**South Carolina General Assembly**

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**H. 5106**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Horne

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Introduced in the House on April 10, 2014

Currently residing in the House Committee on **Judiciary**

Summary: Childcare facilities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/10/2014 House Introduced and read first time

4/10/2014 House Referred to Committee on **Judiciary**

**VERSIONS OF THIS BILL**

[4/10/2014](file:///p:\pprever\2013-14\5106_20140410.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑13‑845 SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO ISSUE DEFICIENCY NOTICES TO FAMILY CHILDCARE HOMES IF AN INSPECTION REVEALS A DEFICIENCY, TO PROVIDE FOR THE CORRECTION PROCESS, AND TO ESTABLISH CRIMINAL PENALTIES; TO AMEND SECTION 63‑13‑20, AS AMENDED, RELATING TO DEFINITIONS APPLICABLE TO CHILDCARE FACILITIES, SO AS TO CHANGE THE DEFINITION OF “COMPLAINT”; TO AMEND SECTION 63‑13‑70, RELATING TO THE REQUIREMENT TO MAINTAIN A REGISTER ABOUT CHILDREN ENROLLED IN CHILDCARE FACILITIES, SO AS ALSO TO APPLY TO FAMILY CHILDCARE HOMES; TO AMEND SECTION 63‑13‑80, RELATING TO AUTHORIZED AND REQUIRED INSPECTIONS AND INVESTIGATIONS OF CHILDCARE FACILITIES, SO AS TO CLARIFY THE RIGHT OF THE DEPARTMENT TO INVESTIGATE A COMPLAINT MADE AGAINST A CHILDCARE CENTER OR GROUP HOME, AND ALSO TO MAKE THE REQUIREMENT AND AUTHORIZATION REGARDING INSPECTIONS AND INVESTIGATIONS APPLICABLE TO FAMILY CHILDCARE HOMES; TO AMEND SECTION 63‑13‑110, RELATING TO THE REQUIREMENT TO HAVE ON PREMISES AT ALL TIMES A CAREGIVER WITH A CURRENT FIRST AID AND CHILD‑INFANT CARDIOPULMONARY RESUSCITATION CERTIFICATE, SO AS ALSO TO APPLY TO FAMILY CHILDCARE HOMES; TO AMEND SECTION 63‑13‑160, RELATING TO INJUNCTIONS AGAINST CONTINUED OPERATION OF A CHILDCARE FACILITY, SO AS ALSO TO APPLY TO FAMILY CHILDCARE HOMES; TO AMEND SECTION 63‑13‑810, RELATING TO THE REQUIREMENT FOR REGISTRATION OF FAMILY CHILDCARE HOMES, SO AS TO REDESIGNATE THE DEFINITION OF FAMILY CHILDCARE HOME TO SECTION 63‑13‑20; AND TO REPEAL SECTION 63‑13‑840 RELATING TO VISITS TO FAMILY CHILDCARE HOMES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 7, Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Section 63‑13‑845. (A) If the department finds upon inspection that a family childcare home is not complying with applicable statutes, regulations, or suggested standards, the department shall notify the operator to correct these deficiencies.

(B) Each correction notice must be in writing and must include a statement of the deficiencies found, the period within which the deficiencies must be corrected, and the provisions of the chapter, regulations, and suggested standards relied upon by the department. The period must be reasonable and, except if the department finds an emergency dangerous to the health or safety of children, not less than thirty days from the receipt of the notice.

(C) Within two weeks of receipt of the notice, the operator of the family childcare home may file a written request with the department for administrative reconsideration of the notice or any portion of the notice.

(D) The department shall grant or deny a written request within seven days of filing and shall notify the operator of the grant or denial.

(E) If the operator of the family childcare home fails to correct deficiencies within the period prescribed, the department may withdraw the statement of registration.

(F) The operator is guilty of a misdemeanor and, upon conviction, for:

(1) a first offense must be fined not more than two hundred fifty dollars, or imprisoned not more than thirty days, or both; or

(2) a second or subsequent offense, must be fined not more than five hundred dollars, or imprisoned not more than six months, or both.

(G) The penalties provided for pursuant to this section are in addition to, and not in lieu of, other civil and criminal penalties as otherwise provided by law.”

SECTION 2. Section 63‑13‑20(7) of the 1976 Code is amended to read:

“(7) ‘Complaint’ means a ~~written~~ statement reporting unsatisfactory conditions in a childcare facility.”

SECTION 3. Section 63‑13‑70 of the 1976 Code is amended to read:

“Section 63‑13‑70. ~~Every~~ Each childcare center, ~~or~~ group childcare home, or family childcare home shall maintain a register setting forth essential facts concerning each child enrolled under the age of eighteen years.”

SECTION 4. Section 63‑13‑80 of the 1976 Code is amended to read:

“Section 63‑13‑80. (A)(1) In exercising the powers of licensing, approving, renewing, revoking, or making provisional licenses and approvals, the department shall investigate and inspect licensees and approved operators and applicants for a license or an approval. The authorized representative of the department may visit a childcare center or group childcare home anytime during the hours of operation for purposes of investigations and inspections. In conducting investigations and inspections, the department may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields. The inspection of the health and fire safety of childcare centers and group childcare homes must be completed upon the request of the department by the appropriate agencies ~~(i.e.~~ including, but not limited to, the Department of Health and Environmental Control, the Office of the State Fire Marshal, or local authorities~~)~~. Inspection reports completed by state agencies and local authorities must be furnished to the department and become a part of its determination of conformity for licensing and approval. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of licensing, approving, renewing, revoking, or making provisional licenses and approvals.

~~(B)~~(2) Before issuing a license or approval the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a childcare center or a group childcare home. If the results of the investigation satisfy the department that the provisions of this chapter and the applicable regulations promulgated by the department are satisfied, a license or approval must be issued.

(3) The department shall visit a childcare center or group childcare home if a parent, guardian, political subdivision or other governmental authority, or any other member of the community submits a complaint or raises a concern regarding the health or safety of children under the care of or present in the facility, child abuse or neglect occurring at the facility, enrollment of children beyond the limits provided for in this chapter, or operation of the facility without appropriate departmental and other governmental authorization.

(B)(1) In exercising the powers of issuing, renewing, and withdrawing statements of registration, the department shall investigate and inspect registered operators and applicants for a statement of registration. The authorized representative of the department may visit a family childcare home anytime during the hours of operation for purposes of investigations and inspections. In conducting investigations and inspections, the department may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields. The inspection of the health and fire safety of family childcare homes must be completed upon the request of the department by the appropriate agencies including, but not limited to, the Department of Health and Environmental Control, the Office of the State Fire Marshal, or local authorities. Inspection reports completed by state agencies and local authorities must be furnished to the department and become a part of its determination of conformity for registration. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of issuing a statement of registration.

(2) Before issuing a statement of registration, the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a family childcare home. If the results of the investigation satisfy the department that the provisions of this chapter, the applicable regulations promulgated by the department, and suggested standards developed by the department are satisfied, statement of registration must be issued.

(3) The department shall visit a family childcare home if a parent, guardian, political subdivision or other governmental authority, or any other member of the community submits a complaint or raises a concern regarding the health or safety of children under the care of or present in the facility, child abuse or neglect occurring at the facility, enrollment of children beyond the limits provided for in this chapter, or operation of the facility without appropriate departmental and other governmental authorization.

(C) Pursuant to the provisions of subsections (A) or (B), if the complaint or concern:

(1) is in regard to the health or safety of a child, the department may call on other appropriate agencies including, but not limited to, the State Department of Health and Environmental Control and the Office of the State Fire Marshal, as necessary to conduct an inspection;

(2) indicates that a child has been abused or neglected, the department shall carry out its responsibility as authorized pursuant to Chapter 7;

(3) is in regard to operation of the facility without a statement of registration, the department shall carry out its responsibility as authorized in Section 63‑13‑160.

(D) If a visit or an inspection verifies conditions detrimental to the health or safety of a child or overenrollment, the department shall carry out its responsibility as authorized in Sections 63‑13‑160 and 63‑13‑830(C).”

SECTION 5. Section 63‑13‑110 of the 1976 Code is amended to read:

“Section 63‑13‑110. During the hours of operation all childcare facilities~~, except registered family childcare homes,~~ must have on the premises at least one caregiver with a current certificate for the provision of basic first aid and child‑infant cardiopulmonary resuscitation.”

SECTION 6. Section 63‑13‑160 of the 1976 Code is amended to read:

“Section 63‑13‑160. The department is empowered to seek an injunction against the continuing operation of a childcare facility in the family court having jurisdiction over the county in which the facility is located if:

(1) ~~when~~ a facility is operating without a license or statement of registration;

(2) ~~when~~ there is any violation of this chapter, ~~or of~~ the regulations promulgated by the department, or suggested standards developed by the department for family childcare homes which threatens serious harm to children in the childcare facility;

(3) ~~when~~ an operator has repeatedly violated this chapter, ~~or~~ the regulations ~~of~~ promulgated by the department, or the suggested standards developed by the department.”

SECTION 7. Section 63‑13‑810 of the 1976 Code is amended to read:

“Section 63‑13‑810. (A) As used in this chapter, ‘family childcare home’ means a facility ~~within a residence occupied by the operator in which childcare regularly is provided for no more than six children, unattended by a parent or legal guardian, including those children living in the home and the children received for childcare who are related to the resident caregiver. However, an occupied residence in which childcare is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family, or only for a combination of these children, is not a family childcare home~~ as defined in Section 63‑13‑20.

~~(B)~~ An operator of a family childcare home shall register with the department ~~within six months of June 13, 1977~~.

~~(C)~~ (B) A family childcare home which elects to participate in a federal program which requires licensing as a prerequisite to participation may elect to be licensed under the procedures in Section 63‑13‑820. A family childcare home electing licensing shall demonstrate compliance with the suggested standards developed by the department under Section 63‑13‑180 and shall comply with provisions of Sections 63‑13‑420 and 63‑13‑430 relating to criminal history conviction records checks upon original licensing and upon renewal. Operators and caregivers of licensed family childcare homes are held to the standards in Sections 63‑13‑420 and 63‑13‑430 regarding criminal convictions.”

SECTION 8. Section 63‑13‑840 of the 1976 Code is repealed.

SECTION 9. This act takes effect six months after approval by the Governor.

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