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SENATE BILL NO. 969

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 16, 2009)

(Patron Prior to Substitute—Senator Blevins)

A BILL to amend and reenact § 63.2-1716 of the Code of Virginia, relating to unlicensed child day centers and the staff-to-children ratio during designated rest and sleep periods.

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1716 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1716. Child day center operated by religious institution exempt from licensure; annual statement and documentary evidence required; enforcement; injunctive relief.

A. Notwithstanding any other provisions of this chapter, a child day center, including a child day center that is a child welfare agency operated or conducted under the auspices of a religious institution shall be exempt from the licensure requirements of this subtitle, but shall comply with the provisions of this section unless it chooses to be licensed. If such religious institution chooses not to be licensed, it shall file with the Commissioner, prior to beginning operation of a child day center and thereafter annually, a statement of intent to operate a child day center, certification that the child day center has disclosed in writing to the parents or guardians of the children in the center the fact that it is exempt from licensure, the qualifications of the personnel employed therein and documentary evidence that:

1. Such religious institution has tax exempt status as a nonprofit religious institution in accordance with § 501 (c) of the Internal Revenue Code of 1954, as amended, or that the real property owned and exclusively occupied by the religious institution is exempt from local taxation.

2. Within the prior 90 days for the initial exemption and within the prior 180 days for exemptions thereafter, the local health department and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, have inspected the physical facilities of the child day center and have determined that the center is in compliance with applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code.

3. The child day center employs supervisory personnel according to the following ratio of staff to children:

- a. One staff member to four children from zero to twenty-four months.
- b. One staff member to ten children from ages twenty-four months to six years.
- c. One staff member to twenty-five children ages six years and older.

Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children. *For children designated in subdivisions 3 a and 3 c, the staff-to-children ratio shall be maintained at all times. For children ages 24 months to six years, during the designated daily rest period and the designated sleep period of evening and overnight care programs, at least one staff member shall be physically present in the same space as the children. Other staff members who are included in the staff-to-children ratios need not be in the same space with the children when all the children are resting or sleeping. These other staff members shall be on the same floor as the resting or sleeping children and shall have no barrier to their coming to help immediately. The staff member who is in the same space with the resting or sleeping children shall be able to summon these other staff members without leaving the children.* In each grouping of children, at least one adult staff member shall be regularly present. Staff members shall be at least 16 years of age. Staff members under 18 years of age shall be under the supervision of an adult staff member. Adult staff members shall supervise no more than two staff members under 18 years of age at any given time.

4. Each person in a supervisory position has been certified by a practicing physician or physician assistant to be free from any disability which would prevent him from caring for children under his supervision.

5. The center is in compliance with the requirements of:

- a. This section.
- b. Section 63.2-1724 relating to background checks.
- c. Section 63.2-1509 relating to the reporting of suspected cases of child abuse and neglect.
- d. Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 regarding a valid Virginia driver's license or commercial driver's license; of Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of Title 46.2, regarding vehicle inspections; ensuring that any vehicle used to transport children is an insured motor vehicle as defined in § 46.2-705; and Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of Title 46.2, regarding child restraint devices.

6. The following aspects of the child day center's operations are described in a written statement

60 provided to the parents or guardians of the children in the center and made available to the general
61 public: physical facilities, enrollment capacity, food services, health requirements for the staff and public
62 liability insurance.

63 B. The center shall establish and implement procedures for:

64 1. Hand washing by staff and children before eating and after toileting and diapering.

65 2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to
66 ensure safety of children.

67 3. A daily simple health screening and exclusion of sick children by a person trained to perform such
68 screenings.

69 4. Ensuring that a person trained and certified in first aid is present at the center whenever children
70 are present.

71 5. Ensuring that all children in the center are in compliance with the provisions of § 32.1-46
72 regarding the immunization of children against certain diseases.

73 6. Ensuring that all areas of the premises accessible to children are free of obvious injury hazards,
74 including providing and maintaining sand or other cushioning material under playground equipment.

75 7. Ensuring that all staff are able to recognize the signs of child abuse and neglect.

76 C. The Commissioner may perform on-site inspections of religious institutions to confirm compliance
77 with the provisions of this section and to investigate complaints that the religious institution is not in
78 compliance with the provisions of this section. The Commissioner may revoke the exemption for any
79 child day center in serious or persistent violation of the requirements of this section. If a religious
80 institution operates a child day center and does not file the statement and documentary evidence required
81 by this section, the Commissioner shall give reasonable notice to such religious institution of the nature
82 of its noncompliance and may thereafter take such action as he determines appropriate, including a suit
83 to enjoin the operation of the child day center.

84 D. Any person who has reason to believe that a child day center falling within the provisions of this
85 section is not in compliance with the requirements of this section may report the same to the local
86 department, the local health department or the local fire marshal, each of which may inspect the child
87 day center for noncompliance, give reasonable notice to the religious institution, and thereafter may take
88 appropriate action as provided by law, including a suit to enjoin the operation of the child day center.

89 E. Nothing in this section shall prohibit a child day center operated by or conducted under the
90 auspices of a religious institution from obtaining a license pursuant to this chapter.