

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 243, As Amended in the Senate

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO DAYCARE LICENSES; AMENDING SECTION 39-1101, IDAHO CODE, TO
2 REVISE A POLICY STATEMENT; AMENDING SECTION 39-1102, IDAHO CODE, TO
3 DEFINE A TERM; AMENDING SECTION 39-1104, IDAHO CODE, TO ESTABLISH PRO-
4 VISIONS REGARDING ABANDONED APPLICATIONS; AMENDING SECTION 39-1106,
5 IDAHO CODE, TO REVISE A PROVISION REGARDING LICENSES; REPEALING SEC-
6 TION 39-1108, IDAHO CODE, RELATING TO LOCAL OPTION; AMENDING SECTION
7 39-1109, IDAHO CODE, TO REVISE PROVISIONS REGARDING SAFETY STANDARDS;
8 AMENDING SECTION 39-1111, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF
9 HEALTH AND WELFARE SHALL SEEK TO MOVE CERTAIN RULES INTO STATUTE; AMEND-
10 ING SECTION 39-1112A, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACCESS
11 TO INFORMATION; AMENDING SECTION 39-1115, IDAHO CODE, TO REVISE PROVI-
12 SIONS REGARDING MISDEMEANORS; REPEALING SECTION 39-1117, IDAHO CODE,
13 RELATING TO LIABILITY TO STATE OR POLITICAL SUBDIVISIONS; REPEALING
14 SECTION 39-1120, IDAHO CODE, RELATING TO NONDELEGABLE DUTIES AND RE-
15 SONSIBILITIES; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED
16 IN IDAPA 16.06.03 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; AND
17 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
18

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

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

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

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

31 39-1102. DEFINITIONS. As used in this chapter:
32 (1) "Board" means the Idaho board of health and welfare.
33 (2) "Child" means a person less than thirteen (13) years of age.
34 (3) "Daycare" means care and supervision provided for compensation
35 during part of a twenty-four (24) hour day, for a child or children not
36 related by blood, marriage or legal guardianship to the person or persons
37 providing the care, in a place other than the child's or children's own home
38 or homes.
39 (4) "Daycare center" means a place or facility providing daycare for
40 compensation for thirteen (13) or more children.

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

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

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

7 (8) "Family daycare home" means a home, place, or facility providing
8 daycare for six (6) or fewer children.

9 (9) "Group daycare facility" means a home, place, or facility providing
10 daycare for seven (7) to twelve (12) children.

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

13 (11) "Mixed age group" means a care group that includes children of mul-
14 tiple ages.

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

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

19 (14) "Supervision" means:

20 (a) For a child less than five (5) years of age, a provider is within
21 sight or normal hearing range of the child and near enough to render im-
22 mediate assistance to the child;

23 (b) For a child five (5) years of age and older, a provider is within
24 sight or normal hearing range of the child as appropriate to the child's
25 individual age, needs, and capabilities; and

26 (c) Notwithstanding paragraph (b) of this subsection, for all children
27 while sleeping, swimming or engaging in other water activity involving
28 a pool, hot tub, or other body of water, or on field trips or activities
29 away from the facility, a provider is within sight and normal hearing
30 range of the child.

31 ~~(14)~~ (15) "Training" means continuing education in child development
32 areas relating to child care. Training can be acquired through a variety of
33 methods including, but not limited to, the viewing of audio visual materi-
34 als, correspondence courses, community workshops and in-house training.

35 SECTION 3. That Section 39-1104, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 39-1104. APPLICATION FOR LICENSE -- FIRE SAFETY AND HEALTH INSPEC-
38 TIONS. (1) Application. A person who wishes to operate a daycare facility
39 shall be a minimum of eighteen (18) years of age, shall submit an application
40 on the forms provided by the department, and shall obtain the required cer-
41 tificates of inspection as provided herein.

42 (2) Inspections. A person who wishes to operate a daycare facility
43 shall submit: (a) a certificate of a fire inspection of the proposed center,
44 conducted by a fire department or fire district official, establishing com-
45 pliance with the ~~minimum~~ standards specified in section 39-1109, Idaho Code;
46 and (b) a health and safety inspection of the proposed facility conducted by
47 a qualified inspector as designated by the department, establishing compli-
48 ance with the ~~minimum~~ standards specified in sections 39-1109 and 39-1110,
49 Idaho Code.

1 (3) Continued compliance and reinspection. Daycare facilities shall
2 at all times maintain compliance with the safety and health requirements
3 identified in this chapter. The department may cause any daycare facility to
4 be reinspected during the term of a license for safety and health compliance
5 as determined necessary by the department. No charge for any reinspection
6 after the initial inspection in any license period shall be made to the day-
7 care facility.

8 (4) If an applicant fails to complete the application process within
9 six (6) months, the application will be considered abandoned and shall be
10 terminated. An applicant whose application is abandoned, and subsequently
11 terminated, may start a new application at any time.

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

14 39-1106. ISSUANCE OF LICENSE -- RENEWAL. (1) Upon receipt of the
15 completed application, inspection certificates and the criminal his-
16 tory, the department shall, upon a finding of compliance with the ~~minimum~~
17 standards set forth in this chapter, issue a basic daycare license to the ap-
18 plicant. The license shall be valid for two (2) years, unless revoked or sus-
19 pending, and shall be posted in a conspicuous place at the daycare facility.

20 (2) The department shall send a renewal application to the owner of the
21 daycare facility no later than ninety (90) days prior to the expiration of
22 an existing license. The owner shall submit to the department the renewal
23 application with the required renewal fee and a criminal history check prior
24 to the expiration of the existing license. A complete criminal history check
25 shall be provided for any new persons requiring a criminal history check in
26 accordance with section 39-1105, Idaho Code.

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

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

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

37 SECTION 5. That Section 39-1108, Idaho Code, be, and the same is hereby
38 repealed.

39 SECTION 6. That Section 39-1109, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 39-1109. SAFETY STANDARDS. (1) Daycare facilities, owners and opera-
42 tors shall comply with the following safety standards in the area of the day-
43 care facility in which daycare is provided:

44 (a) Adequate fire and smoke alarms;

45 (b) A functional telephone located on the daycare premises during the
46 hours of operation;

- 1 (c) Adequate fire extinguishers;
 2 (d) Adequate exits;
 3 (e) Firearms or other weapons which are stored on the premises of a day-
 4 care facility must be kept in a locked container that is inaccessible to
 5 children while daycare attendees are present;
 6 (f) Pools, hot tubs, ponds and other bodies of water that are on the day-
 7 care facility premises must provide the following safeguards:
 8 (i) The area surrounding the body of water must be fenced and
 9 locked in a manner that prevents access by children and meets the
 10 following requirements:
 11 1. The fence must be at least four (4) feet high with no ver-
 12 tical opening more than four (4) inches wide, be designed so
 13 that a young child cannot climb or squeeze under or through
 14 the fence, surround all sides of the pool and have a gate that
 15 is self-closing and that has a self-latching mechanism in
 16 proper working order out of the reach of young children;
 17 2. If the house forms one (1) side of the barrier for the
 18 pool, all doors that provide unrestricted access to the pool
 19 must have alarms that produce an audible sound when the door
 20 is opened;
 21 3. Furniture or other large objects must not be left near the
 22 fence in a manner that would enable a child to climb on the
 23 furniture or other large object and gain access to the pool;
 24 and
 25 (ii) If the area surrounding a pool, hot tub, pond or other body of
 26 water is not fenced and locked, there must be a secured protective
 27 covering that will not allow access by a child;
 28 (iii) Wading pools must be empty when not in use;
 29 (iv) Children must be under direct supervision of at least one (1)
 30 adult employee while using a pool, hot tub, pond or other body of
 31 water; and
 32 (v) A minimum of a four (4) foot high fence must be present that
 33 prevents access from the daycare facility premises if the daycare
 34 premises are adjacent to a body of water; and
 35 (g) The owner or operator of a daycare facility shall ensure that at
 36 all times when a child or children are present, at least one (1) adult
 37 employee on the premises has current certification in pediatric rescue
 38 breathing and first-aid treatment from a certified instructor.
 39 (2) No fire standards developed pursuant to this chapter shall be more
 40 stringent than the standards contained in the International Fire Code, as
 41 adopted by Idaho.
 42 (3) At least one (1) adult employee must be present at all times when a
 43 child or children are in attendance.
 44 (4) (a) The maximum allowable child:staff ratio shall be a maximum of
 45 twelve (12) points per staff member using the following point system:
 46 (i) Each child in attendance under the age of twenty-four (24)
 47 months shall equal two (2) points.
 48 (ii) Each child in attendance from twenty-four (24) months to un-
 49 der thirty-six (36) months of age shall equal ~~one and one-half (1~~
 50 ~~1/2)~~ one and thirty-three hundredths (1.33) points.

1 (iii) Each child in attendance from thirty-six (36) months to un-
 2 der five (5) years of age shall equal ~~one (1) point~~ nine hundred
 3 twenty-three thousandths (0.923) of a point.

4 (iv) Each child in attendance from five (5) years to under thirteen
 5 (13) years of age shall equal ~~one-half (1/2) point~~ forty-eight
 6 hundredths (0.48) of a point.

7 (b) Each child in attendance shall be counted by the department for pur-
 8 poses of calculating maximum allowable points, counting the number of
 9 children in attendance and for determining compliance with child:staff
 10 ratios.

11 (c) Daycare facilities may operate with child:staff ratios more strin-
 12 gent than those specified in paragraph (a) of this subsection.

13 SECTION 7. That Section 39-1111, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 39-1111. RULES AUTHORIZED. In order to implement the provisions of
 16 this chapter, the department, in addition to other duties imposed by law, is
 17 hereby authorized and directed through rulemaking to establish procedures
 18 necessary to implement the provisions of this chapter including procedure
 19 for submission of required certificates as provided in sections 39-1109
 20 and 39-1110, Idaho Code, and to conduct the criminal history check provided
 21 in section 39-1105, Idaho Code. The rulemaking authority granted in this
 22 section shall be limited to the specific standards and procedures required
 23 by this chapter. The department shall seek to move all necessary rules into
 24 this chapter by July 1, 2026.

25 SECTION 8. That Section 39-1112A, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 39-1112A. ACCESS TO INFORMATION. The department shall make available
 28 to daycare consumers ~~an informational pamphlet, created by the department,~~
 29 information to educate daycare consumers with informational tools useful in
 30 identifying quality daycare. ~~The department may deliver pamphlets during~~
 31 ~~direct contact with daycare consumers, or by delivering pamphlets to day-~~
 32 ~~care providers during the licensing or renewal process, during inspections~~
 33 ~~or through other appropriate means. The pamphlet shall include, including:~~

34 (1) The importance of parents being vigilant for the safety, emotional
 35 health and training of their children that cannot be replaced by any other
 36 institution or individual;

37 (2) The basic characteristics of a quality daycare;

38 (3) A strong suggestion to parents to inquire about criminal history
 39 checks for any provider ~~in a family daycare home;~~

40 (4) A link to a department approved website that contains more detailed
 41 information; and

42 (5) A department or other phone number for parents to report unsafe,
 43 dangerous or harmful activities within the daycare.

44 SECTION 9. That Section 39-1115, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

1 39-1115. MISDEMEANOR. (1) It shall be a misdemeanor to operate a day-
2 care facility within this state without first obtaining a basic daycare li-
3 cense from the department ~~or to operate a daycare facility without posting a~~
4 ~~basic daycare license in a conspicuous place. A copy of this chapter shall~~
5 ~~be available on the premises at all times for staff and parents to read on re-~~
6 ~~quest unless otherwise exempted by this chapter.~~

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

11 (3) It shall be a misdemeanor to operate a family daycare home caring
12 for four (4) or more children without obtaining and passing the criminal his-
13 tory check required in section 39-1105, Idaho Code; provided, that in the
14 event of an initial citation for violation of the provisions of this subsec-
15 tion, if a person makes the applications required within twenty (20) days,
16 the complaint shall be dismissed. ~~Operation of a family daycare home caring~~
17 ~~for four (4) or more children after failure to pass a required criminal his-~~
18 ~~tory check shall be a misdemeanor.~~

19 (4) It is a misdemeanor for any person to provide daycare services
20 if such person has been found guilty in this state's courts, in any other
21 state's courts, or in any federal court, of any offense listed under the pro-
22 visions of section 39-1113, Idaho Code.

23 SECTION 10. That Section [39-1117](#), Idaho Code, be, and the same is hereby
24 repealed.

25 SECTION 11. That Section [39-1120](#), Idaho Code, be, and the same is hereby
26 repealed.

27 SECTION 12. The rules contained in IDAPA 16.06.03, Idaho Department of
28 Health and Welfare, relating to Daycare Licensing, Section 011.08. and Sec-
29 tion 100.06., shall be null, void, and of no force and effect on and after the
30 effective date of this act.

31 SECTION 13. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after
33 July 1, 2025.