
ENGROSSED HOUSE BILL 2328

State of Washington

57th Legislature

2002 Regular Session

By Representatives Romero, Dunshee, Miloscia, Ogden and Edwards

Read first time 01/14/2002. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to day-care facility location restrictions;
2 amending RCW 35.63.185, 35A.63.215, and 36.70A.450; adding a new
3 section to chapter 35.21 RCW; adding a new section to chapter 36.70
4 RCW; and adding a new section to chapter 74.15 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW
7 to read as follows:

8 (1) Except as provided in subsections (2) and (3) of this section,
9 no city or town may enact, enforce, or maintain an ordinance,
10 development regulation, zoning regulation, or official control, policy,
11 or administrative practice that prohibits the use of a residential
12 dwelling, located in an area zoned for residential or commercial use,
13 as a family day-care provider's facility serving twelve or fewer
14 children.

15 (2) A city or town may require that the facility: (a) Comply with
16 all building, fire, safety, health code, and business licensing
17 requirements; (b) conform to lot size, building size, setbacks, and lot
18 coverage standards applicable to the zoning district except if the
19 structure is a legal nonconforming structure; (c) is certified by the

1 office of child care policy licensor as providing a safe passenger
2 loading area; (d) include signage, if any, that conforms to applicable
3 regulations; and (e) limit hours of operations to facilitate
4 neighborhood compatibility, while also providing appropriate
5 opportunity for persons who use family day-care who work a nonstandard
6 work shift.

7 (3) A city or town may also require that the family day-care
8 provider, before state licensing, require proof of written notification
9 by the provider that the immediately adjoining property owners have
10 been informed of the intent to locate and maintain such a facility. If
11 a dispute arises between neighbors and the day-care provider over
12 licensing requirements, the licensor may provide a forum to resolve the
13 dispute.

14 (4) This section may not be construed to prohibit a city or town
15 from imposing zoning conditions on the establishment and maintenance of
16 a family day-care provider's home serving twelve or fewer children in
17 an area zoned for residential or commercial use, if the conditions are
18 no more restrictive than conditions imposed on other residential
19 dwellings in the same zone and the establishment of such facilities is
20 not precluded. As used in this section, "family day-care provider" is
21 as defined in RCW 74.15.020.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70 RCW
23 to read as follows:

24 (1) Except as provided in subsections (2) and (3) of this section,
25 no county may enact, enforce, or maintain an ordinance, development
26 regulation, zoning regulation, or official control, policy, or
27 administrative practice that prohibits the use of a residential
28 dwelling, located in an area zoned for residential or commercial use,
29 as a family day-care provider's facility serving twelve or fewer
30 children.

31 (2) A county may require that the facility: (a) Comply with all
32 building, fire, safety, health code, and business licensing
33 requirements; (b) conform to lot size, building size, setbacks, and lot
34 coverage standards applicable to the zoning district except if the
35 structure is a legal nonconforming structure; (c) is certified by the
36 office of child care policy licensor as providing a safe passenger
37 loading area; (d) include signage, if any, that conforms to applicable
38 regulations; and (e) limit hours of operations to facilitate

1 neighborhood compatibility, while also providing appropriate
2 opportunity for persons who use family day-care who work a nonstandard
3 work shift.

4 (3) A county may also require that the family day-care provider,
5 before state licensing, require proof of written notification by the
6 provider that the immediately adjoining property owners have been
7 informed of the intent to locate and maintain such a facility. If a
8 dispute arises between neighbors and the day-care provider over
9 licensing requirements, the licensor may provide a forum to resolve the
10 dispute.

11 (4) This section may not be construed to prohibit a county from
12 imposing zoning conditions on the establishment and maintenance of a
13 family day-care provider's home serving twelve or fewer children in an
14 area zoned for residential or commercial use, if the conditions are no
15 more restrictive than conditions imposed on other residential dwellings
16 in the same zone and the establishment of such facilities is not
17 precluded. As used in this section, "family day-care provider" is as
18 defined in RCW 74.15.020.

19 **Sec. 3.** RCW 35.63.185 and 1995 c 49 s 1 are each amended to read
20 as follows:

21 (1) Except as provided in subsections (2) and (3) of this section,
22 no city may enact, enforce, or maintain an ordinance, development
23 regulation, zoning regulation, or official control, policy, or
24 administrative practice (~~((which))~~) that prohibits the use of a
25 residential dwelling, located in an area zoned for residential or
26 commercial use, as a family day-care provider's home facility.

27 (2) A city may require that the facility: (~~((1))~~) (a) Comply with
28 all building, fire, safety, health code, and business licensing
29 requirements; (~~((2))~~) (b) conform to lot size, building size, setbacks,
30 and lot coverage standards applicable to the zoning district except if
31 the structure is a legal nonconforming structure; (~~((3))~~) (c) is
32 certified by the office of child care policy licensor as providing a
33 safe passenger loading area; (~~((4))~~) (d) include signage, if any, that
34 conforms to applicable regulations; and (~~((5))~~) (e) limit hours of
35 operations to facilitate neighborhood compatibility, while also
36 providing appropriate opportunity for persons who use family day-care
37 and who work a nonstandard work shift.

1 (3) A city may also require that the family day-care provider,
2 before state licensing, require proof of written notification by the
3 provider that the immediately adjoining property owners have been
4 informed of the intent to locate and maintain such a facility. If a
5 dispute arises between neighbors and the family day-care provider over
6 licensing requirements, the licensor may provide a forum to resolve the
7 dispute.

8 (4) Nothing in this section shall be construed to prohibit a city
9 from imposing zoning conditions on the establishment and maintenance of
10 a family day-care provider's home in an area zoned for residential or
11 commercial use, so long as such conditions are no more restrictive than
12 conditions imposed on other residential dwellings in the same zone and
13 the establishment of such facilities is not precluded. As used in this
14 section, "family day-care provider" is as defined in RCW 74.15.020.

15 **Sec. 4.** RCW 35A.63.215 and 1995 c 49 s 2 are each amended to read
16 as follows:

17 (1) Except as provided in subsections (2) and (3) of this section,
18 no city may enact, enforce, or maintain an ordinance, development
19 regulation, zoning regulation, or official control, policy, or
20 administrative practice ((which)) that prohibits the use of a
21 residential dwelling, located in an area zoned for residential or
22 commercial use, as a family day-care provider's home facility.

23 (2) A city may require that the facility: ((+1)) (a) Comply with
24 all building, fire, safety, health code, and business licensing
25 requirements; ((+2)) (b) conform to lot size, building size, setbacks,
26 and lot coverage standards applicable to the zoning district except if
27 the structure is a legal nonconforming structure; ((+3)) (c) is
28 certified by the office of child care policy licensor as providing a
29 safe passenger loading area; ((+4)) (d) include signage, if any, that
30 conforms to applicable regulations; and ((+5)) (e) limit hours of
31 operations to facilitate neighborhood compatibility, while also
32 providing appropriate opportunity for persons who use family day-care
33 and who work a nonstandard work shift.

34 (3) A city may also require that the family day-care provider,
35 before state licensing, require proof of written notification by the
36 provider that the immediately adjoining property owners have been
37 informed of the intent to locate and maintain such a facility. If a
38 dispute arises between neighbors and the family day-care provider over

1 licensing requirements, the licensor may provide a forum to resolve the
2 dispute.

3 (4) Nothing in this section shall be construed to prohibit a city
4 from imposing zoning conditions on the establishment and maintenance of
5 a family day-care provider's home in an area zoned for residential or
6 commercial use, so long as such conditions are no more restrictive than
7 conditions imposed on other residential dwellings in the same zone and
8 the establishment of such facilities is not precluded. As used in this
9 section, "family day-care provider" is as defined in RCW 74.15.020.

10 **Sec. 5.** RCW 36.70A.450 and 1995 c 49 s 3 are each amended to read
11 as follows:

12 (1) Except as provided in subsections (2) and (3) of this section,
13 no county or city (~~((that plans or elects to plan under this chapter))~~)
14 may enact, enforce, or maintain an ordinance, development regulation,
15 zoning regulation, or official control, policy, or administrative
16 practice (~~((which))~~) that prohibits the use of a residential dwelling,
17 located in an area zoned for residential or commercial use, as a family
18 day-care provider's home facility.

19 (2) A county or city may require that the facility: (~~((1))~~) (a)
20 Comply with all building, fire, safety, health code, and business
21 licensing requirements; (~~((2))~~) (b) conform to lot size, building size,
22 setbacks, and lot coverage standards applicable to the zoning district
23 except if the structure is a legal nonconforming structure; (~~((3))~~) (c)
24 is certified by the office of child care policy licensor as providing
25 a safe passenger loading area; (~~((4))~~) (d) include signage, if any,
26 that conforms to applicable regulations; and (~~((5))~~) (e) limit hours of
27 operations to facilitate neighborhood compatibility, while also
28 providing appropriate opportunity for persons who use family day-care
29 and who work a nonstandard work shift.

30 (3) A county or city may also require that the family day-care
31 provider, before state licensing, require proof of written notification
32 by the provider that the immediately adjoining property owners have
33 been informed of the intent to locate and maintain such a facility. If
34 a dispute arises between neighbors and the family day-care provider
35 over licensing requirements, the licensor may provide a forum to
36 resolve the dispute.

37 (4) Nothing in this section shall be construed to prohibit a county
38 or city (~~((that plans or elects to plan under this chapter))~~) from

1 imposing zoning conditions on the establishment and maintenance of a
2 family day-care provider's home in an area zoned for residential or
3 commercial use, so long as such conditions are no more restrictive than
4 conditions imposed on other residential dwellings in the same zone and
5 the establishment of such facilities is not precluded. As used in this
6 section, "family day-care provider" is as defined in RCW 74.15.020.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.15 RCW
8 to read as follows:

9 For purposes of determining whether the capacity of a child day-
10 care center operated primarily for the children of parents who are
11 employed on the premises has been reached, the department shall not
12 count children of parents who are visiting the business, so long as the
13 number of such children is no greater than five at any single point in
14 time.

--- END ---