

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 427
98TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, April 16, 2015, with recommendation that the Senate Committee Substitute do pass.

1767S.04C

ADRIANE D. CROUSE, Secretary.

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Section A. Section 210.221, RSMo, is repealed and two new sections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

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

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

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

17 (3) To promulgate and issue rules and regulations the department deems

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 necessary or proper in order to establish standards of service and care to be
19 rendered by such licensees to children. No rule or regulation promulgated by the
20 division shall in any manner restrict or interfere with any religious instruction,
21 philosophies or ministries provided by the facility and shall not apply to facilities
22 operated by religious organizations which are not required to be licensed; [and]

23 **(4) To approve training concerning the safe sleep**
24 **recommendations of the American Academy of Pediatrics in accordance**
25 **with section 210.223; and**

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

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

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

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

54 authority and any rule proposed or adopted after August 28, 1999, shall be
55 invalid and void.

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

8 2. When, in the opinion of the infant's licensed health care
9 provider, an infant requires alternative sleep positions or special
10 sleeping arrangements that differ from those set forth in the most
11 recent sleep recommendations of the American Academy of Pediatrics,
12 the child care facility shall be provided with written instructions,
13 signed by the infant's licensed health care provider, detailing the
14 alternative sleep positions or special sleeping arrangements for such
15 infant. The child care facility shall put the infant to sleep in
16 accordance with such written instructions.

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

18 (1) "Sudden infant death syndrome", the sudden death of an
19 infant less than one year of age that cannot be explained after a
20 thorough investigation has been conducted, including a complete
21 autopsy, an examination of the death scene, and a review of the clinical
22 history;

23 (2) "Sudden unexpected infant death", the sudden and unexpected
24 death of an infant less than one year of age in which the manner and
25 cause of death are not immediately obvious prior to
26 investigation. Causes of sudden unexpected infant death include but
27 are not limited to metabolic disorders, hypothermia or hyperthermia,
28 neglect or homicide, poisoning, and accidental suffocation.

29 4. All employees of licensed child care facilities who care for
30 infants less than one year of age or any volunteer who may be assisting
31 at the facility shall successfully complete department-approved training
32 on the most recent safe sleep recommendations of the American
33 Academy of Pediatrics every three years.

34 5. The department shall promulgate rules to implement the
35 provisions of this section. Such rules shall include, but not be limited

36 to:

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

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

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

47 **6. The department may adopt emergency rules to implement the**
48 **requirements of this section. Any rule or portion of a rule, as that term**
49 **is defined in section 536.010, that is created under the authority**
50 **delegated in this section shall become effective only if it complies with**
51 **and is subject to all of the provisions of chapter 536 and, if applicable,**
52 **section 536.028. This section and chapter 536 are nonseverable and if**
53 **any of the powers vested with the general assembly pursuant to chapter**
54 **536 to review, to delay the effective date, or to disapprove and annul a**
55 **rule are subsequently held unconstitutional, then the grant of**
56 **rulemaking authority and any rule proposed or adopted after the**
57 **effective date of this section shall be invalid and void.**

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

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