

SENATE BILL No. 398

By Committee on Public Health and Welfare

1-27

1 AN ACT concerning public health; relating to vaccinations; children and
2 minors; requiring a child care facility or school to grant religious
3 exemptions from vaccination requirements without inquiring into the
4 sincerity of the religious beliefs; amending K.S.A. 65-508 and 72-6262
5 and repealing the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 65-508 is hereby amended to read as follows: 65-
9 508. (a) Any maternity center or child care facility subject to the
10 provisions of this act shall:

- 11 (1) Be properly heated, plumbed, lighted and ventilated;
12 (2) have plumbing, water and sewerage systems ~~which~~ that conform
13 to all applicable state and local laws; and
14 (3) be operated with strict regard to the health, safety and welfare of
15 any woman or child.

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

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

1 drills, emergency plans, safety of outdoor playground surfaces, door locks,
2 safety gates and transportation and such appropriate parental participation
3 as may be feasible under the circumstances. Boarding schools are excluded
4 from requirements regarding the number of qualified persons who must
5 supervise and provide care to residents.

6 (2) Rules and regulations developed under this subsection shall
7 include provisions for the competent supervision and care of children in
8 day care facilities. For purposes of such rules and regulations, competent
9 supervision as this term relates to children less than five years of age
10 includes, but is not limited to, direction of activities, adequate oversight
11 including sight or sound monitoring, or both, physical proximity to
12 children, diapering and toileting practices; and for all children, competent
13 supervision includes, but is not limited to, planning and supervision of
14 daily activities, safe sleep practices, including, but not limited to, visual or
15 sound monitoring, periodic checking, emergency response procedures and
16 drills, illness and injury response procedures, food service preparation and
17 sanitation, playground supervision, pool and water safety practices.

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

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

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

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

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

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

34 (g) Each child cared for in a child care facility, including children of
35 the person maintaining the facility, shall be required to have current such
36 immunizations as the secretary of health and environment considers
37 necessary. The person maintaining a child care facility shall maintain a
38 record of each child's immunizations and shall provide to the secretary of
39 health and environment such information relating thereto, in accordance
40 with rules and regulations of the secretary, but the person maintaining a
41 child care facility shall not have such person's license revoked solely for
42 the failure to have or to maintain the immunization records required by
43 this subsection.

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

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

6 (2) a written statement signed by a parent or guardian that *the*
7 *requirement would violate sincerely held religious beliefs of the parent or*
8 *guardian* ~~is an adherent of a religious denomination whose teachings are~~
9 ~~opposed to immunizations.~~

10 (i) *The person maintaining a child care facility shall grant an*
11 *exemption requested in accordance with subsection (h) based on sincerely*
12 *held religious beliefs without inquiring into the sincerity of the request.*

13 (j) *As used in this section, "religious beliefs" includes, but is not*
14 *limited to, theistic and non-theistic moral and ethical beliefs as to what is*
15 *right and wrong that are sincerely held with the strength of traditional*
16 *religious views.*

17 Sec. 2. K.S.A. 72-6262 is hereby amended to read as follows: 72-
18 6262. (a) In each school year, every ~~pupil~~ *student* enrolling or enrolled in
19 any school for the first time in this state, and each child enrolling or
20 enrolled for the first time in a preschool or day care program operated by a
21 school, and such other ~~pupils~~ *students* as may be designated by the
22 secretary, prior to admission to and attendance at school, shall present to
23 the appropriate school board certification from a physician or local health
24 department that the ~~pupil~~ *student* has received such tests and inoculations
25 as are deemed necessary by the secretary by such means as are approved
26 by the secretary. ~~Pupils~~ *Students* who have not completed the required
27 inoculations may enroll or remain enrolled while completing the required
28 inoculations if a physician or local health department certifies that the
29 ~~pupil~~ *student* has received the most recent appropriate inoculations in all
30 required series. Failure to timely complete all required series shall be
31 deemed non-compliance.

32 (b) As an alternative to the certification required under subsection (a),
33 a ~~pupil~~ *student* shall present:

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

37 (2) a written statement signed by one parent or guardian that *the*
38 *requirement would violate sincerely held religious beliefs of the child* ~~is an~~
39 ~~adherent of a religious denomination whose religious teachings are~~
40 ~~opposed to such tests or inoculations.~~

41 (c) *The board of education of a school district shall grant an*
42 *exemption requested in accordance with subsection (b) based on sincerely*
43 *held religious beliefs without inquiring into the sincerity of the request.*

1 (d) On or before May 15 of each school year, the school board of
2 every school affected by this act shall notify the parents or guardians of all
3 known ~~pupils~~ *students* who are enrolled or who will be enrolling in the
4 school of the provisions this act and any policy regarding the
5 implementation of the provisions of this act adopted by the school board.

6 ~~(d)~~(e) If a ~~pupil~~ *student* transfers from one school to another, the
7 school from which the ~~pupil~~ *student* transfers shall forward with the ~~pupil's~~
8 *student's* transcript the certification or statement showing evidence of
9 compliance with the requirements of this act to the school to which the
10 ~~pupil~~ *student* transfers.

11 (f) *As used in this section, "religious beliefs" includes, but is not*
12 *limited to, theistic and non-theistic moral and ethical beliefs as to what is*
13 *right and wrong that are sincerely held with the strength of traditional*
14 *religious views.*

15 Sec. 3. K.S.A. 65-508 and 72-6262 are hereby repealed.

16 Sec. 4. This act shall take effect and be in force from and after its
17 publication in the Kansas register.