

IN THE SENATE

SENATE BILL NO. 1374

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO BASIC DAYCARE LICENSING; AMENDING SECTION 39-1101, IDAHO  
2 CODE, TO REVISE POLICY; AMENDING SECTION 39-1102, IDAHO CODE, TO  
3 REVISE DEFINITIONS; AMENDING SECTION 39-1103, IDAHO CODE, TO REVISE  
4 TERMINOLOGY AND TO PROVIDE FOR THE ISSUANCE OF CERTAIN DAYCARE LICENSES  
5 BY THE DEPARTMENT UPON COMPLIANCE WITH MINIMUM STANDARDS; AMENDING  
6 SECTION 39-1104, IDAHO CODE, TO APPLY CERTAIN REQUIREMENTS TO OWNERS  
7 OF DAYCARE FACILITIES, TO PROVIDE THE DEPARTMENT OF HEALTH AND WELFARE  
8 DISCRETION TO CHARGE A DAYCARE OWNER OR OPERATOR FOR A REINSPECTION  
9 UNDER CERTAIN CIRCUMSTANCES AND TO REVISE TERMINOLOGY; AMENDING  
10 SECTION 39-1105, IDAHO CODE, TO REMOVE A LIST OF INFORMATION SOURCES  
11 TO BE INCLUDED IN A CRIMINAL HISTORY BACKGROUND CHECK, TO REQUIRE  
12 COMPLIANCE WITH AN IDAHO CODE PROVISION AND TO CLARIFY LANGUAGE;  
13 AMENDING SECTION 39-1106, IDAHO CODE, TO CLARIFY LANGUAGE, TO REVISE  
14 WHO IS REQUIRED TO UNDERGO A LIMITED CRIMINAL HISTORY BACKGROUND CHECK,  
15 TO REMOVE AN INFORMATION SOURCE TO BE INCLUDED IN CONDUCTING A LIMITED  
16 CRIMINAL HISTORY BACKGROUND CHECK, TO PROVIDE FOR THE JURISDICTION  
17 IN WHICH A CHECK OF JUVENILE RECORDS IS TO BE CONDUCTED AND TO PROVIDE  
18 FOR THE ISSUANCE OF A PROVISIONAL LICENSE; AMENDING SECTION 39-1107,  
19 IDAHO CODE, TO REMOVE LANGUAGE REGARDING CERTIFICATION OF A DAYCARE  
20 FACILITY, TO CLARIFY FROM WHOM FEES ARE TO BE COLLECTED, TO REVISE  
21 LEGISLATIVE INTENT REGARDING FUNDING OF DAYCARE FACILITY LICENSING  
22 ADMINISTRATION AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1108,  
23 IDAHO CODE, TO REVISE TERMINOLOGY AND TO CLARIFY LANGUAGE; AMENDING  
24 SECTION 39-1109, IDAHO CODE, TO REQUIRE DAYCARE OWNERS AND OPERATORS TO  
25 COMPLY WITH CERTAIN SAFETY STANDARDS, TO REQUIRE CERTAIN SUPERVISION  
26 BY CERTAIN STAFF MEMBERS, TO REVISE THE CHILD TO STAFF RATIOS, THE  
27 DETERMINATION OF SUCH RATIOS AND THE MAXIMUM GROUP SIZE, TO REVISE  
28 THE MAXIMUM RATIO OF CHILDREN TO STAFF IN MIXED AGE GROUPS AND THE  
29 DETERMINATION OF SUCH RATIOS, TO PROVIDE CHILD TO STAFF RATIOS FOR  
30 DAYCARE CENTERS WITH SEPARATE ROOMS FOR CHILDREN OF DEFINED AGE GROUPS  
31 AND TO PROVIDE REQUIREMENTS FOR CHILD TO STAFF RATIOS AND MAXIMUM  
32 GROUP SIZE FOR DAYCARE CENTERS THAT COMBINE CLASSROOMS WITH MIXED AGE  
33 CHILDREN; AMENDING SECTION 39-1110, IDAHO CODE, TO REQUIRE DAYCARE  
34 OWNERS AND OPERATORS TO COMPLY WITH CERTAIN HEALTH STANDARDS AND TO  
35 REVISE TERMINOLOGY; AMENDING SECTION 39-1111, IDAHO CODE, TO PROVIDE  
36 RULEMAKING AUTHORITY TO SPECIFY OFFENSES AFFECTING ELIGIBILITY FOR  
37 DAYCARE LICENSURE AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1113,  
38 IDAHO CODE, TO REVISE FROM WHOM CHAPTER COMPLIANCE IS REQUIRED, TO  
39 REMOVE A LISTING OF OFFENSES DISQUALIFYING A PERSON FROM ELIGIBILITY  
40 FOR A DAYCARE LICENSE, TO REMOVE A LISTING OF OFFENSES PRECLUDING  
41 ELIGIBILITY FOR A LICENSE FOR FIVE YEARS, TO REMOVE REFERENCE TO A  
42 PRIVILEGE TO OPERATE A FAMILY DAYCARE HOME, TO PROVIDE RULEMAKING  
43 AUTHORITY FOR OFFENSES PRECLUDING ELIGIBILITY FOR A DAYCARE LICENSE  
44 AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1114, IDAHO CODE, TO  
45

1 PROVIDE AN ELECTION TO COMPLY WITH CHAPTER PROVISIONS FOR AN OWNER OF A  
 2 FAMILY DAYCARE HOME AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1115,  
 3 IDAHO CODE, TO CLARIFY TO WHOM A GRACE PERIOD MAY BE APPLIED AND TO WHOM  
 4 CRIMINAL PENALTIES SHALL BE APPLIED AND TO CLARIFY LANGUAGE; AMENDING  
 5 SECTION 39-1117, IDAHO CODE, TO REMOVE REFERENCE TO A CERTIFICATE,  
 6 TO APPLY DISCLAIMER LANGUAGE TO DAYCARE OWNERS AND OPERATORS AND TO  
 7 CLARIFY LANGUAGE; AMENDING SECTION 39-1118, IDAHO CODE, TO APPLY  
 8 CERTAIN IMMUNIZATION REQUIREMENTS TO AN OWNER OF A DAYCARE FACILITY, TO  
 9 CLARIFY THE AUTHORITY TO PROMULGATE RULES REGARDING DAYCARE OWNERS AND  
 10 OPERATORS AND TO CLARIFY LANGUAGE; AND AMENDING SECTION 39-1119, IDAHO  
 11 CODE, TO REQUIRE THE OWNER OR OPERATOR OF A DAYCARE FACILITY TO COMPLY  
 12 WITH CERTAIN TRAINING REQUIREMENTS AND TO REVISE TERMINOLOGY.

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

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

16 39-1101. POLICY. It is hereby declared to be the policy of this state  
 17 to establish a minimum statewide system for the protection of children in  
 18 daycare ~~facilities~~. This system is intended to establish minimum standards,  
 19 while still leaving primary responsibility for evaluation and selection of  
 20 daycare services with parents. The minimum standards established by this  
 21 chapter shall not be construed as preempting more stringent regulation by  
 22 county or city ordinance.

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

25 39-1102. DEFINITIONS. As used in this chapter:

26 (1) "Attendance" means the number of children present at a daycare  
 27 facility.

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

29 (23) "Child" means a person less than thirteen (13) years of age.

30 (4) "Child:Staff ratio" means the maximum number of children allowed  
 31 under the direct care and supervision of one (1) staff person.

32 (35) "Daycare" means care and supervision provided for compensation  
 33 during part of a twenty-four (24) hour day, for a child or children not  
 34 related by blood, marriage, adoption or legal guardianship to the person or  
 35 persons providing the care, in a place other than the child's or children's  
 36 own home or homes.

37 (46) "Daycare center" means a ~~place or~~ facility providing daycare  
 38 for compensation for where thirteen (13) or more children, regardless  
 39 of relationship to the daycare owner, daycare operator or staff, are in  
 40 attendance.

41 (57) "Daycare facility" means a ~~place or~~ daycare center, group daycare  
 42 facility providing or family daycare services for compensation to seven (7)  
 43 or more children not related to the provider home.

44 (8) "Daycare operator" means a person at least eighteen (18) years of  
 45 age who is delegated the responsibility for the daily management of a daycare  
 46 facility by the daycare owner.

1       (9) "Daycare owner" means a person at least eighteen (18) years of age  
 2 who has been issued a basic daycare license to operate a daycare facility.

3       ~~(610) "Department" means the Idaho department of health and welfare.~~

4       (11) "Direct care and supervision" means staff is within sight and  
 5 normal hearing range of the child or children being supervised.

6       ~~(7) "Employee" means any person working for compensation in a facility~~  
 7 ~~that provides daycare.~~

8       ~~(812) "Family daycare home" means a home, place, or facility providing~~  
 9 ~~daycare for where six (6) or fewer children, regardless of relationship to~~  
 10 ~~the daycare owner, daycare operator or staff, are in attendance.~~

11       ~~(913) "Group daycare facility" means a home, place, or facility~~  
 12 ~~providing daycare for where seven (7) to twelve (12) children, regardless~~  
 13 ~~of relationship to the daycare owner, daycare operator or staff, are in~~  
 14 ~~attendance.~~

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

17       ~~(144) "Mixed age group" means a care group that includes of children of~~  
 18 ~~multiple ages.~~

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

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

23       (15) "Second degree of relationship" means persons related by  
 24 consanguinity, that is, relatives by blood, or by affinity, that is,  
 25 relatives by marriage, guardianship or adoption, and includes their  
 26 spouses. The number of degrees between two (2) relatives is calculated by  
 27 summing the number of ties between each relative and the common ancestor.

28       (16) "Staff" means any person working for compensation in a daycare  
 29 facility.

30       (147) "Training" means continuing education in child development  
 31 areas relating to ~~child~~ daycare. Training can be acquired through a  
 32 variety of methods including, but not limited to, the viewing of audio  
 33 visual materials, correspondence courses, community workshops and in-house  
 34 training.

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

37       39-1103. LICENSING AUTHORITY. (1) The department is hereby authorized  
 38 and directed to issue "basic daycare licenses" as provided in this chapter.  
 39 The department is authorized to establish procedures for issuing licenses  
 40 to daycare owners for facilities which shall be maintained and operated in  
 41 conformity with the standards authorized in this chapter. Nothing in this  
 42 chapter shall be construed to limit or restrict the teaching of religious  
 43 doctrines, values, or tenets in a facility licensed under the provisions of  
 44 this chapter. The provisions of this chapter shall not apply to:

45       (1a) The occasional care of a neighbor's, relative's or friend's child  
 46 or children by a person not ordinarily in the business of providing  
 47 daycare;

1        ~~(2b)~~ The operation of a private school or religious school for  
 2 educational purposes for children over four (4) years of age or a  
 3 religious kindergarten;

4        ~~(3c)~~ The provision of occasional care exclusively for children of  
 5 parents who are simultaneously in the same building;

6        ~~(4d)~~ The operation of day camps, programs and religious schools for  
 7 less than twelve (12) weeks during a calendar year or not more often than  
 8 once a week; or

9        ~~(5e)~~ The provision of care for children of a family within the second  
 10 degree of relationship.

11        (2) Upon a finding by the department of compliance with the minimum  
 12 standards set forth in this chapter, the department may issue any of the  
 13 following types of basic daycare licenses to a daycare owner:

14        (a) A daycare center license is issued to a daycare owner who provides  
 15 daycare in a facility where thirteen (13) or more children are in  
 16 attendance.

17        (b) A group daycare facility license is issued to a daycare owner who  
 18 provides daycare in a facility where seven (7) to twelve (12) children  
 19 are in attendance.

20        (c) A family daycare home license is issued to a daycare owner who  
 21 provides daycare in a facility where six (6) or fewer children are in  
 22 attendance.

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

25        39-1104. APPLICATION FOR LICENSE -- FIRE SAFETY AND HEALTH  
 26 INSPECTIONS. (1) Application. A person who wishes to own or operate a  
 27 daycare facility shall be a minimum of eighteen (18) years of age, shall  
 28 submit an application on the forms provided by the department, and shall  
 29 obtain the required certificates of inspection as provided herein.

30        (2) Inspections. A person who wishes to own or operate a daycare  
 31 facility shall submit: (a) a certificate of a fire inspection of the  
 32 proposed ~~center~~ daycare facility, conducted by a fire department or fire  
 33 district official, establishing compliance with the minimum standards  
 34 specified in section 39-1109, Idaho Code; and (b) a health and safety  
 35 inspection of the proposed daycare facility conducted by a qualified  
 36 inspector as designated by the department, establishing compliance with the  
 37 minimum standards specified in sections 39-1109 and 39-1110, Idaho Code.

38        (3) Continued compliance and reinspection. Daycare facilities owners  
 39 and operators shall at all times maintain compliance with the safety and  
 40 health requirements identified in this chapter. The department may cause  
 41 any daycare facility to be reinspected during the term of a license for  
 42 safety and health compliance as determined necessary by the department. ~~No~~  
 43 The department may charge the daycare owner or operator for any reinspection  
 44 after the initial inspection in any license period shall be made to if the  
 45 daycare facility owner or operator repeatedly fails or refuses to comply  
 46 with safety standards or corrective action plans.

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

1 39-1105. CRIMINAL HISTORY BACKGROUND CHECKS. (1) The department shall  
 2 obtain from the owner a criminal history background check on the owners,  
 3 operators and ~~employees~~ staff of a daycare facility who have direct contact  
 4 with children, and on all other individuals thirteen (13) years of age or  
 5 older who have unsupervised direct contact with children or are regularly on  
 6 the premises of a daycare facility. The criminal history background check  
 7 shall ~~include the following~~ comply with section 56-1004A, Idaho Code, for  
 8 all persons subject to the provisions of this section who are eighteen (18)  
 9 years of age or older+;

- 10 ~~(a) Statewide criminal identification bureau;~~  
 11 ~~(b) Federal bureau of investigation (FBI) criminal history;~~  
 12 ~~(c) National crime information center; and~~  
 13 ~~(d) Statewide child abuse registry.~~

14 (2) Criminal history background checks on those persons under eighteen  
 15 (18) years of age shall include a check of the juvenile justice records  
 16 of adjudications of the magistrate division of the district court, county  
 17 probation services and department records as authorized by the minor and his  
 18 parent or guardian.

19 (3) Notwithstanding the provisions of section 39-1103, Idaho Code,  
 20 ~~which that~~ provide for exemption from the provisions of this chapter, any  
 21 person who owns, operates or is employed by a private school for educational  
 22 purposes for children four (4) through six (6) years of age or a private  
 23 kindergarten shall comply with the provisions of this section.

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

26 39-1106. ISSUANCE OF LICENSE -- BASIC, PROVISIONAL AND RENEWAL. (1)  
 27 Upon receipt of the application, inspection certificates and the results of  
 28 the criminal history background check, the department shall, upon a finding  
 29 of compliance with the minimum standards set forth in this chapter, issue a  
 30 basic daycare license to the ~~applicant~~ owner of the daycare facility. The  
 31 license shall be valid for two (2) years and shall be posted in a conspicuous  
 32 place at the daycare facility.

33 (2) The department shall send a renewal application to the owner of the  
 34 daycare facility no later than ninety (90) days prior to the expiration of  
 35 an existing license. The owner shall submit to the department the renewal  
 36 application with the required renewal fee and ~~a~~ the results of the criminal  
 37 history background check prior to the expiration of the existing license.  
 38 A complete criminal history background check shall be provided for any  
 39 new persons requiring a criminal history background check in accordance  
 40 with section 39-1105, Idaho Code. A limited criminal history background  
 41 check shall be provided for those persons eighteen (18) years of age or  
 42 older who ~~where~~ previously ~~checked~~ completed and cleared a criminal history  
 43 background check in accordance with section 56-1004A, Idaho Code, within the  
 44 previous twelve (12) months. The limited criminal history background check  
 45 shall include:

- 46 (a) Statewide criminal identification bureau; and  
 47 (b) ~~National crime information center; and~~  
 48 ~~(c) Statewide child abuse registry.~~

1 (3) Criminal history background checks on those persons under eighteen  
2 (18) years of age shall include a check of the juvenile justice records  
3 of adjudications of the magistrate division of the district court, county  
4 probation services and department records as authorized by the minor and his  
5 parent or guardian for the jurisdiction within which the minor resides.

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

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

12 (6) Upon initial investigation, should an applicant for a license be  
13 unable to meet a standard because of conditions that are unlikely to endure  
14 beyond four (4) months from the date of such investigation, the department  
15 may, if in its judgment the health and safety of any child is not thereby  
16 endangered, issue a provisional license for a period not to exceed four (4)  
17 months. No more than two (2) provisional licenses shall be issued to the same  
18 daycare facility owner or operator in any twelve (12) month period.

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

21 39-1107. FEES. (1) The department shall establish by rule the maximum  
22 total fee to be assessed for a basic daycare license which shall not exceed  
23 one hundred seventy-five dollars (\$175) for daycare centers and one hundred  
24 dollars (\$100) for group daycare facilities. Criminal history background  
25 check fees shall be in addition, but at actual cost. No other fees shall be  
26 charged for each license period. The department may allocate the fees to  
27 daycare licensing administration costs as it deems appropriate.

28 (2) The department is authorized to utilize Idaho child care program  
29 funds as otherwise allowed by law to pay for the costs associated with  
30 ~~certification and daycare licensing of daycare facilities~~ to the extent  
31 that fees collected from ~~the facilities daycare owners~~ do not fully cover  
32 such costs. It is the intent of the legislature that licensing fees and  
33 ~~Idaho child care program department~~ funds shall fully fund daycare ~~facility~~  
34 licensing administration.

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

37 39-1108. LOCAL OPTION. If a city or county, within its respective  
38 jurisdiction, has adopted an ordinance for regulation and/or licensing  
39 of daycare ~~services~~, then the provisions of this chapter shall not apply  
40 with such city or county unless the ordinance is subsequently repealed. To  
41 qualify for exemption, regulation of ~~centers daycare~~ must include a criminal  
42 history background check at least as stringent as the check required in  
43 section 39-1105, Idaho Code, compliance with safety standards at least as  
44 stringent as required in section 39-1109, Idaho Code, compliance with health  
45 standards at least as stringent as required in section 39-1110, Idaho Code,  
46 compliance with immunization requirements at least as stringent as required  
47 in section 39-1118, Idaho Code, and compliance with training requirements

1 at least as stringent as required in section 39-1119, Idaho Code. Cities  
2 and counties are hereby granted authority and may adopt ordinances for  
3 regulation and/or licensing of daycare ~~services~~.

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

6 39-1109. SAFETY STANDARDS. (1) Daycare ~~facilities~~ owners and  
7 operators shall comply with the following safety standards in the area of the  
8 daycare facility in which daycare is provided:

- 9 (a) Adequate fire and smoke alarms;  
10 (b) A functional telephone located on the daycare premises during the  
11 hours of operation;  
12 (c) Adequate fire extinguishers;  
13 (d) Adequate exits;  
14 (e) Firearms or other weapons which are stored on the premises of a  
15 daycare facility must be kept in a locked container that is inaccessible  
16 to children while daycare attendees are present;  
17 (f) Pools, hot tubs, ponds and other bodies of water that are on the  
18 daycare facility premises must provide the following safeguards:  
19 (i) The area surrounding the body of water must be fenced and  
20 locked in a manner that prevents access by children and meets the  
21 following requirements:  
22 1. The fence must be at least four (4) feet high with no  
23 vertical opening more than four (4) inches wide, be designed  
24 so that a young child cannot climb or squeeze under or  
25 through the fence, surround all sides of the pool and have  
26 a gate that is self-closing and that has a self-latching  
27 mechanism in proper working order out of the reach of young  
28 children;  
29 2. If the house forms one (1) side of the barrier for the  
30 pool, all doors that provide unrestricted access to the pool  
31 must have alarms that produce an audible sound when the door  
32 is opened;  
33 3. Furniture or other large objects must not be left near the  
34 fence in a manner that would enable a child to climb on the  
35 furniture or other large object and gain access to the pool;  
36 and  
37 (ii) If the area surrounding a pool, hot tub, pond or other body of  
38 water is not fenced and locked, there must be a secured protective  
39 covering that will not allow access by a child;  
40 (iii) Wading pools must be empty when not in use;  
41 (iv) Children must be under direct supervision of ~~an adult~~ staff  
42 member while using a pool, hot tub, pond or other body of water; and  
43 (v) A minimum of a four (4) foot high fence must be present that  
44 prevents access from the daycare facility premises if the daycare  
45 premises are adjacent to a body of water; and  
46 (g) The owner or operator of a daycare facility shall ensure that at all  
47 times children are present, at least one (1) ~~adult~~ staff member on the  
48 premises has current certification in pediatric rescue breathing and  
49 first-aid treatment from a certified instructor.

(2) No fire standards developed pursuant to this chapter shall be more stringent than the standards contained in the International Fire Code, as adopted by Idaho.

(3) ~~An adult~~ staff member at least eighteen (18) years of age must be present at all times during business hours on the daycare facility premises.

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

(a) ~~In no event shall the child staff ratio require more than one (1) staff member to six (6) children for all children age twenty four (24) months or less; more than one (1) staff member to eight (8) children for all children above age twenty four (24) months but less than three (3) years; more than one (1) staff member to ten (10) children for all children age three (3) years but less than four (4) years; more than one (1) staff member to twelve (12) children for all children age four (4) years but less than five (5) years; and more than one (1) staff member to eighteen (18) children for all children whose age is five (5) years or more. The maximum group size for all groups shall not exceed twice the number of children allowed for a single staff member.~~

~~Number of Children Allowed and Maximum Group Size Table~~

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

~~(b) 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~~ Each adult staff member on duty who is providing direct care and supervision to the children shall will be counted as staff by the department for purposes of computing a determining compliance with child-staff ratio. ~~Employees~~ Staff sixteen (16) and seventeen (17) years of age who are under the direct supervision of an adult employee staff member, when on duty and providing direct care and supervision to children, may will be counted by the department as staff for the purposes of computing the determining compliance with child-staff ratio.

~~(d)~~ Each child shall in attendance will be counted by the department as one (1) child for purposes of computing a determining compliance with 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~~

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

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

(c) For group daycare facilities and family daycare homes where there are children of mixed age groups in attendance, the maximum allowable ratio of children to staff is twelve (12) points per each staff member or up to a maximum of twelve (12) children per each staff member, whichever results in the fewest number of children to staff. For purposes of determining compliance with child:staff ratio, the department will calculate points and count staff on duty and children in attendance at the group daycare facilities and family daycare homes as follows:

Child:Staff Ratios for Group Daycare Facilities and Family Daycare Homes Where There are Children in Mixed Age Groups

<u>Ages of Children</u>	<u>Points and Maximums</u>
<u>Twelve (12) months of age or younger</u>	<u>2 points per child up to a maximum of two (2) children in attendance per staff member</u>
<u>Thirteen (13) months of age through twenty-four (24) months of age</u>	<u>1.5 points per child up to a maximum of four (4) children in attendance per staff member</u>
<u>Twenty-five (25) months of age through four (4) years of age</u>	<u>1 point per child up to a maximum of twelve (12) children in attendance per staff member</u>
<u>Five (5) years of age or older</u>	<u>.5 points per child up to a maximum of twelve (12) children in attendance per staff member</u>

(d) For daycare centers that have a separate room for children of a defined age group, the maximum allowable ratio of children to staff is based on the ages of the children in attendance in each separate

1 room. For purposes of determining compliance with child:staff ratio,  
 2 the department will count children in attendance in the defined age  
 3 group/separate room and staff on duty as follows:

4 Child:Staff Ratios for Daycare Centers with Separate Rooms for Children  
 5 of a Defined Age Group

6 <u>Ages of Children</u>	7 <u>Number of Staff Required and</u> <u>Number of Children Allowed</u>
8 <u>Twenty-four (24) months of age or</u> 9 <u>younger</u>	10 <u>One (1) staff member per six (6)</u> 11 <u>children in attendance</u>
12 <u>Twenty-five (25) months of age</u> 13 <u>through three (3) years of age</u>	14 <u>One (1) staff member per eight (8)</u> 15 <u>children in attendance</u>
16 <u>Four (4) years of age to five (5)</u> 17 <u>years of age</u>	18 <u>One (1) staff member per twelve</u> 19 <u>(12) children in attendance</u>
20 <u>Five (5) years of age or older</u>	21 <u>One (1) staff member per eighteen</u> 22 <u>(18) children in attendance</u>

23 (e) Daycare centers that combine classrooms with mixed age children  
 24 must comply with child:staff ratio required for family daycare homes  
 25 and group daycare facilities pursuant to subsection (4)(c) of this  
 26 section.

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

29 39-1110. HEALTH STANDARDS. Daycare ~~facilities~~ owners and operators  
 30 shall comply with the following health standards:

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

34 (2) All food that is to be served in daycare facilities shall be stored  
 35 in such a manner that it is protected from potential contamination;

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

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

40 (5) Children and ~~facility personnel~~ staff shall be provided with  
 41 individual or disposable towels for handwashing and the handwashing area  
 42 shall be equipped with soap and hot and cold running water;

43 (6) The water supply, where the source is other than a public water  
 44 system, must be approved in accordance with the rules adopted by the  
 45 department;

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

48 (8) Smoking or alcohol consumption is prohibited on the premises of a  
 49 daycare facility during the daycare facility's hours of operation; and

1 (9) Representatives of health and safety inspectors shall not be denied  
 2 access to a daycare facility during hours of operation for purposes of  
 3 control of communicable disease or inspection.

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

6 39-1111. RULES AUTHORIZED. In order to implement the provisions of  
 7 this chapter, the department, in addition to other duties imposed by law, is  
 8 hereby authorized and directed through rulemaking to establish procedures  
 9 necessary to implement the provisions of this chapter including procedure  
 10 for submission of required certificates as provided in sections 39-1109 and  
 11 39-1110, Idaho Code, ~~and~~ to conduct the criminal history background check  
 12 provided in section 39-1105, Idaho Code, and to specify offenses affecting  
 13 daycare license eligibility pursuant to section 39-1113, Idaho Code.

14 The rulemaking authority granted in this section shall be limited to the  
 15 specific standards and procedures required by this chapter.

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

18 39-1113. DENIAL, SUSPENSION OR REVOCATION OF DAYCARE LICENSE. (1) A  
 19 daycare license may be denied, suspended or revoked by the department if  
 20 the department finds that the applicant owner or licensee operator does not  
 21 comply with the provisions of this chapter.

22 (2) No person who pleads guilty to, has been found guilty of or received  
 23 a withheld judgment for any offense involving neglect or any physical injury  
 24 to, or other abuse of a child including the ~~following~~ offenses listed in rule  
 25 promulgated by the department pursuant to the authority granted in section  
 26 56-1004A, Idaho Code, or a similar provision in another jurisdiction, shall  
 27 be eligible for a license under the provisions of this chapter.

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

29 ~~(b) The sexual abuse of a child under sixteen years of age, section~~  
 30 ~~18-1506, Idaho Code.~~

31 ~~(c) The ritualized abuse of a child under eighteen years of age, section~~  
 32 ~~18-1506A, Idaho Code.~~

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

35 ~~(e) Sexual abuse of a child under the age of sixteen years, section~~  
 36 ~~18-1506, Idaho Code.~~

37 ~~(f) Lewd conduct with a child under the age of sixteen years, section~~  
 38 ~~18-1508, Idaho Code.~~

39 ~~(g) The sale or barter of a child for adoption or other purposes,~~  
 40 ~~section 18-1511, Idaho Code.~~

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

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

43 ~~(j) Voluntary manslaughter, section 18-4006, Idaho Code.~~

44 ~~(k) Rape, section 18-6101 or 18-6108, Idaho Code.~~

45 ~~(l) Incest, section 18-6602, Idaho Code.~~

46 ~~(m) Forecible sexual penetration by use of foreign object, section~~  
 47 ~~18-6608, Idaho Code.~~

- 1 ~~(n) Abuse, neglect or exploitation of a vulnerable adult, section~~  
2 ~~18 1505, Idaho Code.~~
- 3 ~~(o) Aggravated, first degree, second degree and third degree arson,~~  
4 ~~sections 18 801 through 18 805, Idaho Code.~~
- 5 ~~(p) Crimes against nature, section 18 6605, Idaho Code.~~
- 6 ~~(q) Kidnapping, sections 18 4501 through 18 4503, Idaho Code.~~
- 7 ~~(r) Mayhem, section 18 5001, Idaho Code.~~
- 8 ~~(s) Poisoning, section 18 4014 or 18 5501, Idaho Code.~~
- 9 ~~(t) Possession of sexually exploitative material, section 18 1507A,~~  
10 ~~Idaho Code.~~
- 11 ~~(u) Robbery, section 18 6501, Idaho Code.~~
- 12 ~~(v) Stalking in the first degree, section 18 7905, Idaho Code.~~
- 13 ~~(w) Video voyeurism, section 18 6609, Idaho Code.~~
- 14 ~~(x) Enticing of children, section 18 1509 or 18 1509A, Idaho Code.~~
- 15 ~~(y) Inducing individuals under eighteen years of age into~~  
16 ~~prostitution, section 18 5609, Idaho Code.~~
- 17 ~~(z) Inducing person under eighteen years of age to patronize a~~  
18 ~~prostitute, section 18 5611, Idaho Code.~~
- 19 ~~(aa) Any felony punishable by death or life imprisonment.~~
- 20 ~~(bb) Attempt, section 18 306, Idaho Code, conspiracy, section 18 1701,~~  
21 ~~Idaho Code, or accessory after the fact, section 18 205, Idaho Code, to~~  
22 ~~commit any of the crimes designated in this subsection.~~
- 23 ~~(3) No person who has pleaded guilty to, been found guilty of or~~  
24 ~~received a withheld judgment for any offense involving neglect or any~~  
25 ~~physical injury to, or other abuse of a child, including the following~~  
26 ~~offenses or a similar provision in another jurisdiction shall be eligible~~  
27 ~~for a license for a period of five (5) years under the provisions of this~~  
28 ~~chapter.~~
- 29 ~~(a) Aggravated assault, section 18 905, Idaho Code.~~
- 30 ~~(b) Aggravated battery, section 18 907(1), Idaho Code.~~
- 31 ~~(c) Burglary, section 18 1401, Idaho Code.~~
- 32 ~~(d) Felony theft, sections 18 2403 and 18 2407(1), Idaho Code.~~
- 33 ~~(e) Forgery of a financial transaction card, section 18 3123, Idaho~~  
34 ~~Code.~~
- 35 ~~(f) Fraudulent use of a financial transaction card or number, section~~  
36 ~~18 3124, Idaho Code.~~
- 37 ~~(g) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.~~
- 38 ~~(h) Misappropriation of personal identifying information, section~~  
39 ~~18 3126, Idaho Code.~~
- 40 ~~(i) Insurance fraud, section 41 293, Idaho Code.~~
- 41 ~~(j) Damage to or destruction of insured property, section 41 294, Idaho~~  
42 ~~Code.~~
- 43 ~~(k) Public assistance fraud, section 56 227, Idaho Code.~~
- 44 ~~(l) Provider fraud, section 56 227A, Idaho Code.~~
- 45 ~~(m) Attempted strangulation, section 18 923, Idaho Code.~~
- 46 ~~(n) Attempt, section 18 306, Idaho Code, conspiracy, section 18 1701,~~  
47 ~~Idaho Code, or accessory after the fact, section 18 205, Idaho Code, to~~  
48 ~~commit any of the crimes designated in this subsection.~~
- 49 ~~(o) Misdemeanor injury to a child, section 18 1501(2), Idaho Code.~~

1           (43) A daycare ~~facility~~ license may be denied, suspended or revoked by  
2 the department if the department finds that the daycare ~~facility owner or~~  
3 operator is not in compliance with the standards provided for in this chapter  
4 or that there is criminal activity that threatens the health or safety of a  
5 child.

6           (54) A daycare ~~facility~~ license ~~or privilege to operate a family~~  
7 ~~daycare home~~ shall be denied or revoked if a registered sex offender resides  
8 on the premises where daycare ~~services are~~ is provided.

9           (65) The denial, suspension or revocation of a daycare license under  
10 this chapter may be appealed to the district court of the county in which the  
11 affected daycare facility is located and the appeal shall be heard de novo in  
12 the district court.

13           SECTION 13. That Section 39-1114, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15           39-1114. LIMITED APPLICATIONS. (1) Any person providing daycare for  
16 four (4) or more children in a family daycare home shall not be required to be  
17 licensed, but shall comply with the requirements of section 39-1105, Idaho  
18 Code, for a criminal history background check.

19           (2) Fire inspections may be conducted by department designated health  
20 and safety inspectors where necessary. The fire inspection certificate and  
21 the criminal history background check shall be available for inspection on  
22 the premises.

23           (3) An owner of a family daycare home providing care for six (6) or  
24 fewer than seven (7) children may elect to comply with the provisions of this  
25 chapter and upon a finding of compliance by the department, shall receive a  
26 basic daycare license.

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

29           39-1115. MISDEMEANOR. (1) It shall be a misdemeanor to operate a  
30 daycare facility within this state without first obtaining a basic daycare  
31 license from the department or to operate a daycare facility without posting  
32 a basic daycare license in a conspicuous place. A copy of this chapter shall  
33 be available on the premises at all times for staff and parents to read on  
34 request.

35           (2) If a daycare ~~facility~~ owner or operator is found to be operating  
36 a daycare facility without a daycare license, the licensing agency may  
37 grant a grace period of no more than sixty (60) days to allow the daycare  
38 ~~facility~~ owner or operator to come into compliance with the provisions of  
39 this chapter.

40           (3) It shall be a misdemeanor for an owner or operator to operate a  
41 family daycare home caring for four (4) or more children without obtaining  
42 the criminal history background check required in section 39-1105, Idaho  
43 Code; provided, that in the event of an initial citation for violation of the  
44 provisions of this subsection, if a person makes the applications required  
45 within twenty (20) days, the complaint shall be dismissed. Operation of a  
46 family daycare home caring for four (4) or more children after failure to  
47 pass a required criminal history background check shall be a misdemeanor.

1 (4) It is a misdemeanor for any person to provide daycare ~~services~~  
2 if such person has been found guilty in this state's courts, in any other  
3 state's courts, or in any federal court, of any offense listed ~~under~~  
4 ~~the provisions of~~ in rule promulgated by the department pursuant to the  
5 authority granted in section 39-1113 56-1004A, Idaho Code.

6 SECTION 15. That Section 39-1117, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 39-1117. NO LIABILITY TO STATE OR POLITICAL SUBDIVISIONS. The  
9 issuance of a basic daycare license ~~or certificate~~ pursuant to this chapter  
10 shall not constitute a representation of affirmance to any person that  
11 the daycare ~~facility to which a license is issued~~ owner or operator or the  
12 daycare facility is free from risk with regard to the standards in this  
13 chapter. The state, its political subdivisions or any employees or agents  
14 of the state or its political subdivisions shall not be liable for nor shall  
15 a cause of action exist for any loss or damage based upon the failure of any  
16 person to meet the standards contained in this chapter.

17 SECTION 16. That Section 39-1118, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 39-1118. IMMUNIZATION REQUIRED. (1) Within fourteen (14) days of a  
20 child's initial attendance at any licensed daycare facility, the parent or  
21 guardian shall provide a statement to the owner or operator of the daycare  
22 facility regarding the child's immunity to certain childhood diseases.  
23 This statement shall provide a certificate signed by a physician or a  
24 representative of a district health department, that the child has received,  
25 or is in the process of receiving immunizations as specified by the board; or  
26 can effectively demonstrate, through verification in a form approved by the  
27 department, immunity gained through prior contraction of the disease.

28 Immunizations required and the manner and frequency of their  
29 administration shall be as prescribed by the board and shall conform  
30 to recognized standard medical practices in the state. The board  
31 shall promulgate appropriate rules for the enforcement of the required  
32 immunization program and specify reporting requirements of daycare  
33 ~~facilities~~ owners and operators, pursuant to the provisions of chapter 52,  
34 title 67, Idaho Code.

35 (2) Any minor child whose parent or guardian has submitted to ~~officials~~  
36 an owner or operator of a licensed daycare facility a certificate signed by a  
37 physician licensed by the state board of medicine stating that the physical  
38 condition of the child is such that all or any of the required immunizations  
39 would endanger the life or health of the child shall be exempt from the  
40 provisions of this section. Any minor child whose parent or guardian has  
41 submitted a signed statement to ~~officials~~ an owner or operator of the daycare  
42 facility stating their objections on religious or other grounds shall be  
43 exempt from the provisions of this section.

44 SECTION 17. That Section 39-1119, Idaho Code, be, and the same is hereby  
45 amended to read as follows:

1           39-1119. TRAINING REQUIREMENTS. The owner or operator of a ~~day care~~  
2 ~~center~~ daycare facility shall ensure that each ~~employee~~ staff member  
3 receives four (4) hours of ongoing training every twelve (12) months after  
4 the ~~employee's~~ staff member's hire date.