

TITLE 39  
HEALTH AND SAFETY

CHAPTER 11  
BASIC DAY CARE LICENSE

39-1101. POLICY. It is hereby declared to be the policy of this state to establish a statewide system for the protection of children in daycare facilities. This system is intended to establish standards, while still leaving primary responsibility for evaluation and selection of daycare services with parents.

[39-1101, added 1987, ch. 56, sec. 1, p. 92; am. 2009, ch. 295, sec. 1, p. 873; am. 2025, ch. 185, sec. 1, p. 862.]

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

- (1) "Board" means the Idaho board of health and welfare.
- (2) "Child" means a person less than thirteen (13) years of age.
- (3) "Daycare" means care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, marriage or legal guardianship to the person or persons providing the care, in a place other than the child's or children's own home or homes.
- (4) "Daycare center" means a place or facility providing daycare for compensation for thirteen (13) or more children.
- (5) "Daycare facility" means a place or facility providing daycare services for compensation to seven (7) or more children not related to the provider.
- (6) "Department" means the Idaho department of health and welfare.
- (7) "Employee" means any person working for compensation in a facility that provides daycare.
- (8) "Family daycare home" means a home, place, or facility providing daycare for six (6) or fewer children.
- (9) "Group daycare facility" means a home, place, or facility providing daycare for seven (7) to twelve (12) children.
- (10) "Group size" means the maximum number of children in one (1) group or classroom.
- (11) "Mixed age group" means a care group that includes children of multiple ages.
- (12) "Operator" means a person who operates or maintains a licensed daycare facility.
- (13) "Owner" means a person, group of individuals, or entity that has legal control and authority over a daycare business.
- (14) "Provider" means a person who provides care and supervision at a daycare facility and is included in the child:staff ratio.
- (15) "Ratio" means the number of staff required to supervise a certain number of children.
- (16) "Single age group" means a care group that includes children of similar age.
- (17) "Staff" means anyone who is sixteen (16) years of age or older who is employed by a daycare facility to provide care and supervision. "Staff" includes operators, owners, and providers.
- [(18)] (14) "Supervision" means:

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

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

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

[(19)] (15) (18) "Training" means continuing education in child development areas relating to child care.

[39-1102, added 1987, ch. 56, sec. 1, p. 93; am. 2009, ch. 295, sec. 2, p. 873; am. 2025, ch. 185, sec. 2, p. 862; am. 2025, ch. 186, sec. 1, p. 867.]

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

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

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

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

(4) The operation of day camps, programs, and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week and after school programs for children over four (4) years of age or in kindergarten; or

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

[39-1103, added 1987, ch. 56, sec. 1, p. 93; am. 2009, ch. 295, sec. 3, p. 874; am. 2023, ch. 299, sec. 1, p. 909.]

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

(2) Inspections. A person who wishes to operate a daycare facility shall submit: (a) a certificate of a fire inspection of the proposed center, conducted by a fire department or fire district official, establishing compliance with the standards specified in section [39-1109](#), Idaho Code; and (b) a health and safety inspection of the proposed facility conducted by a qualified inspector as designated by the department, establishing

compliance with the standards specified in sections [39-1109](#) and [39-1110](#), Idaho Code.

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

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

[39-1104, added 1987, ch. 56, sec. 1, p. 94; am. 2009, ch. 295, sec. 4, p. 874; am. 2025, ch. 185, sec. 3, p. 863.]

39-1105. CRIMINAL HISTORY CHECKS. (1) All owners, operators, and employees of a daycare facility who have direct contact with children and all other individuals thirteen (13) years of age or older who have unsupervised direct contact with children or are regularly on the premises of a daycare facility shall complete and pass a criminal history and background check in conformance with section [56-1004A](#), Idaho Code, at least every five (5) years.

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

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

[39-1105, added 1987, ch. 56, sec. 1, p. 94; am. 1992, ch. 90, sec. 1, p. 279; am. 1994, ch. 453, sec. 1, p. 1443; am. 2000, ch. 191, sec. 1, p. 472; am. 2009, ch. 295, sec. 5, p. 875; am. 2020, ch. 291, sec. 1, p. 840.]

39-1106. ISSUANCE OF LICENSE -- RENEWAL. (1) Upon receipt of the completed application, inspection certificates and the criminal history, the department shall, upon a finding of compliance with the standards set forth in this chapter, issue a basic daycare license to the applicant within sixty (60) days. The license shall be valid for two (2) years, unless suspended or revoked, and be posted in a conspicuous place at the daycare facility. [revoked or suspended]

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

(3) Criminal history checks on those persons under eighteen (18) years of age shall include a check of the juvenile justice records of adjudications

of the magistrate division of the district court, county probation services and department records as authorized by the minor and his parent or guardian.

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

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

[39-1106, added 1987, ch. 56, sec. 1, p. 94; am. 1992, ch. 90, sec. 2, p. 279; am. 2009, ch. 295, sec. 6, p. 875; am. 2020, ch. 291, sec. 2, p. 841; am. 2025, ch. 185, sec. 4, p. 863; am. 2025, ch. 186, sec. 2, p. 868.]

39-1107. FEES. (1) The total fee to be assessed for a daycare license shall not exceed three hundred twenty-five dollars (\$325) for daycare centers with more than twenty-five (25) children in attendance at any given time, two hundred fifty dollars (\$250) for daycare centers with thirteen (13) to twenty-five (25) children in attendance at any given time and one hundred dollars (\$100) for all other daycare facilities. Criminal history background check fees shall be in addition, but at actual cost. No other fees shall be charged for each license period.

(2) The department may use Idaho child care program funds to pay for the costs associated with licensing of daycare facilities to the extent that fees collected from the facilities do not fully cover such costs. It is the intent of the legislature that licensing fees and Idaho child care program funds shall fully fund daycare facility licensing administration.

[39-1107, added 1987, ch. 56, sec. 1, p. 94; am. 1992, ch. 72, sec. 1, p. 208; am. 1993, ch. 23, sec. 1, p. 83; am. 2009, ch. 295, sec. 7, p. 876; am. 2011, ch. 274, sec. 1, p. 744; am. 2025, ch. 186, sec. 3, p. 868.]

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

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

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

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

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

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

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

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

(iv) Children must be under direct supervision of at least one (1) adult employee while using a pool, hot tub, pond or other body of water; and

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

(g) The owner or operator of a daycare facility shall ensure that at all times when a child or children are present, at least one (1) adult employee on the premises has current certification in pediatric rescue breathing and 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) At least one (1) adult employee must be present at all times when a child or children are in attendance.

(4) (a) The maximum allowable child:staff ratio shall be a maximum of twelve (12) points per staff member using the following point system:

(i) Each child in attendance under the age of twenty-four (24) months shall equal two (2) points.

(ii) Each child in attendance from twenty-four (24) months to under thirty-six (36) months of age shall equal one and thirty-three hundredths (1.33) points.

(iii) Each child in attendance from thirty-six (36) months to under five (5) years of age shall equal nine hundred twenty-three thousandths (0.923) of a point.

(iv) Each child in attendance from five (5) years to under thirteen (13) years of age shall equal forty-eight hundredths (0.48) of a point.

(b) Each child in attendance shall be counted by the department for purposes of calculating maximum allowable points, counting the number of children in attendance and for determining compliance with child:staff ratios.

(c) Daycare facilities may operate with child:staff ratios more stringent than those specified in paragraph (a) of this subsection.

(5) Sleeping children must be within sight and normal hearing range of a provider.

(6) For daycare facilities providing overnight care of children:

(a) A sleeping child shall sleep on the same level as a staff member;

(b) At least one (1) staff member shall be awake and on duty;

(c) Sleeping children shall have separate cots, mats, or beds and blankets; and

(d) A child shall not share a bed with a non-parent adult.

[39-1109, added 1987, ch. 56, sec. 1, p. 95; am. 1997, ch. 164, sec. 1, p. 474; am. 2002, ch. 86, sec. 3, p. 197; am. 2009, ch. 295, sec. 9, p. 876; am. 2011, ch. 274, sec. 3, p. 745; am. 2025, ch. 185, sec. 6, p. 864; am. 2025, ch. 186, sec. 4, p. 869.]

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

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

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

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

(4) Sleeping and play areas, restrooms and fixtures shall be maintained in a safe, sanitary condition, and infant sleep areas shall consist of a space in which children up to age twelve (12) months may sleep alone, on their backs, and in a crib;

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

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

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

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

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

[39-1110, added 1987, ch. 56, sec. 1, p. 95; am. 1994, ch. 147, sec. 1, p. 335; am. 2009, ch. 295, sec. 10, p. 878; am. 2020, ch. 291, sec. 3, p. 841.]

39-1110A. BEHAVIOR MANAGEMENT AND DISCIPLINE. Methods of behavior management and discipline for children shall be positive, consistent, and based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. The following acts are prohibited:

(1) Any punishment inflicted on the body, including spanking;

(2) Cruel and unusual physical exercise, including forcing a child to take an uncomfortable position;

(3) Use of excessive physical labor;

(4) Use of restraints;

(5) Locking a child in a room or area;

(6) Denying necessities, including food, clothing, bedding, rest, toilet use, personal care and sanitation, or entrance to the home or facility; and

(7) Mental or emotional cruelty or verbal abuse.

[39-1110A, added 2025, ch. 186, sec. 5, p. 870.]

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

[39-1111, added 1987, ch. 56, sec. 1, p. 96; am. 2009, ch. 295, sec. 11, p. 879; am. 2025, ch. 185, sec. 7, p. 865.]

39-1112. VISITATION. Any parent or guardian shall have the absolute right to enter the premises of any facility during the period of care for the parent's or guardian's child or children. Any failure or refusal to allow entry to a parent or guardian may be grounds for suspension or revocation of the license, pursuant to section [39-1113](#), Idaho Code. If a parent or guardian has been granted limited or has been denied visitation rights by a court of competent jurisdiction, this section shall not confer a right to visitation.

[39-1112, added 1987, ch. 56, sec. 1, p. 96.]

39-1112A. ACCESS TO INFORMATION. The department shall make available to daycare consumers information to educate daycare consumers with informational tools useful in identifying quality daycare, including:

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

[39-1112A, added 2009, ch. 295, sec. 12, p. 879; am. 2025, ch. 185, sec. 8, p. 865.]

39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) The department shall investigate complaints against daycare facilities. If a preliminary investigation indicates that a more complete investigation is necessary, the operator of the facility shall be informed of the investigation and any action to be taken.

(2) A license may be denied, suspended or revoked by the department if the department finds that the applicant or licensee does not comply with the provisions of this chapter.

(3) No person who pleads guilty to, has been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to or other abuse of a child, including the following offenses or a similar

provision in another jurisdiction, shall be eligible for a license under the provisions of this chapter:

- (a) Felony injury of a child, section [18-1501](#), Idaho Code.
- (b) The sexual abuse of a child under sixteen years of age, section [18-1506](#), Idaho Code.
- (c) The ritualized abuse of a child under eighteen years of age, section [18-1506A](#), Idaho Code.
- (d) The sexual exploitation of a child, section [18-1507](#), Idaho Code.
- (e) Sexual abuse of a child under the age of sixteen years, section [18-1506](#), Idaho Code.
- (f) Lewd conduct with a child under the age of sixteen years, section [18-1508](#), Idaho Code.
- (g) The sale or barter of a child for adoption or other purposes, section [18-1511](#), Idaho Code.
- (h) Murder in any degree, section [18-4001](#) or [18-4003](#), Idaho Code.
- (i) Assault with intent to murder, section [18-4015](#), Idaho Code.
- (j) Voluntary manslaughter, section [18-4006](#), Idaho Code.
- (k) Rape, section [18-6101](#), Idaho Code.
- (l) Incest, section [18-6601](#), Idaho Code.
- (m) Forcible sexual penetration by use of foreign object, section [18-6604](#), Idaho Code.
- (n) Abuse, neglect or exploitation of a vulnerable adult, section [18-1505](#), Idaho Code.
- (o) Aggravated, first degree, second degree and third degree arson, sections [18-801](#) through [18-805](#), Idaho Code.
- (p) The infamous crime against nature, a felony offense formerly codified in [chapter 66, title 18](#), Idaho Code, and whose conviction is entered before July 1, 2022.
- (q) Kidnapping, sections [18-4501](#) through [18-4503](#), Idaho Code.
- (r) Mayhem, section [18-5001](#), Idaho Code.
- (s) Poisoning, section [18-4014](#) or [18-5501](#), Idaho Code.
- (t) Robbery, section [18-6501](#), Idaho Code.
- (u) Stalking in the first degree, section [18-7905](#), Idaho Code.
- (v) Video voyeurism, section [18-6605](#), Idaho Code.
- (w) Enticing of children, section [18-1509](#) or [18-1509A](#), Idaho Code.
- (x) Inducing a child into commercial sexual activity, section [18-5609](#), Idaho Code.
- (y) Inducing a child to engage in commercial sexual activity, section [18-5611](#), Idaho Code.
- (z) Any felony punishable by death or life imprisonment.
- (aa) Attempt, section [18-306](#), Idaho Code, conspiracy, section [18-1701](#), Idaho Code, or accessory after the fact, section [18-205](#), Idaho Code, to commit any of the crimes designated in this subsection.
- (bb) Domestic violence, section [18-918](#) (2), Idaho Code.
- (cc) Any offense requiring registration on a state sex offender registry or the national sex offender registry.
- (dd) A felony drug-related offense committed during the preceding five (5) years.
- (ee) Sexual abuse of an animal, section [18-6602](#), Idaho Code.
- (ff) Sexual abuse of human remains, section [18-6603](#), Idaho Code.
- (4) No person who has pleaded guilty to, been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to or other abuse of a child, including the following offenses or

a similar provision in another jurisdiction, shall be eligible for a license for a period of five (5) years under the provisions of this chapter:

- (a) Aggravated assault, section [18-905](#), Idaho Code.
  - (b) Aggravated battery, section [18-907](#)(1), Idaho Code.
  - (c) Burglary, section [18-1401](#), Idaho Code.
  - (d) Felony theft, sections [18-2403](#) and [18-2407](#)(1), Idaho Code.
  - (e) Forgery of a financial transaction card, section [18-3123](#), Idaho Code.
  - (f) Fraudulent use of a financial transaction card or number, section [18-3124](#), Idaho Code.
  - (g) Forgery or counterfeiting, [chapter 36, title 18](#), Idaho Code.
  - (h) Misappropriation of personal identifying information, section [18-3126](#), Idaho Code.
  - (i) Insurance fraud, section [41-293](#), Idaho Code.
  - (j) Damage to or destruction of insured property, section [41-294](#), Idaho Code.
  - (k) Public assistance fraud, section [56-227](#), Idaho Code.
  - (l) Provider fraud, section [56-227A](#), Idaho Code.
  - (m) Attempted strangulation, section [18-923](#), Idaho Code.
  - (n) Attempt, section [18-306](#), Idaho Code, conspiracy, section [18-1701](#), Idaho Code, or accessory after the fact, section [18-205](#), Idaho Code, to commit any of the crimes designated in this subsection.
  - (o) Misdemeanor injury to a child, section [18-1501](#)(2), Idaho Code.
- (5) A daycare facility license may be denied, suspended or revoked by the department if the department finds that the daycare facility is not in compliance with the standards provided for in this chapter or criminal activity that threatens the health or safety of a child.
- (6) A daycare facility license or privilege to operate a family daycare home shall be denied or revoked if a registered sex offender resides on the premises where daycare services are provided.
- (7) When circumstances occur over which an operator has no control, a license may be suspended until the nonconformity is remedied. If a license is summarily suspended, children at the facility shall not be transported from the facility, but the parents or legal guardians of the children shall be contacted.
- (8) A license may be suspended for violations of this chapter. Such suspension may lead to revocation if the operator fails to demonstrate to the department's satisfaction that the violations have been corrected.
- (9) The denial, suspension, or revocation of a license may occur if the owner or operator: fails to furnish records required by the department; has been found guilty of or is under investigation for fraud associated with the operation of the daycare facility or any felony; has knowingly permitted, aided, or abetted the commission of any illegal act on the premises of the daycare facility; endangers health or safety; has repeated law violations; misrepresents or omits information; refuses to allow access to the facility or documentation; or engages in abusive conduct.
- (10) The denial, suspension, or revocation of a license under this chapter may be appealed through the administrative appeals process governed by the provisions of [chapter 52, title 67](#), Idaho Code, with the opportunity for further review by the district court of the county in which the affected daycare facility is located.
- (11) The department shall not accept an application from any person, corporation, or partnership, including any managing employee, officer,

owner, or spouse or partner of an owner of an entity, that has had a license denied or revoked until five (5) years has elapsed from the final date of the disciplinary action.

[39-1113, added 1987, ch. 56, sec. 1, p. 96; am. 1990, ch. 271, sec. 1, p. 765; am. 1992, ch. 90, sec. 3, p. 280; am. 2009, ch. 295, sec. 13, p. 880; am. 2012, ch. 269, sec. 8, p. 762; am. 2016, ch. 296, sec. 16, p. 846; am. 2020, ch. 291, sec. 4, p. 842; am. 2022, ch. 124, sec. 26, p. 461; am. 2024, ch. 147, sec. 51, p. 587; am. 2025, ch. 186, sec. 6, p. 870.]

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

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

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

[39-1114, added 1987, ch. 56, sec. 1, p. 96; am. 2009, ch. 295, sec. 14, p. 881.]

39-1115. MISDEMEANOR. (1) It shall be a misdemeanor to operate a daycare facility within this state without first obtaining a basic daycare license from the department unless otherwise exempted by this chapter.

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

(3) It shall be a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining and passing the criminal history check required in section [39-1105](#), Idaho Code; provided, that in the event of an initial citation for violation of the provisions of this subsection, if a person makes the applications required within twenty (20) days, the complaint shall be dismissed.

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

[39-1115, added 1987, ch. 56, sec. 1, p. 97; am. 1992, ch. 90, sec. 4, p. 281; am. 2009, ch. 295, sec. 15, p. 881; am. 2025, ch. 185, sec. 9, p. 866.]

39-1116. PROSECUTION. It shall be the duty of the prosecuting attorney of the county in which the daycare facility is located to prosecute violations of the provisions of this chapter.

[39-1116, added 1987, ch. 56, sec. 1, p. 97; am. 2009, ch. 295, sec. 16, p. 882.]

## 39-1118. IMMUNIZATION.

(1) (a) Within fourteen (14) days of a child's initial attendance at any licensed daycare facility, the parent or guardian shall provide an immunization record to the operator of the daycare facility regarding the child's immunity to certain childhood diseases. This record, signed by a physician or his representative or another licensed health care professional, shall verify that the child has received or is in the process of receiving immunizations as specified by this section; or can effectively demonstrate, through verification in a form approved by the department, immunity gained through prior contraction of the disease. Documentation shall be retained by the licensed daycare facility for each child as long as the child attends the daycare facility, plus one (1) year after last attendance.

(b) The age appropriate immunizations required pursuant to this paragraph shall conform to recognized standard medical practices in the state:

- (i) Diphtheria, Tetanus and A-Cellular Pertussis (DTaP) vaccine;
- (ii) Polio vaccine;
- (iii) Measles, Mumps, and Rubella (MMR) vaccine;
- (iv) Haemophilus Influenza Type B (HIB) vaccine;
- (v) Hepatitis B vaccine;
- (vi) Varicella vaccine;
- (vii) Pneumococcal vaccine;
- (viii) Rotavirus vaccine; and
- (ix) Hepatitis A vaccine.

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

(3) Licensed daycare facilities shall describe the exemptions provided in subsection (2) of this section and shall provide a citation to this code section in any communication to parents or guardians regarding immunization.

(4) A child not meeting the conditions of this section shall be excluded by the licensed daycare facility operator until the child is in compliance. A child exempt from the provisions of this section pursuant to subsection (2) of this section may be excluded by the department in the event of a disease outbreak.

(5) (a) The department may randomly select and visit licensed daycare facilities to evaluate compliance with this section. The department shall inform licensed daycare facilities at least thirty (30) days in advance of such visits.

(b) The department shall record violations in writing and provide a copy to the licensed daycare operator. Licensed daycare operators shall have thirty (30) days following an inspection to state that the specified violations have been corrected. Failure to respond shall result in notification to the licensed daycare operator's licensing authority.

[39-1118, added 1990, ch. 150, sec. 1, p. 334; am. 2009, ch. 295, sec. 18, p. 882; am. 2011, ch. 103, sec. 1, p. 266; am. 2023, ch. 72, sec. 1, p. 240; am. 2025, ch. 174, sec. 1, p. 819.]

39-1119. TRAINING REQUIREMENTS. The owner or operator of a daycare center shall ensure that each employee receives four (4) hours of ongoing training in child development areas related to daycare every twelve (12) months after the employee's hire date. Each staff member counting toward the child:staff ratio shall have current certification in pediatric rescue breathing and pediatric first aid from a certified instructor. The owner or operator is responsible for maintaining documentation of each staff member's training.

[39-1119, added 1993, ch. 416, sec. 2, p. 1529; am. 2025, ch. 186, sec. 7, p. 872.]