

House Bill 2814

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Department of Early Learning and Care)

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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act allows DELC to waive some requirements for a certified child care facility. The Act directs ELC to adopt rules for the number and age of kids allowed at a registered family child care home. (Flesch Readability Score: 64.0).

Authorizes the Department of Early Learning and Care to waive certain requirements for certified child care facilities upon good cause shown and if the resulting circumstances protect the welfare of the children and the consumer interests of the parents of the children. Directs the Early Learning Council to define by rule the number of children per age group allowed at a registered family child care home.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to licensing of child care facilities; amending ORS 329A.280 and 329A.330; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 329A.280 is amended to read:

6 329A.280. (1) A person may not operate a child care facility, except a facility subject to the
7 registration requirements of ORS 329A.330, without a certification for the facility from the Depart-
8 ment of Early Learning and Care.

9 (2) The Early Learning Council shall adopt rules for the certification of a family child care home
10 caring for not more than 16 children. Rules may be adopted specifically for certified child care fa-
11 cilities operated in a single-family dwelling or other dwelling. Notwithstanding fire and other safety
12 regulations, the rules that the council adopts for certified child care facilities shall set standards
13 that can be met without significant architectural modification. The rules may establish reasonable
14 requirements for landlords of tenants who operate a family child care home. In adopting the rules,
15 the council may consider and set limits according to factors including the age of children in care,
16 the ambulatory ability of children in care, the number of the provider's children present, the length
17 of time a particular child is continuously cared for and the total amount of time a particular child
18 is cared for within a given unit of time. Rules may not take into consideration the provider's chil-
19 dren when establishing capacity or adult to child ratio requirements if the children are between 10
20 and 12 years of age, unless a child has special needs or disabilities and requires a level of care that
21 is above normal for the child's age. The rules must require compliance with the provisions of ORS
22 329A.600.

23 (3) In addition to rules adopted for and applied to a certified family child care home providing
24 child care for not more than 16 children, the council shall adopt and apply separate rules appro-
25 priate for any child care facility that is a child care center.

26 (4) Any person seeking to operate a child care facility may apply for a certification for the fa-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 cility from the department and receive a certification upon meeting certification requirements.

2 (5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certi-
 3 fication under this section and receive a certification upon meeting certification requirements.

4 **(6) The department, upon good cause shown, may waive one or more of the certification**
 5 **requirements in this chapter or adopted by the council by rule if the department is satisfied**
 6 **that appropriate conditions or safeguards exist to protect the welfare of the children and the**
 7 **consumer interests of the parents of the children.**

8 **SECTION 2.** ORS 329A.280, as amended by section 3, chapter 508, Oregon Laws 2023, is
 9 amended to read:

10 329A.280. (1) A person may not operate a child care facility, except a facility subject to the
 11 registration requirements of ORS 329A.330, without a certification for the facility from the Depart-
 12 ment of Early Learning and Care.

13 (2) The Early Learning Council shall adopt rules for the certification of a family child care home
 14 caring for not more than 16 children. Rules may be adopted specifically for certified child care fa-
 15 cilities operated in a single-family dwelling or other dwelling. Notwithstanding fire and other safety
 16 regulations, the rules that the council adopts for certified child care facilities shall set standards
 17 that can be met without significant architectural modification. The rules may establish reasonable
 18 requirements for landlords of tenants who operate a family child care home. In adopting the rules,
 19 the council may consider and set limits according to factors including the age of children in care,
 20 the ambulatory ability of children in care, the number of the provider’s children present, the length
 21 of time a particular child is continuously cared for and the total amount of time a particular child
 22 is cared for within a given unit of time. Rules may not take into consideration the provider’s chil-
 23 dren when establishing capacity or adult to child ratio requirements if the children are between 10
 24 and 12 years of age, unless a child has special needs or disabilities and requires a level of care that
 25 is above normal for the child’s age. The rules must require compliance with the provisions of ORS
 26 329A.600.

27 (3) In addition to rules adopted for and applied to a certified family child care home providing
 28 child care for not more than 16 children, the council shall adopt and apply separate rules appro-
 29 priate for any child care facility that is a child care center or an outdoor child care program.

30 (4) Any person seeking to operate a child care facility may apply for a certification for the fa-
 31 cility from the department and receive a certification upon meeting certification requirements.

32 (5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certi-
 33 fication under this section and receive a certification upon meeting certification requirements.

34 **(6) The department, upon good cause shown, may waive one or more of the certification**
 35 **requirements in this chapter or adopted by the council by rule if the department is satisfied**
 36 **that appropriate conditions or safeguards exist to protect the welfare of the children and the**
 37 **consumer interests of the parents of the children.**

38 **SECTION 3.** ORS 329A.330 is amended to read:

39 329A.330. (1) A provider operating a family child care home where care is provided in the family
 40 living quarters of the provider’s home that is not subject to the certification requirements of ORS
 41 329A.280 may not operate a child care facility without registering with the Department of Early
 42 Learning and Care.

43 (2)(a) A child care facility holding a registration may care for a maximum of 10 children, ex-
 44 cluding the provider’s own children if the children are between 10 and 12 years of age, unless a child
 45 has special needs or disabilities and requires a level of care that is above normal for the child’s age.

1 *[Of the 10 children:]*

2 *[(a) No more than six may be younger than school age; and]*

3 *[(b) No more than two may be 24 months of age or younger.]*

4 **(b) The Early Learning Council by rule shall define the number of children per age group**
 5 **allowed to receive care at a registered child care facility and may limit the maximum number**
 6 **of children to fewer than 10 based on the ages of children receiving care.**

7 (3)(a) To obtain a registration, a provider must apply to the department by submitting a com-
 8 pleted application work sheet and a nonrefundable fee. The fee shall vary according to the number
 9 of children for which the facility is requesting to be registered, and shall be determined and applied
 10 through rules adopted by the Early Learning Council under ORS 329A.275. The fee shall be depos-
 11 ited as provided in ORS 329A.310 (2). The department may waive any or all of the fee if the de-
 12 partment determines that imposition of the fee would impose a hardship on the provider.

13 (b) Upon receipt of an initial or renewal application satisfactory to the department, the depart-
 14 ment shall conduct an on-site review of the child care facility under this section. The on-site review
 15 shall be conducted within 30 days of the receipt of a satisfactory application.

16 (4) The department shall issue a registration to a provider operating a family child care home
 17 if:

18 (a) The provider has completed a child care overview class administered by the department;

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

20 (c) The provider is currently certified in infant and child first aid and cardiopulmonary resus-
 21 citation;

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

23 (e) The department determines that the application meets the requirements of ORS 181A.200,
 24 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200,
 25 181A.215, 329A.030 and 329A.250 to 329A.450, and receives a satisfactory records check, including
 26 criminal records and protective services records.

27 (5) Unless the registration is revoked as provided in ORS 329A.350, the registration is valid for
 28 a period of two years from the date of issuance. The department may not renew a registration of a
 29 provider operating a family child care home unless the provider:

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

31 (b) Has completed a minimum of eight hours of training related to child care during the most
 32 recent registration period;

33 (c) Is certified as a food handler under ORS 624.570; and

34 (d) When applicable, has complied with the requirements of ORS 329A.600 prior to imposing an
 35 expulsion.

36 (6) A registration authorizes operation of the facility only on the premises described in the
 37 registration and only by the person named in the registration.

38 (7) The Early Learning Council shall adopt rules:

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

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

41 (c) Establishing capacity and adult to child ratio requirements, which must be established
 42 without taking into consideration the provider's children if the children are between 10 and 12 years
 43 of age, unless a child has special needs or disabilities and requires a level of care that is above
 44 normal for the child's age;

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

1 rarely waived; and

2 (e) Establishing health and safety procedures and standards on:

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

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

5 (C) Room temperature;

6 (D) Lighting of rooms occupied by children;

7 (E) Glass panels on doors;

8 (F) Condition of floors;

9 (G) Availability of emergency telephone numbers; and

10 (H) Smoking.

11 (8) The department shall adopt the application work sheet required by subsection (3) of this
12 section. The work sheet must include, but need not be limited to, the following:

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

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

15 (9)(a) If the department determines that it is necessary to protect the health and safety of the
16 children for whom a child care facility is to provide care, the department may impose a condition
17 on the facility's registration that is reasonably designed to protect the health and safety of children.
18 The department may impose a condition during the application process for an initial registration,
19 during the application process for a renewal of a registration or at any time after the issuance of
20 a registration.

21 (b) Except as provided in paragraph (c) of this subsection, when the department imposes a con-
22 dition on a child care facility's registration, the facility shall be afforded an opportunity for a
23 hearing consistent with the provisions of ORS chapter 183.

24 (c)(A) If the department finds a serious danger to the health and safety of the children receiving
25 care at a child care facility, the department shall notify the facility of the specific reasons for the
26 finding and may impose an emergency condition on the facility's registration without a hearing.

27 (B) If the facility demands a hearing within 90 days after the department notifies the facility of
28 the emergency condition, a hearing consistent with the provisions of ORS chapter 183 must be
29 granted to the facility as soon as practicable after the demand and the agency shall issue an order
30 consistent with the provisions of ORS chapter 183 confirming, altering or revoking the order im-
31 posing the emergency condition.

32 (10) The department, upon good cause shown, may waive one or more of the registration re-
33 quirements. The department may waive a requirement only if appropriate conditions or safeguards
34 are imposed to protect the welfare of the children and the consumer interests of the parents of the
35 children. The department may not waive the on-site review requirement for applicants applying for
36 an initial registration or renewal of a registration.

37 (11) The Early Learning Council, by rule, shall develop a list of recommended standards con-
38 sistent with standards established by professional organizations regarding child care programs for
39 child care facilities. Compliance with the standards is not required for a registration, but the de-
40 partment shall encourage voluntary compliance and shall provide technical assistance to a child
41 care facility attempting to comply with the standards. The child care facility shall distribute the list
42 of recommended minimum standards to the parents of all children cared for at the facility.

43 (12) In adopting rules relating to registration, the Early Learning Council shall consult with the
44 appropriate legislative committee in developing the rules to be adopted. If the rules are being
45 adopted during a period when the Legislative Assembly is not in session, the Early Learning Council

1 shall consult with the appropriate interim legislative committee.

2 **SECTION 4. This 2025 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**
4 **on its passage.**

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