

SENATE BILL No. 305

By Committee on Public Health and Welfare

1-22

1 AN ACT concerning the department of health and environment; relating to
2 regulation of programs for children; authority; exemption from certain
3 licensure and inspection requirements; amending K.S.A. 2017 Supp.
4 65-508 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) As used in this section:

8 (1) "Drop-in program" means a program operated in a premises that
9 is not located in an individual's residence, that serves exclusively school-
10 aged children and youth and where the operator of the program permits
11 children and youth to arrive at and depart from the program at the child's
12 or youth's own volition.

13 (2) "Recreation center" means any building used by a political or
14 taxing subdivision of this state, or by an agency thereof, for recreation
15 programs that serve school-aged children.

16 (3) "School" means any building used for instruction of students
17 enrolled in kindergarten or any of the grades one through 12 by a school
18 district or an accredited nonpublic school.

19 (4) "School-aged program" means a program that serves exclusively
20 school-aged children and youth, but does not include a drop-in program.

21 (b) No license for a drop-in program or school-aged program shall be
22 denied, suspended or revoked on the basis that the building where the
23 program operates does not meet requirements for licensure if the building:

24 (1) Is a recreation center or a school;

25 (2) complies, during all hours of operation of the drop-in program or
26 school-aged program, with the Kansas fire prevention code or a building
27 code that is by law deemed to comply with Kansas fire prevention code
28 requirements;

29 (3) except as provided in subsection (c), complies, during all hours of
30 operation of the drop-in program or school-aged program, with all local
31 building code provisions that apply to recreation centers, if the building is
32 a recreation center, or schools, if the building is a school; and

33 (4) as a recreation center or school, is used by school-aged children.

34 (c) If the standards that a building is required to comply with under
35 subsections (b)(2) and (b)(3) conflict or are otherwise inconsistent, the
36 standards provided by subsection (b)(2) shall control.

1 Sec. 2. K.S.A. 2017 Supp. 65-508 is hereby amended to read as
2 follows: 65-508. (a) Any maternity center or child care facility subject to
3 the provisions of this act shall: (1) Be properly heated, plumbed, lighted
4 and ventilated; (2) have plumbing, water and sewerage systems ~~which~~ *that*
5 conform to all applicable state and local laws; and (3) be operated with
6 strict regard to the health, safety and welfare of any woman or child.

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

14 (c) (1) The secretary of health and environment with the cooperation
15 of the secretary for children and families shall develop and adopt rules and
16 regulations for the operation and maintenance of maternity centers and
17 child care facilities. The rules and regulations for operating and
18 maintaining maternity centers and child care facilities shall be designed to
19 promote the health, safety and welfare of any woman or child served in
20 such facilities by ensuring safe and adequate physical surroundings,
21 healthful food, adequate handwashing, safe storage of toxic substances and
22 hazardous chemicals, sanitary diapering and toileting, home sanitation,
23 supervision and care of the residents by capable, qualified persons of
24 sufficient number, after-hour care, an adequate program of activities and
25 services, sudden infant death syndrome and safe sleep practices training,
26 prohibition on corporal punishment, crib safety, protection from electrical
27 hazards, protection from swimming pools and other water sources, fire
28 drills, emergency plans, safety of outdoor playground surfaces, door locks,
29 safety gates and transportation and such appropriate parental participation
30 as may be feasible under the circumstances. Boarding schools are excluded
31 from requirements regarding the number of qualified persons who must
32 supervise and provide care to residents.

33 (2) Rules and regulations developed under this subsection shall
34 include provisions for the competent supervision and care of children in
35 day care facilities. For purposes of such rules and regulations, competent
36 supervision as this term relates to children less than five years of age
37 includes, but is not limited to, direction of activities, adequate oversight
38 including sight or sound monitoring, or both, physical proximity to
39 children, diapering and toileting practices; and for all children, competent
40 supervision includes, but is not limited to, planning and supervision of
41 daily activities, safe sleep practices, including, but not limited to, visual or
42 sound monitoring, periodic checking, emergency response procedures and
43 drills, illness and injury response procedures, food service preparation and

1 sanitation, playground supervision, pool and water safety practices.

2 (d) In addition to any rules and regulations adopted under this section
3 for safe sleep practices, child care facilities shall ensure that all of the
4 following requirements are met for children under 12 months of age:

5 (1) A child shall only be placed to sleep on a surface and in an area
6 that has been approved for use as such by the secretary of health and
7 environment;

8 (2) the sleep surface shall be free from soft or loose bedding,
9 including, but not limited to, blankets, bumpers and pillows; and

10 (3) the sleep surface shall be free from toys, including mobiles and
11 other types of play equipment or devices.

12 (e) Child care facilities shall ensure that children over 12 months of
13 age only be placed to sleep on a surface and in an area that has been
14 approved for use as such by the secretary of health and environment.

15 (f) The secretary of health and environment may exercise discretion
16 to make exceptions to requirements in subsections (d) and (e) where
17 special health needs exist.

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

28 (h) The immunization requirement of subsection (g) shall not apply if
29 one of the following is obtained:

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

33 (2) a written statement signed by a parent or guardian that the parent
34 or guardian is an adherent of a religious denomination whose teachings are
35 opposed to immunizations.

36 (i) *This section shall not apply to any drop-in program, as defined in*
37 *section 1, and amendments thereto, or school-aged program, as defined in*
38 *section 1, and amendments thereto, that operates in accordance with*
39 *section 1(b), and amendments thereto.*

40 Sec. 3. K.S.A. 2017 Supp. 65-508 is hereby repealed.

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