

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 758

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO DAYCARE LICENSING; AMENDING SECTION 39-1102, IDAHO CODE, TO RE-
2 VISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
3 39-1109, IDAHO CODE, TO PROVIDE AN EXCEPTION REGARDING CHILDREN TO BE
4 COUNTED IN ATTENDANCE; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-
5 FECTIVE DATE.
6

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

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

- 10 39-1102. DEFINITIONS. As used in this chapter:
- 11 (1) "Board" means the Idaho board of health and welfare.
- 12 (2) "Child" means a person less than thirteen (13) years of age.
- 13 (3) "Daycare" means care and supervision provided for compensation
14 during part of a twenty-four (24) hour day, for a child or children not
15 related by blood, marriage or legal guardianship to the person or persons
16 providing the care, in a place other than the child's or children's own home
17 or homes.
- 18 (4) "Daycare center" means a place or facility providing daycare for
19 compensation for thirteen (13) or more children.
- 20 (5) "Daycare facility" means a place or facility providing daycare
21 services for compensation to seven (7) or more children not related to the
22 provider.
- 23 (6) "Department" means the Idaho department of health and welfare.
- 24 (7) "Employee" means any person working for compensation in a facility
25 that provides daycare.
- 26 (8) "Family daycare home" means a home, place, or facility providing
27 daycare for six (6) or fewer children.
- 28 (9) "Group daycare facility" means a home, place, or facility providing
29 daycare for seven (7) to twelve (12) children.
- 30 (10) "Group size" means the maximum number of children in one (1) group
31 or classroom.
- 32 (11) "Mixed age group" means a care group that includes children of mul-
33 tiple ages.
- 34 (12) "Operator" means a person who operates or maintains a licensed day-
35 care facility.
- 36 (13) "Owner" means a person, group of individuals, or entity that has
37 legal control and authority over a daycare business.
- 38 (14) "Provider" means a person who provides care and supervision at a
39 daycare facility and is included in the child:staff ratio.
- 40 (15) "Ratio" means the number of staff required to supervise a certain
41 number of children.

1 (16) "Single age group" means a care group that includes children of
2 similar age.

3 (17) "Staff" means anyone who is sixteen (16) years of age or older who
4 is employed by a daycare facility to provide care and supervision. "Staff"
5 includes operators, owners, and providers.

6 ~~(14)~~ (18) "Supervision" means:

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

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

13 (c) Notwithstanding paragraph (b) of this subsection, for all children
14 while sleeping, swimming or engaging in other water activity involving
15 a pool, hot tub, or other body of water, or on field trips or activities
16 away from the facility, a provider is within sight and normal hearing
17 range of the child. For the purposes of a child sleeping, the require-
18 ments of this subsection are met if the provider uses live video and au-
19 dio to monitor the child and remains near enough to render immediate as-
20 sistance to the child.

21 ~~(15)~~ ~~(18)~~ (19) "Training" means continuing education in child develop-
22 ment areas relating to child care.

23 SECTION 2. That Section 39-1109, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 39-1109. SAFETY STANDARDS. (1) Daycare facilities, owners and opera-
26 tors shall comply with the following safety standards in the area of the day-
27 care facility in which daycare is provided:

28 (a) Adequate fire and smoke alarms;

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

31 (c) Adequate fire extinguishers;

32 (d) Adequate exits;

33 (e) Firearms or other weapons that are stored on the premises of a day-
34 care facility must be kept in a locked container that is inaccessible to
35 children while daycare attendees are present;

36 (f) Pools, hot tubs, ponds and other bodies of water that are on the day-
37 care facility premises must provide the following safeguards:

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

41 1. The fence must be at least four (4) feet high with no ver-
42 tical opening more than four (4) inches wide, be designed so
43 that a young child cannot climb or squeeze under or through
44 the fence, surround all sides of the pool and have a gate that
45 is self-closing and that has a self-latching mechanism in
46 proper working order out of the reach of young children;

47 2. If the house forms one (1) side of the barrier for the
48 pool, all doors that provide unrestricted access to the pool

- 1 must have alarms that produce an audible sound when the door
2 is opened;
- 3 3. Furniture or other large objects must not be left near the
4 fence in a manner that would enable a child to climb on the
5 furniture or other large object and gain access to the pool;
6 and
- 7 (ii) If the area surrounding a pool, hot tub, pond or other body of
8 water is not fenced and locked, there must be a secured protective
9 covering that will not allow access by a child;
- 10 (iii) Wading pools must be empty when not in use;
- 11 (iv) Children must be under direct supervision of at least one (1)
12 adult employee while using a pool, hot tub, pond or other body of
13 water; and
- 14 (v) A minimum of a four (4) foot high fence must be present that
15 prevents access from the daycare facility premises if the daycare
16 premises are adjacent to a body of water; and
- 17 (g) The owner or operator of a daycare facility shall ensure that at
18 all times when a child or children are present, at least one (1) adult
19 employee on the premises has current certification in pediatric rescue
20 breathing and first aid treatment from a certified instructor.
- 21 (2) No fire standards developed pursuant to this chapter shall be more
22 stringent than the standards contained in the International Fire Code, as
23 adopted by Idaho.
- 24 (3) At least one (1) adult employee must be present at all times when a
25 child or children are in attendance.
- 26 (4) (a) The maximum allowable child:staff ratio shall be a maximum of
27 twelve (12) points per staff member using the following point system:
- 28 (i) Each child in attendance under the age of twenty-four (24)
29 months shall equal two (2) points.
- 30 (ii) Each child in attendance from twenty-four (24) months to un-
31 der thirty-six (36) months of age shall equal one and thirty-three
32 hundredths (1.33) points.
- 33 (iii) Each child in attendance from thirty-six (36) months to un-
34 der five (5) years of age shall equal nine hundred twenty-three
35 thousandths (0.923) of a point.
- 36 (iv) Each child in attendance from five (5) years to under thirteen
37 (13) years of age shall equal forty-eight hundredths (0.48) of a
38 point.
- 39 (b) Each child in attendance shall be counted by the department for pur-
40 poses of calculating maximum allowable points, counting the number of
41 children in attendance and for determining compliance with child:staff
42 ratios; however, in a family daycare home or a group daycare facility,
43 the provider's own children who are five (5) years of age or older shall
44 not be counted if the provider is operating out of the provider's home.
- 45 (c) Daycare facilities may operate with child:staff ratios more strin-
46 gent than those specified in paragraph (a) of this subsection.
- 47 (5) Sleeping children must be within sight and normal hearing range of a
48 provider.
- 49 (6) For daycare facilities providing overnight care of children:
- 50 (a) A sleeping child shall sleep on the same level as a staff member;

- 1 (b) At least one (1) staff member shall be awake and on duty;
- 2 (c) Sleeping children shall have separate cots, mats, or beds and blan-
- 3 kets; and
- 4 (d) A child shall not share a bed with a non-parent adult.

5 SECTION 3. An emergency existing therefor, which emergency is hereby
6 declared to exist, this act shall be in full force and effect on and after
7 July 1, 2026.