

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5806

59th Legislature
2005 Regular Session

Passed by the Senate April 18, 2005
YEAS 45 NAYS 1

President of the Senate

Passed by the House April 13, 2005
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5806** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5806

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington **59th Legislature** **2005 Regular Session**

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Rasmussen and Jacobsen)

READ FIRST TIME 02/28/05.

1 AN ACT Relating to child care services; amending RCW 74.15.130;
2 adding new sections to chapter 74.15 RCW; creating a new section; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that child care
6 providers provide valuable services for the families of Washington
7 state and are an important part of ensuring the healthy growth and
8 development of young children. It also recognizes the importance of
9 ensuring that operators of child day-care centers and family day-care
10 providers are providing safe and quality care and operating in
11 compliance with minimal standards.

12 The legislature further recognizes that parents, as consumers, have
13 an interest in obtaining access to information that is relevant to
14 making informed decisions about the persons with whom they entrust the
15 care of their children. The purpose of this act is to establish a
16 system, consistent throughout the state, through which parents,
17 guardians, and other persons acting in loco parentis can obtain certain
18 information about child care providers.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.15 RCW
2 to read as follows:

3 For the purposes of this act, "enforcement action" means denial,
4 suspension, revocation, modification, or nonrenewal of a license
5 pursuant to RCW 74.15.130(1) or assessment of civil monetary penalties
6 pursuant to RCW 74.15.130(4).

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.15 RCW
8 to read as follows:

9 (1) The department shall establish and maintain a toll-free
10 telephone number, and an interactive web-based system through which
11 persons may obtain information regarding child day-care centers and
12 family day-care providers. This number shall be available twenty-four
13 hours a day for persons to request information. The department shall
14 respond to recorded messages left at the number within two business
15 days. The number shall be published in reasonably available printed
16 and electronic media. The number shall be easily identifiable as a
17 number through which persons may obtain information regarding child
18 day-care centers and family day-care providers as set forth in this
19 section.

20 (2) Through the toll-free telephone line established by this
21 section, the department shall provide information to callers about:

22 (a) Whether a day-care provider is licensed; (b) whether a day-care
23 provider's license is current; (c) the general nature of any
24 enforcement against the providers; (d) how to report suspected or
25 observed noncompliance with licensing requirements; (e) how to report
26 alleged abuse or neglect in a day care; (f) how to report health,
27 safety, and welfare concerns in a day care; (g) how to receive follow-
28 up assistance, including information on the office of the family and
29 children's ombudsman; and (h) how to receive referral information on
30 other agencies or entities that may be of further assistance to the
31 caller.

32 (3) Beginning in January 2006, the department shall print the toll-
33 free number established by this section on the face of new licenses
34 issued to child day-care centers and family day-care providers.

35 (4) This section shall not be construed to require the disclosure
36 of any information that is exempt from public disclosure under chapter
37 42.17 RCW.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15 RCW
2 to read as follows:

3 (1) Every child day-care center and family day-care provider shall
4 prominently post the following items, clearly visible to parents and
5 staff:

6 (a) The license issued under this chapter;

7 (b) The department's toll-free telephone number established by
8 section 3 of this act;

9 (c) The notice of any pending enforcement action. The notice must
10 be posted immediately upon receipt. The notice must be posted for at
11 least two weeks or until the violation causing the enforcement action
12 is corrected, whichever is longer;

13 (d) A notice that inspection reports and any notices of enforcement
14 actions for the previous three years are available from the licensee
15 and the department; and

16 (e) Any other information required by the department.

17 (2) The department shall disclose, upon request, the receipt,
18 general nature, and resolution or current status of all complaints on
19 record with the department after the effective date of this act against
20 a child day-care center or family day-care provider that result in an
21 enforcement action.

22 This section shall not be construed to require the disclosure of
23 any information that is exempt from public disclosure under chapter
24 42.17 RCW.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.15 RCW
26 to read as follows:

27 (1) Every child day-care center and family day-care provider shall
28 have readily available for review by the department, parents, and the
29 public a copy of each inspection report and notice of enforcement
30 action received by the center or provider from the department for the
31 past three years. This subsection only applies to reports and notices
32 received on or after the effective date of this act.

33 (2) The department shall make available to the public during
34 business hours all inspection reports and notices of enforcement
35 actions involving child day-care centers and family day-care providers
36 consistent with chapter 42.17 RCW. The department shall include in the

1 inspection report a statement of the corrective measures taken by the
2 center or provider.

3 **Sec. 6.** RCW 74.15.130 and 1998 c 314 s 6 are each amended to read
4 as follows:

5 (1) An agency may be denied a license, or any license issued
6 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,
7 revoked, modified, or not renewed by the secretary upon proof (a) that
8 the agency has failed or refused to comply with the provisions of
9 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated
10 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or
11 (b) that the conditions required for the issuance of a license under
12 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect
13 to such licenses. RCW 43.20A.205 governs notice of a license denial,
14 revocation, suspension, or modification and provides the right to an
15 adjudicative proceeding.

16 (2) In any adjudicative proceeding regarding the denial,
17 modification, suspension, or revocation of a foster family home
18 license, the department's decision shall be upheld if there is
19 reasonable cause to believe that:

20 (a) The applicant or licensee lacks the character, suitability, or
21 competence to care for children placed in out-of-home care, however, no
22 unfounded report of child abuse or neglect may be used to deny
23 employment or a license;

24 (b) The applicant or licensee has failed or refused to comply with
25 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements
26 adopted pursuant to such provisions; or

27 (c) The conditions required for issuance of a license under chapter
28 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
29 licenses.

30 (3) In any adjudicative proceeding regarding the denial,
31 modification, suspension, or revocation of any license under this
32 chapter, other than a foster family home license, the department's
33 decision shall be upheld if it is supported by a preponderance of the
34 evidence.

35 (4) The department may assess civil monetary penalties upon proof
36 that an agency has failed or refused to comply with the rules adopted
37 under the provisions of this chapter and RCW 74.13.031 or that an

1 agency subject to licensing under this chapter and RCW 74.13.031 is
2 operating without a license except that civil monetary penalties shall
3 not be levied against a licensed foster home. Monetary penalties
4 levied against unlicensed agencies that submit an application for
5 licensure within thirty days of notification and subsequently become
6 licensed will be forgiven. These penalties may be assessed in addition
7 to or in lieu of other disciplinary actions. Civil monetary penalties,
8 if imposed, may be assessed and collected, with interest, for each day
9 an agency is or was out of compliance. Civil monetary penalties shall
10 not exceed seventy-five dollars per violation for a family day-care
11 home and two hundred fifty dollars per violation for group homes, child
12 day-care centers, and child-placing agencies. Each day upon which the
13 same or substantially similar action occurs is a separate violation
14 subject to the assessment of a separate penalty. The department shall
15 provide a notification period before a monetary penalty is effective
16 and may forgive the penalty levied if the agency comes into compliance
17 during this period. The department may suspend, revoke, or not renew
18 a license for failure to pay a civil monetary penalty it has assessed
19 pursuant to this chapter within ten days after such assessment becomes
20 final. Chapter 43.20A RCW governs notice of a civil monetary penalty
21 and provides the right of an adjudicative proceeding. The
22 preponderance of evidence standard shall apply in adjudicative
23 proceedings related to assessment of civil monetary penalties.

24 (5)(a) In addition to or in lieu of an enforcement action being
25 taken, the department may place a child day-care center or family day-
26 care provider on nonreferral status if the center or provider has
27 failed or refused to comply with this chapter or rules adopted under
28 this chapter or an enforcement action has been taken. The nonreferral
29 status may continue until the department determines that: (i) No
30 enforcement action is appropriate; or (ii) a corrective action plan has
31 been successfully concluded.

32 (b) Whenever a child day-care center or family day-care provider is
33 placed on nonreferral status, the department shall provide written
34 notification to the child day-care center or family day-care provider.

35 (6) The department shall notify appropriate public and private
36 child care resource and referral agencies of the department's decision
37 to: (a) Take an enforcement action against a child day-care center or

1 family day-care provider; or (b) place or remove a child day-care
2 center or family day-care provider on nonreferral status.

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

5 (1) Every licensed child day-care center shall, at the time of
6 licensure or renewal and at any inspection, provide to the department
7 proof that the licensee has day-care insurance as defined in RCW
8 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

9 (a) Every licensed child day-care center shall comply with the
10 following requirements:

11 (i) Notify the department when coverage has been terminated;

12 (ii) Post at the day-care center, in a manner likely to be observed
13 by patrons, notice that coverage has lapsed or been terminated;

14 (iii) Provide written notice to parents that coverage has lapsed or
15 terminated within thirty days of lapse or termination.

16 (b) Liability limits under this subsection shall be the same as set
17 forth in RCW 48.88.050.

18 (c) The department may take action as provided in RCW 74.15.130 if
19 the licensee fails to maintain in full force and effect the insurance
20 required by this subsection.

21 (d) This subsection applies to child day-care centers holding
22 licenses, initial licenses, and probationary licenses under this
23 chapter.

24 (e) A child day-care center holding a license under this chapter on
25 the effective date of this act, is not required to be in compliance
26 with this subsection until the time of renewal of the license or until
27 January 1, 2006, whichever is sooner.

28 (2)(a) Every licensed family day-care provider shall, at the time
29 of licensure or renewal either:

30 (i) Provide to the department proof that the licensee has day-care
31 insurance as defined in RCW 48.88.020, or other applicable insurance;
32 or

33 (ii) Provide written notice of their insurance status to parents
34 with a child enrolled in family day care. Family day-care providers
35 may choose to opt out of the requirement to have day care or other
36 applicable insurance but must provide written notice of their insurance

1 status to parents with a child enrolled and shall not be subject to the
2 requirements of (b), (c), or (d) of this subsection.

3 (b) Any licensed family day-care provider that provides to the
4 department proof that the licensee has insurance as provided under
5 (a)(i) of this subsection shall comply with the following requirements:

6 (i) Notify the department when coverage has been terminated;

7 (ii) Post at the day-care home, in a manner likely to be observed
8 by patrons, notice that coverage has lapsed or been terminated;

9 (iii) Provide written notice to parents that coverage has lapsed or
10 terminated within thirty days of lapse or termination.

11 (c) Liability limits under (a)(i) of this subsection shall be the
12 same as set forth in RCW 48.88.050.

13 (d) The department may take action as provided in RCW 74.15.130 if
14 the licensee fails to notify the department when coverage has been
15 terminated as required under (b) of this subsection.

16 (e) A family day-care provider holding a license under this chapter
17 on the effective date of this act is not required to be in compliance
18 with this subsection until the time of renewal of the license or until
19 January 1, 2006, whichever is sooner.

20 (3) Noncompliance or compliance with the provisions of this section
21 shall not constitute evidence of liability or nonliability in any
22 injury litigation.

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