

SENATE BILL NO. 391
INTRODUCED BY J. MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE AS A DAY-CARE CENTER FOR CERTAIN FACILITIES THAT PROVIDE DAY CARE ON AN IRREGULAR BASIS TO ANY NUMBER OF CHILDREN; AMENDING DEFINITIONS; AMENDING SECTIONS 52-2-703, 52-2-704, AND 52-2-721, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 52-2-703, MCA, is amended to read:

"52-2-703. Definitions. In this part, the following definitions apply:

(1) "Child" means a person under 13 years of age or a person with special needs, as defined by the department, who is under 18 years of age or is 18 years of age and a full-time student expected to complete an educational program by 19 years of age.

(2) "Day care" or "child care" means care for children provided by an adult, other than a parent of the children or other person living with the children as a parent, on a regular or irregular basis, as applicable, for daily periods of less than 24 hours, whether that care is for daytime or nighttime hours.

(3) (a) "Day-care center" means an out-of-home place in which day care is provided to:

(i) 13 or more children on a regular basis; or

(ii) any number of children on an irregular basis.

(b) The term does not include a place where day care is provided if a parent of a child for whom day care is provided remains on the premises.

(4) (a) "Day-care facility" means a person, association, or place, incorporated or unincorporated, that provides day care on a regular basis or ~~a place licensed or registered to provide day care~~ on an irregular basis, as provided for in subsection (3)(a)(ii), or for children suffering from illness. The term includes a family day-care home, a day-care center, a group day-care home, or a facility providing care in a child's home for the purpose of meeting registration requirements for the receipt of payments as provided in 52-2-713.

(b) The term does not include:

(a)(i) a person who limits care to children who are related to the person by blood or marriage or under the person's legal guardianship, unless registration or licensure as a day-care facility is required to receive

payments as provided in 52-2-713; or

~~(b)~~(ii) any group facility established chiefly for educational purposes that limits its services to children who are 3 years of age or older.

(5) "Department" means the department of public health and human services provided for in 2-15-2201.

(6) "Family day-care home" means a private residence in which day care is provided to three to six children on a regular basis.

(7) "Group day-care home" means a private residence or other structure in which day care is provided to 7 to 12 children on a regular basis.

(8) "License" means a written document issued by the department that the license holder has complied with this part and the applicable standards and rules for day-care centers.

(9) "Licensee" means the holder of a license issued by the department in accordance with the provisions of this part.

(10) "Professional training" means training for early childhood or school-age care providers that is recognized as professional development by a national education or certification organization or by a higher education institution.

(11) "Registrant" means the holder of a registration certificate issued by the department in accordance with the provisions of this part.

(12) "Registration" means the process whereby the department maintains a record of all family day-care homes and group day-care homes, prescribes standards, promulgates rules, and requires the operator of a family day-care home or a group day-care home to certify compliance with the prescribed standards and promulgated rules.

(13) "Registration certificate" means a written instrument issued by the department to publicly document that the certificate holder has, in writing, certified to the department compliance with this part and the applicable standards for family day-care homes and group day-care homes.

(14) "Regular basis" means providing day care to children of separate families for any daily periods of less than 24 hours and within 3 or more consecutive weeks.

(15) (a) "Related by blood or marriage" means the status of a child who is the son, daughter, brother, sister, first cousin, nephew, niece, or grandchild of a person providing child care.

(b) The term includes the status of a child described in subsection (15)(a) in a step or adoptive relationship.

(16) "School age" means a person who is at least 5 years of age and who is younger than 13 years of

age or a person with special needs, as defined by the department, who is under 18 years of age or is 18 years of age and a full-time student expected to complete an educational program by 19 years of age.

(17) "School-age care" means an adult-supervised program that is provided for school-age children during nonschool hours."

Section 2. Section 52-2-704, MCA, is amended to read:

"52-2-704. Duties of department. (1) The department is responsible for planning, implementing, and coordinating programs under the Montana Child Care Act.

(2) The department shall:

- (a) assess child-care needs and resources within the state;
- (b) develop a state child-care plan;
- (c) coordinate child-care programs administered by all state agencies;
- (d) issue licenses to persons to receive children into a day-care center on a regular basis or an irregular basis;
- (e) prescribe the conditions and publish minimum standards upon which licenses and registration certificates are issued;
- (f) adopt rules for day-care facilities consistent with the purposes of this part;
- (g) adopt rules for day-care centers that provide day care on an irregular basis, which includes exceptions regarding requirements for immunization records and staffing ratios; and
- (h) issue registration certificates to a person or persons to receive children into a family day-care home or group day-care home on a regular basis.

(3) The department may:

- (a) enter into interagency agreements to administer and coordinate child-care programs;
- (b) accept any federal funds made available for the improvement or promotion of child-care services within the state; and
- (c) administer any state and federal funds that may be appropriated for the purposes of the part; ~~and~~
- ~~(d) issue a license to a person to receive children into a day-care center on an irregular basis if the person chooses to apply for licensure."~~

Section 3. Section 52-2-721, MCA, is amended to read:

"52-2-721. License required -- registration required -- term of license or registration certificate

-- **no fee charged.** (1) A person, group of persons, or corporation may not:

(a) establish or maintain a day-care center for children, in which day care is provided on a regular basis or an irregular basis, unless licensed to do so by the department;

(b) operate a family day-care home or group day-care home without first procuring a family day-care or group day-care registration certificate from the department.

(2) The license and registration certificate must contain the ages and numbers of children for whom day care may be provided.

(3) The applicant's own children must be included in the manner provided for in department regulations in the total number of children to be cared for under the license or registration certificate.

(4) The department:

(a) may issue a license or registration certificate that remains in effect for a period not to exceed 3 years; and

(b) may not charge a fee to issue a license or registration certificate.

(5) A 3-year license may be issued only to a provider who has not received notice of any deficiencies on the licensing criteria and implementing guidelines that are provided in department rule.

~~(6) The department may issue a license to a day-care center in which day care is provided on an irregular basis if the person operating the center chooses to apply for licensure."~~

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2003.

NEW SECTION. **Section 5. Applicability.** [This act] applies to day-care centers, as defined in 52-2-703(3)(a)(ii), operated on or after July 1, 2003.

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