

## HOUSE BILL No. 2094

By Committee on Health and Human Services

1-26

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1 AN ACT concerning public health; relating to exemptions from the  
2 administration of vaccinations; amending K.S.A. 72-5209 and K.S.A.  
3 2010 Supp. 65-508 and repealing the existing sections.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 65-508 is hereby amended to read as  
7 follows: 65-508. (a) Any maternity center or child care facility subject to  
8 the provisions of this act shall: (1) Be properly heated, plumbed, lighted  
9 and ventilated; (2) have ~~plumbing, water~~ and sewerage systems which  
10 conform to all applicable state and local laws; and (3) be operated with  
11 strict regard to the health, comfort, safety and social welfare of the  
12 residents.

13 (b) Every maternity center or child care facility shall furnish or  
14 cause to be furnished for the use of each resident and employee  
15 individual towel, wash cloth, comb and individual drinking cup or  
16 sanitary bubbling fountain, and toothbrushes for all other than infants,  
17 and shall keep or require such articles to be kept at all times in a clean  
18 and sanitary condition. Every maternity center or child care facility shall  
19 comply with all applicable fire codes and rules and regulations of the  
20 state fire marshal.

21 (c) (1) The secretary of health and environment with the cooperation  
22 of the secretary of social and rehabilitation services shall develop and  
23 adopt rules and regulations for the operation and maintenance of  
24 maternity centers and child care facilities. The rules and regulations for  
25 operating and maintaining maternity centers and child care facilities shall  
26 be designed to promote the health, safety and welfare of the residents  
27 who are to be served in such facilities by ensuring safe and adequate  
28 physical surroundings, healthful food, adequate handwashing, safe  
29 storage of toxic substances and hazardous chemicals, sanitary diapering  
30 and toileting, home sanitation, supervision and care of the residents by  
31 capable, qualified persons of sufficient number, after hour care, an  
32 adequate program of activities and services, sudden infant death  
33 syndrome and safe sleep practices training, prohibition on corporal  
34 punishment, crib safety, protection from electrical hazards, protection  
35 from swimming pools and other water sources, fire drills, emergency  
36 plans, safety of outdoor playground surfaces, door locks, safety gates and

1 transportation and such appropriate parental participation as may be  
2 feasible under the circumstances. Boarding schools are excluded from  
3 requirements regarding the number of qualified persons who must  
4 supervise and provide care to residents. The notice of hearing on initial  
5 rules and regulations proposed to be adopted to carry out the amendments  
6 to this subsection (c)(1) by this act shall be published in the Kansas  
7 register after February 14, 2011, but prior to March 11, 2011.

8 (2) Rules and regulations developed under this subsection shall  
9 include provisions for the competent supervision and care of children in  
10 child care facilities. For purposes of such rules and regulations,  
11 competent supervision as this term relates to children less than five years  
12 of age includes, but is not limited to, direction of activities, adequate  
13 oversight including sight or sound monitoring, or both, physical  
14 proximity to children, diapering and toileting practices; and for all  
15 children, competent supervision includes, but is not limited to, planning  
16 and supervision of daily activities, safe sleep practices, including, but not  
17 limited to, visual or sound monitoring, periodic checking, emergency  
18 response procedures and drills, illness and injury response procedures,  
19 food service preparation and sanitation, playground supervision, pool and  
20 water safety practices. The notice of hearing on initial rules and  
21 regulations proposed to be adopted under this subsection (c)(2) shall be  
22 published in the Kansas register after February 14, 2011, but prior to  
23 March 11, 2011.

24 (d) Each child cared for in a child care facility, including children of  
25 the person maintaining the facility, shall be required to have current such  
26 immunizations as the secretary of health and environment considers  
27 necessary. The person maintaining a child care facility shall maintain a  
28 record of each child's immunizations and shall provide to the secretary of  
29 health and environment such information relating thereto, in accordance  
30 with rules and regulations of the secretary, but the person maintaining a  
31 child care facility shall not have such person's license revoked solely for  
32 the failure to have or to maintain the immunization records required by  
33 this subsection.

34 (e) The immunization requirement of subsection (d) shall not apply  
35 if one of the following is obtained:

36 (1) Certification from a licensed physician stating that the physical  
37 condition of the child is such that immunization would endanger the  
38 child's life or health; or

39 (2) a written statement signed by a parent or guardian that the parent  
40 or guardian is an adherent of a religious denomination whose teachings  
41 are opposed to immunizations; *or*

42 (3) *a written statement signed by a parent or guardian of the child*  
43 *that the parent or guardian of the child declines immunization for*

1 *reasons of conscience or personal beliefs.*

2 Sec. 2. K.S.A. 72-5209 is hereby amended to read as follows: 72-  
3 5209. (a) In each school year, every pupil enrolling or enrolled in any  
4 school for the first time in this state, and each child enrolling or enrolled  
5 for the first time in a preschool or day care program operated by a school,  
6 and such other pupils as may be designated by the secretary, prior to  
7 admission to and attendance at school, shall present to the appropriate  
8 school board certification from a physician or local health department that  
9 the pupil has received such tests and inoculations as are deemed  
10 necessary by the secretary by such means as are approved by the  
11 secretary. Pupils who have not completed the required inoculations may  
12 enroll or remain enrolled while completing the required inoculations if a  
13 physician or local health department certifies that the pupil has received  
14 the most recent appropriate inoculations in all required series. Failure to  
15 timely complete all required series shall be deemed non-compliance.

16 (b) As an alternative to the certification required under subsection  
17 (a), a pupil shall present:

18 (1) An annual written statement signed by a licensed physician  
19 stating the physical condition of the child to be such that the tests or  
20 inoculations would seriously endanger the life or health of the child; or

21 (2) a written statement signed by one parent or guardian that the  
22 child is an adherent of a religious denomination whose religious  
23 teachings are opposed to such tests or inoculations; or

24 (3) *a written statement signed by a parent or guardian of the child*  
25 *that the parent or guardian of the child declines such inoculations for*  
26 *reasons of conscience or personal beliefs.*

27 (c) On or before May 15 of each school year, the school board of  
28 every school affected by this act shall notify the parents or guardians of  
29 all known pupils who are enrolled or who will be enrolling in the school  
30 of the provisions this act and any policy regarding the implementation of  
31 the provisions of this act adopted by the school board.

32 (d) If a pupil transfers from one school to another, the school from  
33 which the pupil transfers shall forward with the pupil's transcript the  
34 certification or statement showing evidence of compliance with the  
35 requirements of this act to the school to which the pupil transfers.

36 Sec. 3. K.S.A. 72-5209 and K.S.A. 2010 Supp. 65-508 are hereby  
37 repealed.

38 Sec. 4. This act shall take effect and be in force from and after its  
39 publication in the statute book.