

FIRST REGULAR SESSION

HOUSE BILL NO. 707

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KIRKTON.

1588L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 210.221, RSMo, and to enact in lieu thereof two new sections relating to child care facilities, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 210.221, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 210.221 and 210.223, to read as follows:

210.221. 1. The department of health and senior services shall have the following powers and duties:

(1) After inspection, to grant licenses to persons to operate child-care facilities if satisfied as to the good character and intent of the applicant and that such applicant is qualified and equipped to render care or service conducive to the welfare of children, and to renew the same when expired. No license shall be granted for a term exceeding two years. Each license shall specify the kind of child-care services the licensee is authorized to perform, the number of children that can be received or maintained, and their ages and sex;

(2) To inspect the conditions of the homes and other places in which the applicant operates a child-care facility, inspect their books and records, premises and children being served, examine their officers and agents, deny, suspend, place on probation or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health and senior services. The director also may revoke or suspend a license when the licensee fails to renew or surrenders the license;

(3) To promulgate and issue rules and regulations the department deems necessary or proper in order to establish standards of service and care to be rendered by such licensees to children. No rule or regulation promulgated by the division shall in any manner restrict or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 interfere with any religious instruction, philosophies or ministries provided by the facility and
19 shall not apply to facilities operated by religious organizations which are not required to be
20 licensed; [and]

21 (4) To approve training concerning the safe sleep recommendations of the
22 American Academy of Pediatrics in accordance with section 210.223; and

23 (5) To determine what records shall be kept by such persons and the form thereof, and
24 the methods to be used in keeping such records, and to require reports to be made to the
25 department at regular intervals.

26 2. Any child-care facility may request a variance from a rule or regulation promulgated
27 pursuant to this section. The request for a variance shall be made in writing to the department
28 of health and senior services and shall include the reasons the facility is requesting the variance.
29 The department shall approve any variance request that does not endanger the health or safety
30 of the children served by the facility. The burden of proof at any appeal of a disapproval of a
31 variance application shall be with the department of health and senior services. Local inspectors
32 may grant a variance, subject to approval by the department of health and senior services.

33 3. The department shall deny, suspend, place on probation or revoke a license if it
34 receives official written notice that the local governing body has found that license is prohibited
35 by any local law related to the health and safety of children. The department may, after
36 inspection, find the licensure, denial of licensure, suspension or revocation to be in the best
37 interest of the state.

38 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
39 under the authority delegated in sections 210.201 to 210.245 shall become effective only if it
40 complies with and is subject to all of the provisions of chapter 536, and, if applicable, section
41 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
42 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
43 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
44 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
45 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
46 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
47 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**210.223. 1. All licensed child care facilities that provide care for children less than
2 one year of age shall implement and maintain a written safe sleep policy in accordance with
3 the most recent safe sleep recommendations of the American Academy of Pediatrics. The
4 purpose of the safe sleep policy is to maintain a safe sleep environment that prevents the
5 occurrence of sudden infant death syndrome and sudden unexpected infant deaths in
6 children less than one year of age.**

7 **2. When an infant requires alternative sleep positions or special sleeping**
8 **arrangements, the child care facility shall be provided with written instructions, signed by**
9 **the infant's licensed health care provider, detailing the alternative sleep positions or special**
10 **sleeping arrangements for such infant. The child care facility shall put the infant to sleep**
11 **in accordance with such written instructions.**

12 **3. As used in this section, the following terms shall mean:**

13 **(1) "Sudden infant death syndrome", the sudden death of an infant less than one**
14 **year of age that cannot be explained after a thorough investigation has been conducted,**
15 **including a complete autopsy, an examination of the death scene, and a review of the**
16 **clinical history;**

17 **(2) "Sudden unexpected infant death", the sudden and unexpected death of an**
18 **infant less than one year of age in which the manner and cause of death are not**
19 **immediately obvious prior to investigation. Causes of sudden unexpected infant death**
20 **include but are not limited to metabolic disorders, hypothermia or hyperthermia, neglect**
21 **or homicide, poisoning, and accidental suffocation.**

22 **4. All employees of licensed child care facilities who care for infants less than one**
23 **year of age shall successfully complete department-approved training on the most recent**
24 **safe sleep recommendations of the American Academy of Pediatrics every three years.**

25 **5. The department shall promulgate rules to implement the provisions of this**
26 **section. Such rules shall include, but not be limited to:**

27 **(1) Amending any current rules which are not in compliance with the most recent**
28 **safe sleep recommendations of the American Academy of Pediatrics, including but not**
29 **limited to 19 CSR 30.62-092(1)C which permits the use of bumper pads in cribs or**
30 **playpens;**

31 **(2) Keeping soft or loose bedding away from sleeping infants and out of safe sleep**
32 **environments, including but not limited to bumper pads, pillows, quilts, comforters, sleep**
33 **positioning devices, sheepskins, blankets, flat sheets, cloth diapers, bibs, and other similar**
34 **items;**

35 **(3) Prohibiting blankets or other soft or loose bedding from being hung on the sides**
36 **of cribs.**

37 **6. The department may adopt emergency rules to implement the requirements of**
38 **this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
39 **is created under the authority delegated in this section shall become effective only if it**
40 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
41 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
42 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**

43 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
44 **grant of rulemaking authority and any rule proposed or adopted after the effective date**
45 **of this section shall be invalid and void.**

Section B. Because immediate action is necessary to ensure a safe sleep environment for
2 infants in child care facilities, this act is deemed necessary for the immediate preservation of the
3 public health, welfare, peace, and safety, and is hereby declared to be an emergency act within
4 the meaning of the constitution, and this act shall be in full force and effect upon its passage and
5 approval.

✓