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HOUSE BILL NO. 2756

Offered January 17, 2019

A BILL to amend and reenact § 63.2-1715, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to child day programs; licensure exemption.

Patron—Miyares

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1715, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1715. (Effective until July 1, 2019) Exemptions from licensure.

A. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 63.2-1716.

2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

6. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

7. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

9. Practice or competition in organized competitive sports leagues.

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

11. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.

12. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 63.2-1717.

13. A program of recreational activities offered by local governments, staffed by local government

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59 employees, and attended by school-age children. Such programs shall be subject to safety and
60 supervisory standards established by local governments.

61 14. A program of instructional or athletic experience operated during the summer months by, and as
62 an extension of, an accredited private elementary, middle, or high school program as set forth in
63 § 22.1-19 and administered by the Virginia Council for Private Education.

64 15. A child day program offered by a local school division, staffed by local school division
65 employees, and attended by children who are at least four years of age and are enrolled in public school
66 or a preschool program within such school division. Such programs shall be subject to safety and
67 supervisory standards established by the local school board.

68 16. *Child-minding services offered on site by a small business to no more than five children at any*
69 *given time, provided that the parent or guardian of every child is an on-duty employee of the small*
70 *business and can resume responsibility for the child's supervision within 30 minutes upon request. For*
71 *purposes of this subdivision, "small business" means a business that has 50 or fewer employees and*
72 *average annual gross receipts of \$3 million or less averaged over the previous three years.*

73 B. Family day homes that are members of a licensed family day system shall not be required to
74 obtain a license from the Commissioner.

75 C. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting
76 within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be
77 required to be licensed.

78 **§ 63.2-1715. (Effective July 1, 2019) Exemptions from licensure.**

79 A. The following programs are not child day programs and shall not be required to be licensed:

80 1. A program of instructional experience in a single focus, such as, but not limited to, computer
81 science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if
82 no child is allowed to attend for more than 25 days in any three-month period commencing with
83 enrollment. This exemption does not apply if children merely change their enrollment to a different
84 focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a
85 three-month period.

86 2. Programs of instructional or recreational activities wherein no child under age six attends for more
87 than six hours weekly with no class or activity period to exceed one and one-half hours, and no child
88 six years of age or above attends for more than six hours weekly when school is in session or 12 hours
89 weekly when school is not in session. Competition, performances and exhibitions related to the
90 instructional or recreational activity shall be excluded when determining the hours of program operation.

91 3. Instructional programs offered by private schools that serve school-age children and that satisfy
92 compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as
93 amended, and programs of school-sponsored extracurricular activities that are focused on single interests
94 such as, but not limited to, music, sports, drama, civic service, or foreign language.

95 4. Instructional programs offered by public schools that serve preschool-age children, satisfy
96 compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act,
97 as amended, and programs of school-sponsored extracurricular activities that are focused on single
98 interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

99 5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities
100 Education Act, as amended, wherein no child attends for more than a total of six hours per week.

101 6. Practice or competition in organized competitive sports leagues.

102 7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or
103 Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of
104 specified religious services or related activities to allow parents or guardians or their designees who are
105 on site to attend such religious services and activities.

106 8. A program of instructional or athletic experience operated during the summer months by, and as
107 an extension of, an accredited private elementary, middle, or high school program as set forth in
108 § 22.1-19 and administered by the Virginia Council for Private Education.

109 B. The following child day programs shall not be required to be licensed:

110 1. A child day program or child day center that has obtained an exemption pursuant to § 63.2-1716.

111 2. A program where, by written policy given to and signed by a parent or guardian, school-age
112 children are free to enter and leave the premises without permission. A program that would qualify for
113 this exemption except that it assumes responsibility for the supervision, protection, and well-being of
114 several children with disabilities who are mainstreamed shall not be subject to licensure.

115 3. A program that operates no more than a total of 20 program days in the course of a calendar year,
116 provided that programs serving children under age six operate no more than two consecutive weeks
117 without a break of at least a week.

118 4. Child-minding services that are not available for more than three hours per day for any individual
119 child offered on site in commercial or recreational establishments if the parent or guardian (i) can be
120 contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is

receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 63.2-1717.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by children who are at least four years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

8. *Child-minding services offered on site by a small business to no more than five children at any given time, provided that the parent or guardian of every child is an on-duty employee of the small business and can resume responsibility for the child's supervision within 30 minutes upon request. For purposes of this subdivision, "small business" means a business that has 50 or fewer employees and average annual gross receipts of \$3 million or less averaged over the previous three years.*

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

1. File with the Commissioner annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

2. Report to the Commissioner all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;

2. Maintain daily attendance records that document the arrival and departure of all children;

3. Have an emergency preparedness plan in place;

4. Comply with all applicable laws and regulations governing transportation of children; and

5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

E. The Commissioner shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.

F. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

G. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.