

FIRST REGULAR SESSION

# SENATE BILL NO. 568

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

2129S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 210.221, RSMo, and to enact in lieu thereof one new section relating to child care facility licenses.

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

Section A. Section 210.221, RSMo, is repealed and one new  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

210.221. 1. The department of elementary and  
2 secondary education shall have the following powers and  
3 duties:

4 (1) After inspection, to grant licenses to persons to  
5 operate child-care facilities if satisfied as to the good  
6 character and intent of the applicant and that such  
7 applicant is qualified and equipped to render care or  
8 service conducive to the welfare of children. Each license  
9 shall specify **its effective dates and whether it is**  
10 **temporary**, the kind of child-care services the licensee is  
11 authorized to perform, the number of children that can be  
12 received or maintained, and their ages;

13 (2) To inspect the conditions of the homes and other  
14 places in which the applicant operates a child-care  
15 facility, inspect their books and records, premises and  
16 children being served, examine their officers and agents,  
17 deny, suspend, place on probation or revoke the license of  
18 such persons as fail to obey the provisions of sections

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

19 210.201 to 210.245 or the rules and regulations made by the  
20 department of elementary and secondary education. The  
21 commissioner also may revoke or suspend a license when the  
22 licensee surrenders the license;

23 (3) To promulgate and issue rules and regulations the  
24 department deems necessary or proper in order to establish  
25 standards of service and care to be rendered by such  
26 licensees to children. No rule or regulation promulgated by  
27 the department shall in any manner restrict or interfere  
28 with any religious instruction, philosophies or ministries  
29 provided by the facility and shall not apply to facilities  
30 operated by religious organizations which are not required  
31 to be licensed;

32 (4) To approve training concerning the safe sleep  
33 recommendations of the American Academy of Pediatrics in  
34 accordance with section 210.223; [and]

35 (5) To determine what records shall be kept by such  
36 persons and the form thereof, and the methods to be used in  
37 keeping such records, and to require reports to be made to  
38 the department at regular intervals; and

39 (6) **To grant a temporary child care license to a child**  
40 **care provider who is not on probation or who does not have a**  
41 **current letter of censure, upon submittal of a complete**  
42 **license application to the department of elementary and**  
43 **secondary education to expand an existing site or to add a**  
44 **new location; provided, that the child care provider**  
45 **completes any background check required for licensure and**  
46 **also submits a fire safety and a sanitation inspection**  
47 **approved for the site being expanded or added. Temporary**  
48 **licenses shall be valid for a duration of no longer than**  
49 **twelve months from the date of issuance or until the**  
50 **department makes a final determination on full licensure.**

51           2. Any child-care facility may request a variance from  
52 a rule or regulation promulgated pursuant to this section.  
53 The request for a variance shall be made in writing to the  
54 department of elementary and secondary education and shall  
55 include the reasons the facility is requesting the  
56 variance. The department shall approve any variance request  
57 that does not endanger the health or safety of the children  
58 served by the facility. The burden of proof at any appeal  
59 of a disapproval of a variance application shall be with the  
60 department of elementary and secondary education. Local  
61 inspectors may grant a variance, subject to approval by the  
62 department of elementary and secondary education.

63           3. The department shall deny, suspend, place on  
64 probation or revoke a license if it receives official  
65 written notice that the local governing body has found that  
66 license is prohibited by any local law related to the health  
67 and safety of children. The department may deny an  
68 application for a license if the department determines that  
69 a home or other place in which an applicant would operate a  
70 child-care facility is located within one thousand feet of  
71 any location where a person required to register under  
72 sections 589.400 to 589.425 either resides, as that term is  
73 defined in subsection 3 of section 566.147, or regularly  
74 receives treatment or services, excluding any treatment or  
75 services delivered in a hospital, as that term is defined in  
76 section 197.020, or in facilities owned or operated by a  
77 hospital system. The department may, after inspection, find  
78 the licensure, denial of licensure, suspension or revocation  
79 to be in the best interest of the state.

80           4. Any rule or portion of a rule, as that term is  
81 defined in section 536.010, that is created under the  
82 authority delegated in sections 210.201 to 210.245 shall

83 become effective only if it complies with and is subject to  
84 all of the provisions of chapter 536 and, if applicable,  
85 section 536.028. All rulemaking authority delegated prior  
86 to August 28, 1999, is of no force and effect and repealed.  
87 Nothing in this section shall be interpreted to repeal or  
88 affect the validity of any rule filed or adopted prior to  
89 August 28, 1999, if it fully complied with all applicable  
90 provisions of law. This section and chapter 536 are  
91 nonseverable and if any of the powers vested with the  
92 general assembly pursuant to chapter 536 to review, to delay  
93 the effective date, or to disapprove and annul a rule are  
94 subsequently held unconstitutional, then the grant of  
95 rulemaking authority and any rule proposed or adopted after  
96 August 28, 1999, shall be invalid and void.

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