A-Engrossed

House Bill 2205

Ordered by the House May 1
Including House Amendments dated May 1

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Employment Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes Child Care Division to **suspend or revoke certification or registration, or** impose civil penalty**,** for violations [*related to certification of certain child care facilities*] **of laws or rules pertaining to child care facilities**.

1 **A BILL FOR AN ACT**

2 Relating to civil penalties imposed by Child Care Division; creating new provisions; and amending

3 ORS 657A.010 and 657A.330.

4 **Be It Enacted by the People of the State of Oregon:**

5 SECTION 1. **(1) In addition to any other provision of law or rule adopted pursuant to ORS**

6 **657A.260 for enforcement of the provisions of ORS chapter 657A, the Child Care Division may**

7 **suspend or revoke a certification or registration issued under ORS 657A.030 and 657A.250 to**

8 **657A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:**

9 **(a) Any of the provisions of ORS 657A.030 and 657A.250 to 657A.450;**

10 **(b) The terms and conditions of a certification or registration issued under ORS 657A.030**

11 **and 657A.250 to 657A.450; or**

12 **(c) Any rule of the division adopted under ORS 657A.030 and 657A.250 to 657A.450.**

13 **(2) The division shall adopt by rule a schedule establishing the civil penalties that may**

14 **be imposed under this section. The schedule must provide for categories of violations for**

15 **which a penalty may be imposed, including "nonserious" and "serious" to be defined by the**

16 **division by rule under ORS 657A.260.**

17 **(3) The division must issue a written warning for a nonserious or serious violation before**

18 **assessing a civil penalty under this section. The written warning must prescribe a reasonable**

19 **time in which to correct a violation.**

20 **(4) The division may not impose a civil penalty of more than $100 for a first violation.**

21 **(5) The division may not impose a civil penalty for a subsequent violation that exceeds**

22 **the penalty imposed for the previous violation by more than $100. Penalties imposed under**

23 **this subsection may not exceed $500 per violation, or $1,000 total for multiple violations per**

24 **quarter.**

25 **(6) Notwithstanding any other provision of this section, the maximum civil penalty that**

26 **may be imposed:**

27 **(a) For violation of ORS 657A.330 by a registered family child care home provider is $100.**

1   **(b) For violation of ORS 657A.280 by an operator of a child care facility that is not a child**

2   **care center is $200.**

3   **(c) For violation of ORS 657A.280 by an operator of a child care facility that is a child**

4   **care center is $500.**

5   **(7) A civil penalty imposed under this section may be remitted or reduced upon such**

6   **terms and conditions as the division considers proper and consistent with the public health**

7   **and safety.**

8   **(8) All moneys received under this section shall be deposited in the Child Care Fund es-**

9   **tablished under ORS 657A.010 (2) and may be used for the administration of ORS 181.537,**

10   **657A.030 and 657A.250 to 657A.450.**

11   <u>**SECTION 2.**</u> ORS 657A.010 is amended to read:

12   657A.010. (1) There is established within the Employment Department a Child Care Division. The

13   Child Care Division, as designated by the Governor, shall be responsible for administering funds

14   received by the State of Oregon pursuant to the federal Child Care and Development Block Grant

15   Act of 1990, the Dependent Care Planning and Development Grant and other federal child care funds

16   and grants received by the State of Oregon.

17   (2) There is established in the State Treasury, separate and distinct from the General Fund, the

18   Child Care Fund. Such fund shall consist of moneys collected and received by the Child Care Divi-

19   sion pursuant to subsection (1) of this section, ORS 657A.310[,] **and section 1 of this 2009 Act** and

20   such moneys as may be otherwise made available by law. Interest earned on the fund shall be

21   credited to the fund. The moneys in the Child Care Fund are appropriated continuously to the Child

22   Care Division and shall be used in a manner consistent with the grant of funds or for the adminis-

23   tration of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

24   <u>**SECTION 3.**</u> ORS 657A.330 is amended to read:

25   657A.330. (1) A provider operating a family child care home where care is provided in the family

26   living quarters of the provider's home that is not subject to the certification requirements of ORS

27   657A.280 may not operate a child care facility without registering with the Child Care Division of

28   the Employment Department.

29   (2) A child care facility holding a registration may care for a maximum of 10 children, including

30   the provider's own children. Of the 10 children:

31   (a) No more than six may be younger than school age; and

32   (b) No more than two may be 24 months of age or younger.

33   (3)(a) To obtain a registration, a provider must apply to the Child Care Division by submitting

34   a completed application work sheet and a nonrefundable fee. The fee shall vary according to the

35   number of children for which the facility is requesting to be registered, and shall be determined and

36   applied through rules adopted by the division under ORS 657A.275. The fee shall be deposited as

37   provided in ORS 657A.310 (2). The division may waive any or all of the fee if the division determines

38   that imposition of the fee would impose a hardship on the provider.

39   (b) Upon receipt of an initial or renewal application satisfactory to the division, the division

40   shall conduct an on-site review of the child care facility under this section. The on-site review shall

41   be conducted within 30 days of the receipt of a satisfactory application.

42   (4) The division shall issue a registration to a provider operating a family child care home if:

43   (a) The provider has completed a child care overview class administered by the division;

44   (b) The provider has completed two hours of training on child abuse and neglect issues;

45   (c) The provider is currently certified in infant and child first aid and cardiopulmonary resus-

1 citation;

2 (d) The provider is certified as a food handler under ORS 624.570; and

3 (e) The division determines that the application meets the requirements of ORS 181.537,

4 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant to ORS 181.534, 181.537,

5 657A.030 and 657A.250 to 657A.450, and receives a satisfactory records check, including criminal

6 records and protective services records.

7 (5) Unless the registration is revoked as provided in ORS 657A.350, the registration is valid for

8 a period of two years from the date of issuance. The division may renew a registration of a provider

9 operating a family child care home if the provider:

10 (a) Is currently certified in infant and child first aid and cardiopulmonary resuscitation;

11 (b) Has completed a minimum of eight hours of training related to child care during the most

12 recent registration period; and

13 (c) Is certified as a food handler under ORS 624.570.

14 (6) A registration authorizes operation of the facility only on the premises described in the

15 registration and only by the person named in the registration.

16 (7) The division shall adopt rules:

17 (a) Creating the application work sheet required under subsection (3) of this section;

18 (b) Defining full-time and part-time care;

19 (c) Establishing under what circumstances the adult to child ratio requirements may be tempo-

20 rarily waived; and

21 (d) Establishing health and safety procedures and standards on:

22 (A) The number and type of toilets and sinks available to children;

23 (B) Availability of steps or blocks for use by children;

24 (C) Room temperature;

25 (D) Lighting of rooms occupied by children;

26 (E) Glass panels on doors;

27 (F) Condition of floors;

28 (G) Availability of emergency telephone numbers; and

29 (H) Smoking.

30 (8) The division shall adopt the application work sheet required by subsection (3) of this section.

31 The work sheet must include, but need not be limited to, the following:

32 (a) The number and ages of the children to be cared for at the facility; and

33 (b) The health and safety procedures in place and followed at the facility.

34 (9) The division, upon good cause shown, may waive one or more of the registration require-

35 ments. The division may waive a requirement only if appropriate conditions or safeguards are im-

36 posed to protect the welfare of the children and the consumer interests of the parents of the

37 children. The division may not waive the on-site review requirement for applicants applying for an

38 initial registration or renewal of a registration.

39 (10) The division, by rule, shall develop a list of recommended standards consistent with stan-

40 dards established by professional organizations regarding child care programs for child care facili-

41 ties. Compliance with the standards is not required for a registration, but the division shall

42 encourage voluntary compliance and shall provide technical assistance to a child care facility at-

43 tempting to comply with the standards. The child care facility shall distribute the list of recom-

44 mended minimum standards to the parents of all children cared for at the facility.

45 (11) In adopting rules relating to registration, the division shall consult with the appropriate

1   legislative committee in developing the rules to be adopted. If the rules are being adopted during a

2   period when the Legislative Assembly is not in session, the division shall consult with the appro-

3   priate interim legislative committee.

4   [*(12) A person who violates this section is subject to a civil penalty not to exceed $100. The Child*

5   *Care Division may impose the civil penalty for violation of any of the terms or conditions of a regis-*

6   *tration.*]

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