

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 129

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO DAYCARE; AMENDING SECTION 33-1501, IDAHO CODE, TO REVISE TER-  
2 MINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-1101,  
3 IDAHO CODE, TO REVISE POLICY; AMENDING SECTION 39-1102, IDAHO CODE,  
4 TO DEFINE AND REVISE TERMS; AMENDING SECTION 39-1103, IDAHO CODE, TO  
5 REMOVE PROVISIONS REGARDING DEPARTMENT OF HEALTH AND WELFARE AUTHOR-  
6 ITY AND DUTY RELATING TO CERTAIN LICENSING AND TO REVISE AND ADD TO  
7 EXCEPTIONS FROM CHAPTER APPLICATION; AMENDING SECTION 39-1104, IDAHO  
8 CODE, TO PROVIDE FOR DEPARTMENT AUTHORITY AND DUTY RELATING TO CERTAIN  
9 LICENSING, TO REVISE TERMINOLOGY AND TO CLARIFY LANGUAGE; AMENDING  
10 SECTION 39-1105, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR A  
11 CODE REFERENCE, TO PROVIDE FOR PROHIBITION FROM LICENSURE AND DAYCARE  
12 OPERATION DUE TO CERTAIN OFFENSES, TO PROVIDE A QUALIFIED EXCEPTION  
13 FROM CHAPTER APPLICATION AND TO PROVIDE A PROHIBITION FROM CHILD CARE  
14 DUE TO CERTAIN OFFENSES; AMENDING SECTION 39-1106, IDAHO CODE, TO RE-  
15 VISE TERMINOLOGY, TO PROVIDE FOR A PROVISIONAL LICENSE UNDER CERTAIN  
16 CIRCUMSTANCES, TO REVISE REQUIREMENTS FOR AN APPLICATION FOR LICENSE  
17 RENEWAL, TO REVISE WHICH JUVENILE JUSTICE RECORDS MUST BE CHECKED, TO  
18 PROVIDE FOR NONRENEWAL OF A LICENSE UNDER CERTAIN CIRCUMSTANCES AND TO  
19 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-1107, IDAHO CODE, TO  
20 REVISE CERTAIN FEES AND THE TYPES OF PROVIDERS SUBJECT TO CERTAIN FEES  
21 AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-1108, IDAHO CODE, TO  
22 REVISE TO WHICH PROVIDERS THE LOCAL OPTION APPLIES AND TO REVISE TERMI-  
23 NOLOGY; AMENDING SECTION 39-1109, IDAHO CODE, TO REVISE DAYCARE SAFETY  
24 AND STAFFING REQUIREMENTS; AMENDING SECTION 39-1110, IDAHO CODE, TO  
25 REVISE TERMINOLOGY; AMENDING SECTION 39-1111, IDAHO CODE, TO REVISE  
26 TERMINOLOGY; AMENDING SECTION 39-1113, IDAHO CODE, TO REVISE TERMINOL-  
27 OGY, TO REVISE EXCEPTIONS FROM SPECIFIED LICENSURE AND TO PROVIDE A TIME  
28 LIMIT ON REAPPLICATION; AMENDING SECTION 39-1114, IDAHO CODE, TO RE-  
29 MOVE PROVISIONS RELATING TO CERTAIN REQUIREMENTS FOR CERTAIN PROVIDERS  
30 AND TO PROVIDE FOR THE ISSUANCE OF A CERTAIN VOLUNTARY LICENSE; AMEND-  
31 ING SECTION 39-1115, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE  
32 WHEN CERTAIN CRIMINAL PENALTIES SHALL APPLY AND TO CLARIFY LANGUAGE;  
33 AMENDING SECTION 39-1117, IDAHO CODE, TO CLARIFY LANGUAGE; AMENDING  
34 SECTION 39-1118, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SEC-  
35 TION 39-1119, IDAHO CODE, TO CLARIFY LANGUAGE AND TO MAKE A TECHNICAL  
36 CORRECTION.  
37

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

39 SECTION 1. That Section 33-1501, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 33-1501. TRANSPORTATION AUTHORIZED. (1) To afford more equal opportu-  
42 nity for public school attendance, the board of trustees of each district,

1 including specially chartered school districts, shall, where practicable,  
 2 provide transportation for the public school pupils within the district,  
 3 and pupils resident within adjoining districts annually agreed to in writ-  
 4 ing by the districts involved, under conditions and limitations herein set  
 5 forth. Nonpublic school students may be transported, where practicable,  
 6 when the full costs for providing such transportation are recovered. In  
 7 approving the routing of any school bus, or in the maintenance and operation  
 8 of all such transportation equipment, or in the appointment or employment of  
 9 chauffeurs, the primary requirements to be observed by the board of trustees  
 10 are the safety and adequate protection of the health of the pupils. Nothing  
 11 herein contained shall prevent any board of trustees from denying trans-  
 12 portation to any pupil in any school bus operated by or under the authority  
 13 of said board, upon good cause being given, in writing, to the parents or  
 14 guardian, or either of them, of such pupil.

15 (2) No board of trustees shall be required to provide transportation  
 16 for any pupil living less than one and one-half (1 1/2) miles from the near-  
 17 est appropriate school. A board of trustees may require pupils who live less  
 18 than one and one-half (1 1/2) miles from the nearest established bus stop to  
 19 walk or provide their own transportation to such bus stop. That distance  
 20 shall be determined by the nearest and best route from the junction of the  
 21 driveway of the pupil's home and the nearest public road, to the nearest door  
 22 of the schoolhouse he attends, or to the bus stop, as the case may be. The  
 23 board may transport any pupil a lesser distance when in its judgment the age  
 24 or health or safety of the pupil warrants.

25 (3) A ~~day care~~ daycare center, family day care group daycare home,  
 26 ~~or a group day care facility~~ family child care home, as defined in section  
 27 39-1102, Idaho Code, may substitute for the student's residence for stu-  
 28 dent transportation to and from school. School districts may not transport  
 29 students between a child daycare facilities and home. Student transporta-  
 30 tion between a child daycare facility and a school will qualify for state  
 31 reimbursement providing that the child daycare facility is one and one-half  
 32 (1 1/2) miles or more from the school to which the student is transported.

33 (4) To effectuate the public policy hereby declared, the board of  
 34 trustees of any school district may purchase or lease, and maintain and op-  
 35 erate school buses and vans, which vans shall not have a seating capacity in  
 36 excess of fifteen (15) persons; may enter into agreements or contracts for  
 37 the use of a charter bus or buses; may enter into contracts with individuals,  
 38 firms, corporations or private carriers; or may make payments to parents or  
 39 guardians, subject to the limitations herein provided, when transportation  
 40 is not furnished by the district.

41 SECTION 2. That Section 39-1101, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43 39-1101. POLICY. It is hereby declared to be the policy of this state  
 44 to establish a minimum statewide system for the protection of children in  
 45 daycare facilities. This system is intended to establish minimum standards,  
 46 while still leaving primary responsibility for evaluation and selection of  
 47 daycare or child care services with parents. The minimum standards estab-  
 48 lished by this chapter shall not be construed as preempting more stringent  
 49 regulation by county or city ordinance.

1 SECTION 3. That Section 39-1102, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 39-1102. DEFINITIONS. As used in this chapter:

4 (1) "Attendance" means the number of children present at a daycare fa-  
5 cility for daycare.

6 (2) "Basic daycare license" means a license issued to a daycare facil-  
7 ity by the department pursuant to this chapter.

8 (3) "Board" means the Idaho board of health and welfare.

9 (4) "Care" means the control, supervision or maintenance of a child or  
10 children for part of a twenty-four (24) hour day, whether or not for compen-  
11 sation.

12 (25) "Child" means a person an individual less than thirteen (13) years  
13 of age.

14 (6) "Child:staff ratio" means the maximum number of children allowed  
15 under the direct care of one (1) staff person.

16 (37) "Daycare" means care and supervision of children provided for com-  
17 ensation during part of a twenty-four (24) hour day, when at any given time  
18 the care is provided for a child seven (7) or more children not related by  
19 blood, marriage or legal guardianship to the person or persons providing the  
20 care, in a place other than the child's or children's own home or homes.

21 (48) "Daycare center" means a place or facility providing daycare for  
22 compensation for where thirteen (13) or more children are in attendance at  
23 any given time.

24 (59) "Daycare facility" means a place or facility providing daycare  
25 services for compensation to seven (7) or more children not related to the  
26 provider center or a group daycare home.

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

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

30 (811) "Family daycare child care home" means a home, place, or facility  
31 providing daycare for six (6) or fewer unrelated children.

32 (912) "Group daycare facility home" means a home, place, or facility  
33 providing daycare for where seven (7) to twelve (12) children are in atten-  
34 dance at any given time.

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

37 (11) "Mixed age group" means a care group that includes children of mul-  
38 tiiple ages.

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

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

43 (13) "On-duty" means being awake and actively carrying out assigned du-  
44 ties at a daycare facility.

45 (14) "Operator" means a person who is delegated responsibility for the  
46 daily management of a daycare facility by the daycare owner.

47 (15) "Owner" means a person who has been issued a basic daycare license  
48 to operate a daycare facility.

1       (16) "Person" means any individual, sole proprietorship, corpora-  
2       tion, limited liability company, partnership, joint venture or association  
3       whether or not incorporated.

4       (17) "Related" means persons related by blood, marriage or adoption to  
5       a child or children, including the child's or the children's grandparent,  
6       great grandparent, aunt, great aunt, uncle, great uncle, brother, brother-  
7       in-law, sister, sister-in-law, stepparent and first cousin.

8       (18) "Staff" means a person who is employed by an owner or operator to  
9       provide care at a daycare facility.

10       (149) "Training" means continuing education in child development areas  
11       relating to child care. Training can be acquired through a variety of meth-  
12       ods including, but not limited to, the viewing of audio visual materials,  
13       correspondence courses, community workshops and in-house training.

14       SECTION 4. That Section 39-1103, Idaho Code, be, and the same is hereby  
15       amended to read as follows:

16       39-1103. ~~LICENSING AUTHORITY EXEMPTIONS. The department is hereby au-~~  
17       ~~thorized and directed to issue "basic daycare licenses" as provided in this~~  
18       ~~chapter. The department is authorized to establish procedures for issuing~~  
19       ~~licenses to daycare facilities which shall be maintained and operated in~~  
20       ~~conformity with the standards authorized in this chapter. Nothing in this~~  
21       ~~chapter shall be construed to limit or restrict the teaching of religious~~  
22       ~~doctrines, values, or tenets in a facility licensed under the provisions of~~  
23       ~~this chapter. The provisions of this chapter shall not apply to:~~

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

26       (2) The operation of a private school or religious school for edu-  
27       cational purposes for children over four (4) years of age or a religious  
28       kindergarten;

29       (3) The provision of ~~occasional~~ care exclusively for children of par-  
30       ents who are simultaneously in the same building;

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

34       (5) The provision of care exclusively for children ~~of a family within~~  
35       ~~the second degree of relationship related to the individual providing care,~~  
36       except as subject to the requirements of the Idaho child care program for  
37       persons receiving benefits thereunder; or

38       (6) The operation of a daycare facility or family child care home regu-  
39       lated or licensed by a city or county in accordance with local options under  
40       section 39-1108, Idaho Code.

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

43       39-1104. APPLICATION FOR LICENSE -- FIRE SAFETY AND HEALTH INSPEC-  
44       TIONS. (1) License. The department is hereby authorized and directed to  
45       issue basic daycare licenses as provided in this chapter. The department is  
46       authorized to establish procedures for issuing licenses to daycare facili-  
47       ties in conformity with the standards authorized in this chapter. Nothing

1 in this chapter shall be construed to limit or restrict the teaching of  
 2 religious doctrines, values or tenets in a facility licensed under the pro-  
 3 visions of this chapter.

4 (2) Application. A person who wishes to own or operate a daycare facil-  
 5 ity shall be a minimum of eighteen (18) years of age, shall submit an appli-  
 6 cation on the forms provided by the department, and shall obtain the required  
 7 certificates of inspection as provided herein.

8 (23) Inspections. A person who wishes to operate a daycare facility  
 9 shall submit:

10 (a) ~~a~~A certificate of a fire inspection of the proposed ~~center~~ daycare  
 11 facility, conducted by a fire department or fire district official, es-  
 12 tablishing compliance with the minimum standards specified in section  
 13 39-1109, Idaho Code; and

14 (b) ~~a~~A health and safety inspection of the proposed daycare facility  
 15 conducted by a qualified inspector as designated by the department, es-  
 16 tablishing compliance with the minimum standards specified in sections  
 17 39-1109 and 39-1110, Idaho Code.

18 (34) Continued compliance and reinspection. ~~Daycare facilities Owners~~  
 19 and operators shall at all times maintain compliance with the safety and  
 20 health requirements identified in this chapter. The department may cause  
 21 any daycare facility to be reinspected during the term of a license for  
 22 safety and health compliance as determined necessary by the department. No  
 23 charge for any reinspection after the initial inspection in any license pe-  
 24 riod shall be made to the ~~daycare facility~~ owner or operator.

25 SECTION 6. That Section 39-1105, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 39-1105. CRIMINAL HISTORY BACKGROUND CHECKS. (1) The department  
 28 shall obtain from the owner a criminal history background check on the own-  
 29 ers, operators and ~~employees~~ staff of a daycare facility who have direct  
 30 contact with children, and on all other individuals thirteen (13) years of  
 31 age or older who have unsupervised direct contact with children or are regu-  
 32 larly on the premises of a daycare facility. The criminal history background  
 33 check shall comply with section 56-1004A, Idaho Code, and include the fol-  
 34 lowing for all persons subject to the provisions of this section who are  
 35 eighteen (18) years of age or older:

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

40 (2) Criminal history background checks on those persons under eighteen  
 41 (18) years of age shall include a check of the juvenile justice records of ad-  
 42 judications of the magistrate division of the district court, county proba-  
 43 tion services and department records as authorized by the minor and his par-  
 44 ent or guardian.

45 (3) Notwithstanding the provisions of section 39-1103, Idaho Code,  
 46 which provide for exemption from the provisions of this chapter, any per-  
 47 son who owns, operates or is employed by a private school for educational  
 48 purposes for children four (4) through six (6) years of age or a private  
 49 kindergarten shall comply with the provisions of this section.

1       (4) No person shall be issued a basic daycare license or be permitted to  
 2 own or operate a daycare facility so long as any of the persons subject to the  
 3 provisions of this section are found to have a disqualifying offense based  
 4 upon the results of a criminal history background check conducted pursuant  
 5 to this chapter.

6       (5) A person providing child care in a family child care home is not  
 7 subject to the requirements of this chapter, except where the care is pro-  
 8 vided for compensation at any given time for four (4) to six (6) unrelated  
 9 children, and where such care is not otherwise exempt under section 39-1103,  
 10 Idaho Code, the person providing care shall obtain a criminal history back-  
 11 ground check complying with the standards of subsection (1) of this section.  
 12 A person required to obtain a criminal history background check under this  
 13 subsection shall not provide child care for four (4) or more unrelated chil-  
 14 dren for compensation where the background check results are disqualifying  
 15 under section 39-1113, Idaho Code.

16       SECTION 7. That Section 39-1106, Idaho Code, be, and the same is hereby  
 17 amended to read as follows:

18       39-1106. ISSUANCE OF LICENSE -- BASIC, PROVISIONAL AND RENEWAL. (1)  
 19 Upon receipt of the application, inspection certificates and the results of  
 20 the criminal history background check, the department shall, upon a finding  
 21 of compliance with the minimum standards set forth in this chapter, issue a  
 22 basic daycare license to the applicant owner of the daycare facility. The  
 23 license shall be valid for two (2) years and shall be posted in a conspicuous  
 24 place at the daycare facility.

25       (2) If the department determines that an applicant for a basic daycare  
 26 license is unable to meet the minimum standards set forth in this chapter be-  
 27 cause of conditions that are unlikely to endure beyond six (6) months from  
 28 the date of the initial application or renewal, the department may, if in its  
 29 judgment the health and safety of any child is not thereby endangered, issue  
 30 a provisional license for a period not to exceed six (6) months. No more than  
 31 one (1) provisional license shall be issued to the same daycare owner in any  
 32 twelve (12) month period.

33       (3) The department shall send a renewal application to the owner of  
 34 the daycare facility no later than ninety (90) days prior to the expiration  
 35 of an existing license. The owner shall submit to the department the re-  
 36 newal application with the required renewal fee and an authorization for  
 37 release to the department of the results of any required criminal history  
 38 background check prior to the expiration of the existing license. A com-  
 39 plete criminal history background check shall be provided obtained for any  
 40 new persons requiring required to complete a criminal history background  
 41 check in accordance with section 39-1105, Idaho Code. A limited criminal  
 42 history background check shall be provided is required for those persons  
 43 eighteen (18) years of age or older who where previously were checked as part  
 44 of the prior renewal application, or who otherwise have obtained a complete  
 45 criminal history background check within twelve (12) months of the license  
 46 renewal date. The limited criminal history background check shall include:

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

1           (34) Criminal history background checks on those persons under eigh-  
2 teen (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           (45) A basic daycare license shall not be renewed so long as any of the  
7 persons subject to the provisions of this section are found to have a dis-  
8 qualifying offense based upon the results of a criminal history background  
9 check conducted pursuant to this chapter.

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

12          (57) Submission of a renewal application, fee and required results of  
13 the criminal history background check shall entitle the daycare facility  
14 owner to continue providing daycare services, subject to action by the de-  
15 partment pursuant to section 39-1113, Idaho Code.

16          SECTION 8. That Section 39-1107, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18          39-1107. FEES. (1) The department shall establish by rule the maximum  
19 total fee to be assessed for a basic daycare license which shall not exceed  
20 ~~one three hundred seventy~~ twenty-five dollars (\$~~173~~25) for daycare centers  
21 with more than twenty-five (25) children in attendance at any given time,  
22 two hundred fifty dollars (\$250) for daycare centers with thirteen (13)  
23 to twenty-five (25) children in attendance at any given time and one hun-  
24 dred dollars (\$100) for group daycare ~~facilities~~ homes. Criminal history  
25 background check fees shall be in addition, but at actual cost. No other fees  
26 shall be charged for each license period. The department may allocate the  
27 fees to daycare licensing administration costs as it deems appropriate.

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

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

36          39-1108. LOCAL OPTION. If a city or county, within its respective ju-  
37 risdiction, has adopted an ordinance for regulation and/or licensing of day-  
38 care ~~services~~, then the provisions of this chapter shall not apply with such  
39 city or county unless the ordinance is subsequently repealed. To qualify for  
40 exemption, regulation of ~~centers~~ daycare facilities, owners, operators and  
41 staff must include a criminal history background check at least as strin-  
42 gent as the check required in section 39-1105, Idaho Code, compliance with  
43 safety standards at least as stringent as required in section 39-1109, Idaho  
44 Code, compliance with health standards at least as stringent as required in  
45 section 39-1110, Idaho Code, compliance with immunization requirements at  
46 least as stringent as required in section 39-1118, Idaho Code, and compli-  
47 ance with training requirements at least as stringent as required in section

1 39-1119, Idaho Code. Cities and counties are hereby granted authority and  
2 may adopt ordinances for regulation and/or licensing of daycare ~~services~~.

3 SECTION 10. That Section 39-1109, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 39-1109. SAFETY STANDARDS. (1) Daycare facilities, owners and opera-  
6 tors shall comply with the following safety standards in the area of the day-  
7 care facility in which daycare is provided:

- 8 (a) Adequate fire and smoke alarms;  
9 (b) A functional telephone located on the daycare premises during the  
10 hours of operation;  
11 (c) Adequate fire extinguishers;  
12 (d) Adequate exits;  
13 (e) Firearms or other weapons which are stored on the premises of a day-  
14 care facility must be kept in a locked container that is inaccessible to  
15 children while daycare attendees are present;  
16 (f) Pools, hot tubs, ponds and other bodies of water that are on the day-  
17 care facility premises must provide the following safeguards:

18 (i) The area surrounding the body of water must be fenced and  
19 locked in a manner that prevents access by children and meets the  
20 following requirements:

- 21 1. The fence must be at least four (4) feet high with no ver-  
22 tical opening more than four (4) inches wide, be designed so  
23 that a young child cannot climb or squeeze under or through  
24 the fence, surround all sides of the pool and have a gate that  
25 is self-closing and that has a self-latching mechanism in  
26 proper working order out of the reach of young children;  
27 2. If the house forms one (1) side of the barrier for the  
28 pool, all doors that provide unrestricted access to the pool  
29 must have alarms that produce an audible sound when the door  
30 is opened;  
31 3. Furniture or other large objects must not be left near the  
32 fence in a manner that would enable a child to climb on the  
33 furniture or other large object and gain access to the pool;  
34 and

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

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

39 (iv) Children must be under direct supervision of ~~an~~ at least one  
40 (1) adult staff member while using a pool, hot tub, pond or other  
41 body of water; and

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

45 (g) The owner or operator of a daycare facility shall ensure that at all  
46 times when a child or children are present in attendance, at least one  
47 (1) adult staff member on the premises has current certification in pe-  
48 diatric rescue breathing and first-aid treatment from a certified in-  
49 structor.



(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~~ At least one (1) adult staff member must be present at all times during business hours on the daycare facility premises when a child or children are in attendance.

(4) ~~In addition to the safety standards identified in subsection (1) of this section, safety standards shall be established by the department to govern t~~The maximum allowable child:staff ratio of children to staff subject to shall be a maximum of twelve (12) children or twelve (12) points, whichever is less, per staff member using the following restrictions point system:

(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~~ A child under the age of eighteen (18) months shall equal two (2) points.

Number of Children Allowed and Maximum Group Size Table

Number of staff required	Children:		Children:		Children:
	Children: above birth to twenty-four (24) months	Children: four (4) months but less than three (3) years	Children: three (3) years but less than four (4) years	Children: four (4) years but less than five (5) years	
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~~ A child in attendance eighteen (18) months of age to under five (5) years of age shall equal one (1) point.

(c) ~~All adults providing direct supervision to the children shall be counted as staff for purposes of computing a child-staff ratio. 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~~

1 ~~ratio~~ A child in attendance five (5) years of age to under thirteen (13)  
 2 years of age shall equal one-half (1/2) point.

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

5 (e) ~~Daycare facilities shall have a maximum allowable child-staff ra-~~  
 6 ~~tio based on the age of the children in attendance. The maximum group~~  
 7 ~~size is twelve (12) children. If more than two (2) children are in at-~~  
 8 ~~tendance under the age of two (2) years, the maximum group size shall be~~  
 9 ~~ten (10) children. If three (3) or more children under the age of two (2)-~~  
 10 ~~years are in attendance, the maximum group size shall be nine (9) chil-~~  
 11  ~~dren.~~

12 ~~Daycare Facility Ratio and Maximum Group Size Table~~

	<del>No children under</del> the age of two (2) years	<del>No more than two</del> (2) children under the age of two (2) years	<del>Three (3) or more</del> children under the age of two (2) years
13			
14			
15			
16			
17	Maximum group		
18	size	12	10 9

19 (f) ~~Family A child of an owner or operator in attendance at a daycare~~  
 20 ~~homes facility shall not provide daycare services for more than six~~  
 21 ~~(6) be included in the point assignment or counted in calculating the~~  
 22 ~~child:staff ratio, provided that other related children at a time in~~  
 23 ~~attendance shall be included.~~

24 SECTION 11. That Section 39-1110, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 39-1110. HEALTH STANDARDS. ~~Daycare facilities~~ Owners and operators  
 27 shall comply with the following health standards:

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

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

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

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

37 (5) Children and ~~facility personnel~~ staff shall be provided with indi-  
 38 vidual or disposable towels for handwashing and the handwashing area shall  
 39 be equipped with soap and hot and cold running water;

40 (6) The water supply, where the source is other than a public water sys-  
 41 tem, must be approved in accordance with the rules adopted by the department;

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

44 (8) Smoking or alcohol consumption is prohibited on the premises of a  
 45 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 con-  
3 trol of communicable disease or inspection.

4 SECTION 12. 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.

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

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

17 39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license  
18 may be denied, suspended or revoked by the department if the department finds  
19 that the ~~applicant~~ owner or licensee operator does not comply with the provi-  
20 sions of this chapter.

21 (2) No person who pleads guilty to, has been found guilty of or re-  
22 ceived a withheld judgment for any offense involving neglect or any physical  
23 injury to, or other abuse of a child including the following offenses or a  
24 ~~similar provision~~ similarly defined offense in another jurisdiction, shall  
25 be eligible for issued a basic daycare license under the provisions of this  
26 chapter:

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

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

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

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

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

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

38 (g) The sale or barter of a child for adoption or other purposes, sec-  
39 tion 18-1511, Idaho Code.

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

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

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

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

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

45 (m) Forcible sexual penetration by use of foreign object, section  
46 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 prostitu-  
16 tion, section 18-5609, Idaho Code.
- 17 (z) Inducing person under eighteen years of age to patronize a prosti-  
18 tute, 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 re-  
24 ceived a withheld judgment for any offense involving neglect or any physi-  
25 cal injury to, or other abuse of a child, including the following offenses or  
26 ~~a similar provision similarly defined offense~~ in another jurisdiction shall  
27 be eligible for issued a basic daycare license for a period of five (5) years  
28 from the date of the conviction under the provisions of this 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 domestic violence, section 18-918, Idaho Code.
- 33 (e) Felony under the uniform controlled substances act, chapter 27, ti-  
34 tle 37, Idaho Code.
- 35 (f) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.
- 36 (eg) Forgery of a financial transaction card, section 18-3123, Idaho  
37 Code.
- 38 (fh) Fraudulent use of a financial transaction card or number, section  
39 18-3124, Idaho Code.
- 40 (gi) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.
- 41 (j) Grand theft, section 18-2407(1), Idaho Code.
- 42 (hk) Misappropriation of personal identifying information, section  
43 18-3126, Idaho Code.
- 44 (il) Insurance fraud, section 41-293, Idaho Code.
- 45 (jm) Damage to or destruction of insured property, section 41-294,  
46 Idaho Code.
- 47 (kn) Public assistance fraud, section 56-227, Idaho Code.
- 48 (lo) Provider fraud, section 56-227A, Idaho Code.
- 49 (mp) Attempted strangulation, section 18-923, Idaho Code.

1           (ng) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701,  
2           Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to  
3           commit any of the crimes designated in this subsection.

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

5           (4) A basic daycare faecility license may be denied, suspended or re-  
6           voked by the department if the department finds that the ~~daycare facility~~  
7           owner or operator is not in compliance with the standards provided for in  
8           this chapter or criminal activity that threatens the health or safety of a  
9           child.

10          (5) A basic daycare faecility license or privilege to operate a  
11          ~~family daycare home facility~~ shall be denied or revoked if a registered sex  
12          offender resides on the premises where daycare services are provided.

13          (6) The denial, suspension or revocation of a basic daycare license un-  
14          der this chapter may be appealed to the district court of the county in which  
15          the affected daycare facility is located and the appeal shall be heard de  
16          novo in the district court.

17          (7) No person shall apply and the department shall not accept an appli-  
18          cation from any person who has had a basic daycare license denied, suspended  
19          or revoked, until six (6) months have elapsed from the date of the denial,  
20          suspension or revocation.

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

23          39-1114. ~~LIMITED APPLICATIONS VOLUNTARY LICENSE. (1) Any person pro-~~  
24          ~~viding daycare for four (4) or more children in a family daycare home shall~~  
25          ~~not be required to be licensed, but shall comply with the requirements of~~  
26          ~~section 39-1105, Idaho Code, for a criminal history check.~~

27          ~~(2) Fire inspections may be conducted by department designated health~~  
28          ~~and safety inspectors where necessary. The fire inspection certificate~~  
29          ~~and the criminal history check shall be available for inspection on the~~  
30          ~~premises.~~

31          ~~(3) A family daycare home providing care for fewer than seven (7) chil-~~  
32          ~~dren may elect to comply with the provisions of this chapter and upon a find-~~  
33          ~~ing of compliance by the department, shall receive be issued a basic group~~  
34          ~~daycare home license.~~

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

37          39-1115. MISDEMEANOR. (1) It shall be a misdemeanor to operate a day-  
38          care facility within this state without first obtaining a basic daycare li-  
39          cense from the department or to operate a daycare facility without posting a  
40          basic daycare license in a conspicuous place. A copy of this chapter shall  
41          be available on the premises at all times for staff and parents to read on re-  
42          quest.

43          (2) If a daycare facility an owner or operator is found to be operating  
44          a daycare facility without a license, the licensing agency department may  
45          grant a grace period of no more than sixty (60) days to allow the daycare fa-  
46          cility to come into compliance with the provisions of this chapter.

1           (3) It shall be a misdemeanor to ~~operate a family daycare home caring~~  
2 ~~for four (4) or more children without obtaining the criminal history check~~  
3 ~~required in~~ violate any requirement of section 39-1105(5), Idaho Code; pro-  
4 ~~vided, that in the event of an initial citation for violation of the provi-~~  
5 ~~sions of this subsection~~ failure to obtain a required criminal history back-  
6 ground check, if a person makes the applications and pay the application fees  
7 required within twenty (20) days, the complaint shall be dismissed. Opera-  
8 ~~tion of a family daycare~~ child care home caring for four (4) or more children  
9 after failure to pass a required criminal history background check shall be a  
10 misdemeanor.

11           ~~(4)~~ It is a misdemeanor for any person to provide daycare ~~services~~ if  
12 such person has pleaded guilty to, has been found guilty of or has received  
13 a withheld judgment in this state's courts, in any other state's courts, or  
14 in any federal court, of any offense listed under the provisions of section  
15 39-1113, Idaho Code.

16           SECTION 16. That Section 39-1117, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18           39-1117. NO LIABILITY TO STATE OR POLITICAL SUBDIVISIONS. The is-  
19 suance of a license or certificate pursuant to this chapter shall not consti-  
20 tute a representation of affirmance to any person that the daycare facility  
21 to which a license is issued to an owner or operator is free from risk with re-  
22 gard to the standards in this chapter. The state, its political subdivisions  
23 or any employees or agents of the state or its political subdivisions shall  
24 not be liable for nor shall a cause of action exist for any loss or damage  
25 based upon the failure of any person to meet the standards contained in this  
26 chapter.

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

29           39-1118. IMMUNIZATION REQUIRED. (1) Within fourteen (14) days of a  
30 child's initial attendance at any licensed daycare facility, the parent or  
31 guardian shall provide a statement to the owner or operator of the daycare  
32 facility regarding the child's immunity to certain childhood diseases. This  
33 statement shall provide a certificate signed by a physician or a represen-  
34 tative of a district health department, that the child has received, or is  
35 in the process of receiving immunizations as specified by the board; or can  
36 effectively demonstrate, through verification in a form approved by the de-  
37 partment, immunity gained through prior contraction of the disease.

38           Immunizations required and the manner and frequency of their adminis-  
39 tration shall be as prescribed by the board and shall conform to recognized  
40 standard medical practices in the state. The board shall promulgate appro-  
41 priate rules for the enforcement of the required immunization program and  
42 specify reporting requirements of daycare facilities, pursuant to the pro-  
43 visions of chapter 52, title 67, Idaho Code.

44           (2) Any minor child whose parent or guardian has submitted to ~~officials~~  
45 an owner or operator of a licensed daycare facility a certificate signed by a  
46 physician licensed by the state board of medicine stating that the physical  
47 condition of the child is such that all or any of the required immunizations

1 would endanger the life or health of the child shall be exempt from the pro-  
2 visions of this section. Any minor child whose parent or guardian has sub-  
3 mitted a signed statement to officials of the daycare facility stating their  
4 objections on religious or other grounds shall be exempt from the provisions  
5 of this section.

6 SECTION 18. That Section 39-1119, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 39-1119. TRAINING REQUIREMENTS. The owner or operator of a ~~day-care~~  
9 daycare center shall ensure that each ~~employee~~ staff member receives four  
10 (4) hours of ongoing training every twelve (12) months after the ~~employee's~~  
11 staff member's hire date.