care~~ daycare home" means a home, place, or facility providing ~~day care~~  
20 daycare for six (6) or fewer children.

21 (109) "Group ~~day care~~ daycare facility" means a home, place, or facility providing ~~day~~  
22 ~~care~~ daycare for seven (7) to twelve (12) children.

23 (10) "Group size" means the maximum number of children in one (1) group or classroom.

24 (11) "Mixed age group" means a care group that includes children of multiple ages.

25 (12) "Ratio" means the number of staff required to supervise a certain number of children.

26 (13) "Single age group" means a care group that includes children of similar age.

27 (14) "Training" means continuing education in child development areas relating to child  
28 care. Training can be acquired through a variety of methods including, but not limited to, the  
29 viewing of audio visual materials, correspondence courses, community workshops and in-house  
30 training.

31 SECTION 3. That Section 39-1103, Idaho Code, be, and the same is hereby amended to  
32 read as follows:

33 39-1103. LICENSING AUTHORITY. The department ~~of health and welfare~~ is hereby  
34 authorized and directed to issue "basic ~~day care~~ daycare licenses" as provided in this chapter.  
35 The department is authorized to establish procedures for issuing licenses to ~~day care centers~~  
36 daycare facilities which shall be maintained and operated in conformity with the standards  
37 authorized in this chapter. Nothing in this chapter shall be construed to limit or restrict the  
38 teaching of religious doctrines, values, or tenets in a facility licensed under the provisions of  
39 this chapter. The provisions of this chapter shall not apply to:

40 (1) The occasional care of a neighbor's, relative's or friend's child or children by a  
41 person not ordinarily in the business of ~~child care~~ providing daycare;

42 (2) The operation of a private school or religious school for educational purposes for  
43 children over four (4) years of age or a religious kindergarten;

44 (3) The provision of occasional care exclusively for children of parents who are  
45 simultaneously in the same building;

1 (4) The operation of day camps, programs and religious schools for less than twelve (12)  
2 weeks during a calendar year or not more often than once a week; or

3 (5) The provision of care for children of ~~only one (1) immediate~~ a family ~~in addition to~~  
4 ~~the person's own children~~ within the second degree of relationship.

5 SECTION 4. That Section 39-1104, Idaho Code, be, and the same is hereby amended to  
6 read as follows:

7 39-1104. APPLICATION FOR LICENSE – FIRE SAFETY AND HEALTH  
8 INSPECTIONS. (1) Application. A person who wishes to operate a ~~day care center~~ daycare  
9 facility shall be a minimum of eighteen (18) years of age, shall submit an application, on the  
10 forms provided by the department, and shall obtain the required certificates of inspection as  
11 provided herein.

12 (2) Inspections. A person who wishes to operate a ~~day care center~~ daycare facility  
13 shall submit: (a) a certificate of a fire inspection of the proposed center, conducted by a  
14 fire department or fire district official, establishing compliance with the minimum standards  
15 specified in section 39-1109, Idaho Code; and (b) a health and safety inspection of the  
16 proposed ~~center~~ facility conducted by a qualified inspector as designated by the ~~district health~~  
17 department, establishing compliance with the minimum standards specified in sections 39-1109  
18 and 39-1110, Idaho Code.

19 (3) Continued compliance and reinspection. ~~Day care centers~~ Daycare facilities shall  
20 at all times maintain compliance with the ~~fire~~ safety and health requirements identified in this  
21 chapter. The department may cause any ~~day care center~~ daycare facility to be reinspected  
22 during the term of a license for ~~fire~~ safety and health compliance as determined necessary by  
23 the department. No charge for any reinspection after the initial inspection in any license period  
24 shall be made to the ~~day care center~~ daycare facility.

25 SECTION 5. That Section 39-1105, Idaho Code, be, and the same is hereby amended to  
26 read as follows:

27 39-1105. CRIMINAL HISTORY CHECKS. (1) The department shall obtain from  
28 the owner a criminal history check on the owners, operators and employees of a ~~day care~~  
29 ~~center~~ daycare facility who have direct contact with children, and on all ~~volunteers and~~  
30 individuals ~~twelve~~ thirteen (13) years of age or older who have unsupervised direct contact  
31 with children ~~in~~ or are regularly on the premises of a ~~day care center~~ daycare facility. The  
32 criminal history check shall include the following for all persons subject to the provisions of  
33 this section who are eighteen (18) years of age or older:

- 34 (a) Statewide criminal identification bureau;  
35 (b) Federal bureau of investigation (FBI) criminal history;  
36 (c) National crime information center; and  
37 (d) Statewide child abuse ~~register~~ registry.

38 (2) Criminal history checks on those persons under eighteen (18) years of age shall  
39 include a check of the juvenile justice records of adjudications of the magistrate division of  
40 the district court, county probation services and department ~~of health and welfare~~ records as  
41 authorized by the minor and his parent or guardian.

42 (3) Notwithstanding the provisions of section 39-1103, Idaho Code, which provide for  
43 exemption from the provisions of this chapter, any person who owns, operates or is employed

1 by a private school for educational purposes for children four (4) through six (6) years of age or  
2 a private kindergarten shall comply with the provisions of this section.

3 SECTION 6. That Section 39-1106, Idaho Code, be, and the same is hereby amended to  
4 read as follows:

5 39-1106. ISSUANCE OF LICENSE – RENEWAL. (1) Upon receipt of the application,  
6 inspection certificates and the criminal history, the department shall, upon a finding of  
7 compliance with the minimum standards set forth in this chapter, issue a basic ~~day care~~ daycare  
8 license to the applicant. The license shall be valid for two (2) years and shall be posted in a  
9 conspicuous place at the ~~day care center~~ daycare facility.

10 (2) ~~After the criminal history check has been completed for any person, it shall not be~~  
11 ~~necessary to repeat the check for renewal of a license. The department may, however, require~~  
12 ~~the applicant for renewal of a license to declare on a form provided by the department that the~~  
13 ~~applicant is in compliance with the original standards and conditions required for issuance of~~  
14 ~~a license~~ The department shall send a renewal application to the owner of the daycare facility  
15 no later than ninety (90) days prior to the expiration of an existing license. The owner shall  
16 submit to the department the renewal application with the required renewal fee and a criminal  
17 history check prior to the expiration of the existing license. A complete criminal history  
18 check shall be provided for any new persons requiring a criminal history check in accordance  
19 with section 39-1105, Idaho Code. A limited criminal history check shall be provided for  
20 those persons eighteen (18) years of age or older who where previously checked. The limited  
21 criminal history check shall include:

22 (a) Statewide criminal identification bureau;

23 (b) National crime information center; and

24 (c) Statewide child abuse registry.

25 (3) Criminal history checks on those persons under eighteen (18) years of age shall  
26 include a check of the juvenile justice records of adjudications of the magistrate division of the  
27 district court, county probation services and department records as authorized by the minor and  
28 his parent or guardian.

29 (4) The department shall maintain a list of all licensees for public use.

30 (5) Submission of a renewal application, fee and required criminal history check  
31 shall entitle the daycare facility owner to continue daycare services, subject to action by the  
32 department pursuant to section 39-1113, Idaho Code.

33 SECTION 7. That Section 39-1107, Idaho Code, be, and the same is hereby amended to  
34 read as follows:

35 39-1107. FEES. (1) The ~~board~~ department shall establish by rule the maximum total  
36 fee to be assessed for a basic ~~day care~~ daycare license which shall not exceed one hundred  
37 seventy-five dollars (\$100.0075) for daycare centers and one hundred dollars (\$100) for group  
38 daycare facilities. The board shall allocate the fee for fire and health inspections and for the  
39 eCriminal history check. The board shall also establish a renewal fee which shall not exceed  
40 sixty dollars (\$60.00) fees shall be in addition, but at actual cost. No other fees shall be  
41 charged for each license period. The department may allocate the fees to daycare licensing  
42 administration costs as it deems appropriate.

1           (2) ~~The applicable license fee in subsection (1) of this section shall be reduced by~~  
 2 ~~twenty five percent (25%) for any day care facility which provides evidence that at least fifty~~  
 3 ~~percent (50%) of its staff is certified in infant/child first aid and pediatric rescue breathing~~  
 4 ~~department is authorized to utilize Idaho child care program funds as otherwise allowed by~~  
 5 ~~law to pay for the costs associated with certification and licensing of daycare facilities to the~~  
 6 ~~extent that fees collected from the facilities do not fully cover such costs. It is the intent of~~  
 7 ~~the legislature that licensing fees and Idaho child care program funds shall fully fund daycare~~  
 8 ~~facility licensing administration.~~

9           SECTION 8. That Section 39-1108, Idaho Code, be, and the same is hereby amended to  
 10 read as follows:

11           39-1108. LOCAL OPTION. If a city or county, within its respective jurisdiction, has  
 12 adopted an ordinance for regulation and/or licensing of ~~day care~~ daycare services, then the  
 13 provisions of this chapter shall not apply with such city or county unless the ordinance is  
 14 subsequently repealed. To qualify for exemption, regulation of centers must include a criminal  
 15 history check at least as stringent as the check required in section 39-1105, Idaho Code,  
 16 compliance with ~~fire~~ safety standards at least as stringent as required in section 39-1109, Idaho  
 17 Code, compliance with health standards at least as stringent as required in section 39-1110,  
 18 Idaho Code, compliance with immunization requirements at least as stringent as required in  
 19 section 39-1118, Idaho Code, and compliance with training requirements at least as stringent as  
 20 required in section 39-1119, Idaho Code. Cities and counties are hereby granted authority and  
 21 may adopt ordinances for regulation and/or licensing of ~~day care~~ daycare services.

22           SECTION 9. That Section 39-1109, Idaho Code, be, and the same is hereby amended to  
 23 read as follows:

24           39-1109. ~~FIRE SAFETY STANDARDS.~~ (1) ~~Day care centers~~ Daycare facilities shall  
 25 comply with the following ~~fire~~ safety standards in the area of the ~~day care center~~ daycare  
 26 facility in which ~~day care~~ daycare is provided:

- 27           (a) ~~a~~Adequate fire and smoke alarms;
- 28           (b) ~~a~~A functional telephone located on the daycare premises during the hours of  
 29 operation;
- 30           (c) ~~a~~Adequate fire extinguishers; ~~or other suitable arrangements for extinguishing fires;~~  
 31 ~~and~~
- 32           (d) ~~a~~Adequate exits;
- 33           (e) Firearms or other weapons which are stored on the premises of a daycare facility  
 34 must be kept in a locked container that is inaccessible to children while daycare attendees  
 35 are present;
- 36           (f) Pools, hot tubs, ponds and other bodies of water that are on the daycare facility  
 37 premises must provide the following safeguards:
- 38           (i) The area surrounding the body of water must be fenced and locked in a  
 39 manner that prevents access by children and meets the following requirements:
- 40           1. The fence must be at least four (4) feet high with no vertical opening  
 41 more than four (4) inches wide, be designed so that a young child cannot  
 42 climb or squeeze under or through the fence, surround all sides of the pool

1 and have a gate that is self-closing and that has a self-latching mechanism  
 2 in proper working order out of the reach of young children;

3 2. If the house forms one (1) side of the barrier for the pool, all doors that  
 4 provide unrestricted access to the pool must have alarms that produce an  
 5 audible sound when the door is opened;

6 3. Furniture or other large objects must not be left near the fence in a  
 7 manner that would enable a child to climb on the furniture or other large  
 8 object and gain access to the pool; and

9 (ii) If the area surrounding a pool, hot tub, pond or other body of water is not  
 10 fenced and locked, there must be a secured protective covering that will not allow  
 11 access by a child;

12 (iii) Wading pools must be empty when not in use;

13 (iv) Children must be under direct supervision of an adult while using a pool, hot  
 14 tub, pond or other body of water; and

15 (v) A minimum of a four (4) foot high fence must be present that prevents access  
 16 from the daycare facility premises if the daycare premises are adjacent to a body  
 17 of water; and

18 (g) The owner or operator of a daycare facility shall ensure that at all times children are  
 19 present, at least one (1) adult on the premises has current certification in pediatric rescue  
 20 breathing and first-aid treatment from a certified instructor.

21 (2) No fire standards developed pursuant to this chapter shall be more stringent than  
 22 the standards contained in the International Fire Code, ~~without supplementation by any other~~  
 23 ~~standard or code~~ as adopted by Idaho.

24 (3) An adult must be present at all times during business hours on the daycare facility  
 25 premises.

26 (4) In addition to the ~~fire~~ safety standards identified in subsection (1) of this section, ~~fire~~  
 27 safety standards ~~may~~ shall be established by the department to govern the maximum allowable  
 28 ratio of children to staff subject to the following restrictions:

29 (a) In no event shall the child-staff ratio require more than one (1) staff member to six  
 30 (6) children for all children age ~~eighteen~~ twenty-four (1824) months or less; more than  
 31 one (1) staff member to ~~twelve~~ eight (128) children for all children above age ~~eighteen~~  
 32 twenty-four (1824) months but less than ~~five~~ three (53) years; ~~and~~ more than one (1) staff  
 33 member to ~~eighteen~~ ten (180) children for all children age three (3) years but less than  
 34 four (4) years; more than one (1) staff member to twelve (12) children for all children age  
 35 four (4) years but less than five (5) years; and more than one (1) staff member to eighteen  
 36 (18) children for all children whose age is five (5) years or more; The maximum group  
 37 size for all groups shall not exceed twice the number of children allowed for a single staff  
 38 member.

Number of Children Allowed and Maximum Group Size Table

<u>Number of required staff</u>	<u>Children: above twenty-four (24) months but less than three (3) years</u>		<u>Children: three (3) years but less than four (4) years</u>		<u>Children: four (4) years but less than five (5) years or more</u>	
	<u>Children: birth to twenty-four (24) months</u>					<u>Children: five (5) years or more</u>
<u>1</u>	<u>6</u>	<u>8</u>	<u>10</u>	<u>12</u>	<u>18</u>	
<u>2</u>	<u>12</u>	<u>16</u>	<u>20</u>	<u>24</u>	<u>36</u>	
<u>Maximum group size</u>	<u>12</u>	<u>16</u>	<u>20</u>	<u>24</u>	<u>36</u>	

~~(b) No factors other than fire safety may be considered in establishing child staff ratios; The maximum ratio of children to staff in mixed age groups shall be determined by the age of the youngest child in attendance.~~

~~(c) All adults on the premises providing direct supervision to the children shall be counted as staff for purposes of computing a child-staff ratio; and. Employees sixteen (16) and seventeen (17) years of age under the supervision of an adult employee, when providing direct supervision to children, may be counted as staff for the purposes of computing the child-staff ratio.~~

(d) Each child shall count as one (1) child for purposes of computing a child-staff ratio.

(e) Daycare facilities shall have a maximum allowable child-staff ratio based on the age of the children in attendance. The maximum group size is twelve (12) children. If more than two (2) children are in attendance under the age of two (2) years, the maximum group size shall be ten (10) children. If three (3) or more children under the age of two (2) years are in attendance, the maximum group size shall be nine (9) children.

Daycare Facility Ratio and Maximum Group Size Table

	<u>No children under the age of two (2) years</u>	<u>No more than two (2) children under the age of two (2) years</u>	<u>Three (3) or more children under the age of two (2) years</u>
<u>Maximum group size</u>	<u>12</u>	<u>10</u>	<u>9</u>

(f) Family daycare homes shall not provide daycare services for more than six (6) children at a time.

SECTION 10. That Section 39-1110, Idaho Code, be, and the same is hereby amended to read as follows:

39-1110. HEALTH STANDARDS. ~~Day care centers~~ Daycare facilities shall comply with the following health standards:

(1) Food for use in ~~day care centers~~ daycare facilities shall be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed and sanitized prior to use to prevent contamination;



1 (2) All food that is to be served in ~~day care centers~~ daycare facilities shall be stored in  
2 such a manner that it is protected from potential contamination;

3 (3) Diaper changing shall be conducted in such a manner as to prevent the spread of  
4 communicable diseases;

5 (4) Sleeping and play areas, restrooms and fixtures shall be maintained in a safe, sanitary  
6 condition;

7 (5) Children and facility personnel shall be provided with individual or disposable towels  
8 for handwashing and the handwashing area shall be equipped with soap and hot and cold  
9 running water;

10 (6) The water supply, where the source is other than a public water system, must be  
11 approved in accordance with the rules adopted by the ~~district board of health~~ department;

12 (7) Medicines, cleaning supplies and other hazardous substances must be stored out of  
13 reach of children;

14 (8) ~~A telephone or some type of emergency communication system is required; and~~  
15 Smoking or alcohol consumption is prohibited on the premises of a daycare facility during the  
16 daycare facility's hours of operation; and

17 (9) Representatives of ~~the district health department~~ and safety inspectors shall not be  
18 denied access to a ~~day care center~~ daycare facility during hours of operation for purposes of  
19 control of communicable disease or inspection.

20 SECTION 11. That Section 39-1111, Idaho Code, be, and the same is hereby amended to  
21 read as follows:

22 39-1111. RULES AUTHORIZED. In order to implement the provisions of this chapter,  
23 ~~the following rule making authority is authorized:~~

24 (1) ~~The state fire marshal, in addition to other duties imposed by law, is hereby~~  
25 ~~authorized and directed to establish rules necessary to implement the provisions of sections~~  
26 ~~39-1109 and 39-1114, Idaho Code;~~

27 (2) ~~District health boards, in addition to other duties imposed by law, are hereby~~  
28 ~~authorized and directed to establish necessary health standards to implement the provisions of~~  
29 ~~section 39-1110, Idaho Code; and~~

30 (3) ~~The board~~ department, in addition to other duties imposed by law, is hereby  
31 authorized and directed through rulemaking to establish procedures necessary to implement  
32 the provisions of this chapter including procedure for submission of required certificates as  
33 provided in sections 39-1109 and 39-1110, Idaho Code, and to conduct ~~of~~ the criminal history  
34 check provided in section 39-1105, Idaho Code.

35 The ~~rule making~~ rulemaking authority granted in this section shall be limited to the  
36 specific standards and procedures required by this chapter.

37 SECTION 12. That Chapter 11, Title 39, Idaho Code, be, and the same is hereby  
38 amended by the addition thereto of a NEW SECTION, to be known and designated as Section  
39 39-1112A, Idaho Code, and to read as follows:

40 39-1112A. ACCESS TO INFORMATION. The department shall make available to  
41 daycare consumers an informational pamphlet, created by the department, to educate daycare  
42 consumers with informational tools useful in identifying quality daycare. The department may  
43 deliver pamphlets during direct contact with daycare consumers, or by delivering pamphlets to

1 daycare providers during the licensing or renewal process, during inspections or through other  
2 appropriate means. The pamphlet shall include:

- 3 (1) The importance of parents being vigilant for the safety, emotional health and training  
4 of their children that cannot be replaced by any other institution or individual;  
5 (2) The basic characteristics of a quality daycare;  
6 (3) A strong suggestion to parents to inquire about criminal history checks for any  
7 provider in a family daycare home;  
8 (4) A link to a department approved website that contains more detailed information; and  
9 (5) A department or other phone number for parents to report unsafe, dangerous or  
10 harmful activities within the daycare.

11 SECTION 13. That Section 39-1113, Idaho Code, be, and the same is hereby amended to  
12 read as follows:

13 39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license  
14 may be denied, suspended or revoked by the department if the department finds that the  
15 applicant or licensee does not comply with the provisions of this chapter.

16 (2) No person who pleads guilty to, has been found guilty of or received a withheld  
17 judgment for any offense involving neglect or any physical injury to, or other abuse of a child  
18 including the following offenses or a similar provision in another jurisdiction, shall be eligible  
19 for a license under the provisions of this chapter:

20 (a) ~~Injuring~~ Felony injury of a child, section 18-1501, Idaho Code.

21 (b) The sexual abuse of a child under sixteen (~~16~~) years of age, section 18-1506, Idaho  
22 Code.

23 (c) The ritualized abuse of a child under eighteen (~~18~~) years of age, section 18-1506A,  
24 Idaho Code.

25 (d) The sexual exploitation of a child, section 18-1507 or 18-1507A, Idaho Code.

26 (e) Sexual abuse of a child under the age of sixteen years, section 18-1506, Idaho Code.

27 (f) Lewd conduct with a child under the age of sixteen (~~16~~) years, section 18-1508, Idaho  
28 Code.

29 (~~fg~~) The sale or barter of a child for adoption or other purposes, section 18-1511, Idaho  
30 Code.

31 (~~gh~~) Murder in any degree, section 18-4001 or 18-4003, Idaho Code.

32 (i) Assault with intent to murder, section 18-4015, Idaho Code.

33 (~~hj~~) Voluntary manslaughter, section 18-4006, Idaho Code.

34 (~~ik~~) Rape, section 18-6101 or 18-6108, Idaho Code.

35 (~~jl~~) Incest, section 18-6602, Idaho Code.

36 (~~km~~) Forcible sexual penetration by use of foreign object, section 18-6608, Idaho Code.

37 (n) Abuse, neglect or exploitation of a vulnerable adult, section 18-1505, Idaho Code.

38 (o) Aggravated, first degree, second degree and third degree arson, sections 18-801  
39 through 18-805, Idaho Code.

40 (p) Crimes against nature, section 18-6605, Idaho Code.

41 (q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.

42 (r) Mayhem, section 18-5001, Idaho Code.

43 (s) Poisoning, section 18-4014 or 18-5501, Idaho Code.

44 (t) Possession of sexually exploitative material, section 18-1507A, Idaho Code.

45 (u) Robbery, section 18-6501, Idaho Code.

1 (v) Stalking in the first degree, section 18-7905, Idaho Code.

2 (w) Video voyeurism, section 18-6609, Idaho Code.

3 (x) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.

4 (y) Inducing individuals under eighteen years of age into prostitution, section 18-5609,  
5 Idaho Code.

6 (z) Inducing person under eighteen years of age to patronize a prostitute, section  
7 18-5611, Idaho Code.

8 (aa) Any felony punishable by death or life imprisonment.

9 (bb) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code,  
10 or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes  
11 designated in this subsection.

12 (3) No person who has pleaded guilty to, been found guilty of or received a withheld  
13 judgment for any offense involving neglect or any physical injury to, or other abuse of a child,  
14 including the following offenses or a similar provision in another jurisdiction shall be eligible  
15 for a license for a period of five (5) years under the provisions of this chapter.

16 (a) Aggravated assault, section 18-905, Idaho Code.

17 (b) Aggravated battery, section 18-907(1), Idaho Code.

18 (c) Burglary, section 18-1401, Idaho Code.

19 (d) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.

20 (e) Forgery of a financial transaction card, section 18-3123, Idaho Code.

21 (f) Fraudulent use of a financial transaction card or number, section 18-3124, Idaho  
22 Code.

23 (g) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.

24 (h) Misappropriation of personal identifying information, section 18-3126, Idaho Code.

25 (i) Insurance fraud, section 41-293, Idaho Code.

26 (j) Damage to or destruction of insured property, section 41-294, Idaho Code.

27 (k) Public assistance fraud, section 56-227, Idaho Code.

28 (l) Provider fraud, section 56-227A, Idaho Code.

29 (m) Attempted strangulation, section 18-923, Idaho Code.

30 (n) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code,  
31 or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes  
32 designated in this subsection.

33 (o) Misdemeanor injury to a child, section 18-1501(2), Idaho Code.

34 (4) A daycare facility license may be denied, suspended or revoked by the department if  
35 the department finds that the daycare facility is not in compliance with the standards provided  
36 for in this chapter or criminal activity that threatens the health or safety of a child.

37 (5) A daycare facility license or privilege to operate a family daycare home shall be  
38 denied or revoked if a registered sex offender resides on the premises where daycare services  
39 are provided.

40 (36) The denial, suspension or revocation of a license under this chapter may be appealed  
41 to the district court of the county in which the affected ~~day care center~~ daycare facility is  
42 located and the appeal shall be heard de novo in the district court.

43 SECTION 14. That Section 39-1114, Idaho Code, be, and the same is hereby amended to  
44 read as follows:

1 39-1114. LIMITED APPLICATIONS. (1) Any person providing ~~day care~~ daycare for  
 2 four (4) or more children in a ~~group day care facility~~ family daycare home shall not be required  
 3 to be licensed, but shall comply with the requirements of section 39-1105, Idaho Code, for a  
 4 criminal history check ~~and shall obtain a fire inspection certificate establishing compliance with~~  
 5 ~~the standards provided in section 39-1109, Idaho Code.~~

6 (2) ~~The fire inspections for group day care facilities~~ may be conducted by ~~the district~~  
 7 department designated health department and safety inspectors where necessary. The fire  
 8 inspection certificate and the criminal history check, ~~if one is required,~~ shall be available for  
 9 inspection on the premises.

10 (3) A ~~group day care facility or family day care~~ daycare home providing care for fewer  
 11 than seven (7) children may elect to comply with the provisions of this chapter and upon a  
 12 finding of compliance by the department, shall receive a basic ~~day care~~ daycare license.

13 SECTION 15. That Section 39-1115, Idaho Code, be, and the same is hereby amended to  
 14 read as follows:

15 39-1115. MISDEMEANOR. (1) It shall be a misdemeanor to operate a ~~day care center~~  
 16 daycare facility within this state without first obtaining a basic ~~day care~~ daycare license from  
 17 the department or to operate a ~~day care center~~ daycare facility without posting a basic ~~day~~  
 18 ~~care~~ daycare license in a conspicuous place. A copy of this chapter shall be available on the  
 19 premises at all times for staff and parents to read on request.

20 (2) If a daycare facility is found to be operating without a license, the licensing agency  
 21 may grant a grace period of no more than sixty (60) days to allow the daycare facility to come  
 22 into compliance with the provisions of this chapter.

23 (3) It shall be a misdemeanor to operate a ~~group day care facility~~ family daycare home  
 24 caring for four (4) or more children without obtaining the ~~certificates~~ criminal history check  
 25 required in section 39-11~~4~~405, Idaho Code; provided, that in the event of an initial citation for  
 26 violation of the provisions of this subsection, if a person makes the applications required within  
 27 twenty (20) days, the complaint shall be dismissed. Operation of a ~~group day care facility~~  
 28 family daycare home caring for four (4) or more children after ~~denial of the certificates~~ failure  
 29 to pass a required criminal history check shall be a misdemeanor.

30 (34) It is a misdemeanor for any person to provide ~~day care~~ daycare services if such  
 31 person has been found guilty in this state's courts, in any other state's courts, or in any federal  
 32 court, of any offense listed under the provisions of section 39-1113, Idaho Code.

33 SECTION 16. That Section 39-1116, Idaho Code, be, and the same is hereby amended to  
 34 read as follows:

35 39-1116. PROSECUTION. It shall be the duty of the prosecuting attorney of the county  
 36 in which the ~~day care center or group day care~~ daycare facility is located to prosecute violations  
 37 of the provisions of this chapter.

38 SECTION 17. That Section 39-1117, Idaho Code, be, and the same is hereby amended to  
 39 read as follows:

40 39-1117. NO LIABILITY TO STATE OR POLITICAL SUBDIVISIONS. The issuance  
 41 of a license or certificate pursuant to this chapter shall not constitute a representation of

1     affirmance to any person that the ~~day care center~~ daycare facility to which a license is issued  
 2     ~~or a group day care facility to which a certificate is issued~~ is free from risk with regard to the  
 3     standards in this chapter. The state, ~~and~~ its political subdivisions or any employees or agents  
 4     of the state or its political subdivisions shall not be liable for nor shall a cause of action exist  
 5     for any loss or damage based upon the failure of any person to meet the standards contained  
 6     in this chapter.

7             SECTION 18. That Section 39-1118, Idaho Code, be, and the same is hereby amended to  
 8     read as follows:

9             39-1118. IMMUNIZATION REQUIRED. (1) Within fourteen (14) days of a child's  
 10     initial attendance at any licensed ~~day care~~ daycare facility, the parent or guardian shall provide  
 11     a statement to the operator of the ~~day care~~ daycare facility regarding the child's immunity to  
 12     certain childhood diseases. This statement shall provide a certificate signed by a physician or  
 13     a representative of a ~~health~~ district health department, that the child has received, or is in the  
 14     process of receiving immunizations as specified by the board ~~of health and welfare~~; or can  
 15     effectively demonstrate, through verification in a form approved by the department ~~of health~~  
 16     ~~and welfare~~, immunity gained through prior contraction of the disease.

17             Immunizations required and the manner and frequency of their administration shall  
 18     be as prescribed by the ~~state~~ board ~~of health and welfare~~ and shall conform to recognized  
 19     standard medical practices in the state. The ~~state~~ board ~~of health and welfare~~ shall promulgate  
 20     appropriate rules ~~and regulations~~ for the enforcement of the required immunization program  
 21     and specify reporting requirements of ~~day care centers~~ daycare facilities, pursuant to the  
 22     provisions of chapter 52, title 67, Idaho Code.

23             (2) Any minor child whose parent or guardian has submitted to officials of a licensed  
 24     ~~day care~~ daycare facility a certificate signed by a physician licensed by the state board of  
 25     medicine stating that the physical condition of the child is such that all or any of the required  
 26     immunizations would endanger the life or health of the child shall be exempt from the  
 27     provisions of this section. Any minor child whose parent or guardian has submitted a signed  
 28     statement to officials of the ~~day care~~ daycare facility stating their objections on religious or  
 29     other grounds shall be exempt from the provisions of this section.

30             SECTION 19. That Chapter 11, Title 39, Idaho Code, be, and the same is hereby  
 31     amended by the addition thereto of a NEW SECTION, to be known and designated as Section  
 32     39-1120, Idaho Code, and to read as follows:

33             39-1120. NONDELEGABLE DUTIES AND RESPONSIBILITIES. The department's  
 34     duties and responsibilities under this chapter are nondelegable.

35             SECTION 20. This act shall be in full force and effect on and after January 1, 2010.