

CHAPTER 131

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 21-167

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 also REPRESENTATIVE(S) Gray and Larson, Bernett, Bird, Hooton, Lontine, McCluskie, McCormick, McLachlan, Mullica, Rich, Ricks, Sandridge, Sirota, Snyder, Titone, Van Beber, Van Winkle, Will, Young.

AN ACT

CONCERNING THE REGULATION OF CHILD CARE CENTERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-33.5-1213.3, **amend** (1) as follows:

24-33.5-1213.3. Building and structure fire code maintenance - rules.
 (1) (a) This section ~~shall apply~~ **APPLIES** to building and structure maintenance for fire safety. The fire department providing fire protection service for the buildings and structures of a school district or of a local college district or for a charter school may inspect the buildings and structures when deemed necessary to ensure that they are maintained in accordance with the fire code adopted by the director of the division. If the local fire department does not perform the inspections authorized by this section, the division ~~shall have~~ **HAS** the authority and duty to conduct the inspections.

(b) AN INSPECTION CONDUCTED PURSUANT TO THIS SECTION WITHIN THE PRECEDING TWELVE MONTHS SATISFIES THE INSPECTION REQUIREMENT OF A CHILD CARE CENTER THAT PROVIDES CHILD CARE EXCLUSIVELY TO SCHOOL-AGE CHILDREN AND OPERATES ON THE PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL. THE FIRE DEPARTMENT OR DIVISION THAT CONDUCTS THE INSPECTION PURSUANT TO THIS SECTION SHALL PROVIDE A COPY OF THE INSPECTION REPORT TO A CHILD CARE CENTER OFFICIAL.

SECTION 2. In Colorado Revised Statutes, 26-6-104, **amend** (4) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

26-6-104. Licenses - out-of-state notices and consent - demonstration pilot program - definition - rules. (4) (a) The department shall not issue a license for a child care center, residential child care facility, or secure residential treatment center until the facilities to be operated or maintained by the applicant or licensee are approved by the department of public health and environment as conforming to the sanitary standards prescribed by the department ~~under~~ PURSUANT TO section 25-1.5-101 (1)(h) ~~C.R.S.~~, and unless the facilities conform to fire prevention and protection requirements of local fire departments in the locality of the facility or, in lieu thereof, of the division of labor standards and statistics.

(b) A CHILD CARE CENTER THAT PROVIDES CHILD CARE EXCLUSIVELY TO SCHOOL-AGE CHILDREN AND OPERATES ON THE PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL MAY SATISFY ANY FIRE OR RADON INSPECTION REQUIREMENT REQUIRED BY LAW BY PROVIDING A COPY OF A SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL WHERE THE CHILD CARE IS PROVIDED IF THE FIRE OR RADON INSPECTION REPORT WAS COMPLETED WITHIN THE PRECEDING TWELVE MONTHS. THE DEPARTMENT SHALL NOT REQUIRE A DUPLICATE FIRE OR RADON INSPECTION IF A SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY WAS COMPLETED WITHIN THE PRECEDING TWELVE MONTHS.

SECTION 3. In Colorado Revised Statutes, 26-6-106, **amend** (2)(e); and **add** (2.3) and (2.6) as follows:

26-6-106. Standards for facilities and agencies - rules - definition.
(2) Standards prescribed by such rules are restricted to:

(e) (I) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire protection and prevention and health standards in conformance with state laws and municipal ordinances, to provide for the physical comfort, care, well-being, and safety of THE children served.

(II) A CHILD CARE CENTER THAT PROVIDES CHILD CARE EXCLUSIVELY TO SCHOOL-AGE CHILDREN AND OPERATES ON THE PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL MAY SATISFY ANY FIRE OR RADON INSPECTION REQUIREMENT REQUIRED BY LAW BY PROVIDING A COPY OF A SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL WHERE THE CHILD CARE IS PROVIDED IF THE FIRE OR RADON INSPECTION REPORT WAS COMPLETED WITHIN THE PRECEDING TWELVE MONTHS. THE DEPARTMENT SHALL NOT REQUIRE A DUPLICATE FIRE OR RADON INSPECTION IF A SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY WAS COMPLETED WITHIN THE PRECEDING TWELVE MONTHS.

(III) THE DEPARTMENT SHALL REQUIRE AN ANNUAL INSPECTION OF PLAYGROUND FACILITIES ON THE PROPERTY WHERE A CHILD CARE CENTER OPERATES. FOR PURPOSES OF A PLAYGROUND FACILITY INSPECTION, THE DEPARTMENT SHALL ACCEPT AS SATISFACTORY PROOF OF VALID CERTIFICATION OF THE PLAYGROUND

FACILITY, CERTIFICATION, OR A COPY OF CERTIFICATION, FROM AN INDIVIDUAL WHO IS LICENSED OR CERTIFIED TO PERFORM PLAYGROUND SAFETY INSPECTIONS THROUGH THE NATIONAL RECREATION AND PARK ASSOCIATION, OR OTHER NATIONALLY RECOGNIZED PLAYGROUND FACILITY SAFETY ORGANIZATION. THE DEPARTMENT SHALL NOT REQUIRE A DUPLICATE INSPECTION IF A SATISFACTORY INSPECTION REPORT WAS COMPLETED WITHIN THE PRECEDING TWELVE MONTHS.

(2.3) (a) FOR PURPOSES OF THIS SUBSECTION (2.3), "PROGRAM" MEANS CHILD CARE OFFERED BY A CHILD CARE CENTER THAT HOLDS A LICENSE PURSUANT TO THIS PART 1, PROVIDES CHILD CARE EXCLUSIVELY TO SCHOOL-AGE CHILDREN, AND OPERATES ON THE PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL, REFERRED TO IN THIS SUBSECTION (2.3) AS "SCHOOL PROPERTY".

(b) WHEN AN AGENCY OR ENTITY PERFORMS AN INSPECTION REQUIRED BY LAW FOR A PROGRAM, THE AGENCY OR ENTITY SHALL PROVIDE A COPY OF THE INSPECTION REPORT TO THE APPROPRIATE OFFICIAL OF THE SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL WHERE THE CHILD CARE CENTER OPERATES.

(c) IF ALL OF THE REQUIREMENTS IN SECTION 22-1-119.5 AND ANY ADDITIONAL RULES OF THE STATE BOARD ARE MET, A SCHOOL-AGE CHILD ENROLLED IN A PROGRAM ON SCHOOL PROPERTY MAY POSSESS AND SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR ANAPHYLAXIS. THE STATE BOARD MAY ADOPT ADDITIONAL RULES FOR PROGRAMS ON SCHOOL PROPERTY CONCERNING THE AUTHORITY TO POSSESS AND SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR ANAPHYLAXIS.

(2.6) IF ALL OF THE REQUIREMENTS IN SECTION 22-1-119.5 AND ANY ADDITIONAL RULES OF THE STATE BOARD ARE MET, A CHILD ENROLLED IN A LARGE CHILD CARE CENTER, AS DEFINED BY RULE PROMULGATED BY THE STATE BOARD, MAY POSSESS AND SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR ANAPHYLAXIS. THE STATE BOARD MAY ADOPT ADDITIONAL RULES CONCERNING THE AUTHORITY TO POSSESS AND SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR ANAPHYLAXIS.

SECTION 4. In Colorado Revised Statutes, **add** 26-6-106.2 as follows:

26-6-106.2. Staffing during emergency circumstances - definitions.

(1) DURING AN EMERGENCY CIRCUMSTANCE, A CHILD CARE CENTER MAY PERMIT AN EMPLOYEE WHO HAS SUCCESSFULLY COMPLETED CRIMINAL BACKGROUND CHECK REQUIREMENTS BUT IS NOT A QUALIFIED CAREGIVER TO SUPERVISE CHILDREN FOR NOT MORE THAN TWO HOURS WHILE THE CHILD CARE CENTER SECURES A QUALIFIED CAREGIVER.

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A LARGE CHILD CARE CENTER, AS DEFINED BY RULE PROMULGATED BY THE STATE BOARD, OR A CHILD CARE CENTER THAT OPERATES ON THE PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL, MAY PERMIT AN EMPLOYEE OF THE CHILD CARE CENTER OR AN EMPLOYEE OF THE SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL WHO HAS SUCCESSFULLY

COMPLETED CRIMINAL BACKGROUND CHECK REQUIREMENTS BUT IS NOT A QUALIFIED CAREGIVER TO SUPERVISE CHILDREN FOR AN AMOUNT OF TIME THAT IS REASONABLY NECESSARY TO ADDRESS AN EMERGENCY CIRCUMSTANCE.

(3) DURING AN EMERGENCY CIRCUMSTANCE, A CHILD CARE CENTER SHALL MAINTAIN THE STAFF-TO-CHILD RATIO REQUIRED BY DEPARTMENT RULE.

(4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "EMERGENCY CIRCUMSTANCE" INCLUDES, BUT IS NOT LIMITED TO, ILLNESS, DEATH, ACCIDENT, LAW ENFORCEMENT ACTION, ROAD CLOSURE, HAZARDOUS WEATHER, EMERGENCY BODILY FUNCTION, CHILD ELOPEMENT, OR PROVIDING EMERGENCY ATTENTION OR CARE TO A CHILD.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 13, 2021