

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/Senate Bill No. 862, Page 1, Section A, Line 3,

2 by inserting after all of said line the following:

3 "210.201. As used in sections 210.201 to 210.257, the  
4 following terms mean:

5 (1) "Child", an individual who is under the age of  
6 seventeen;

7 (2) "Child care", care of a child away from his or her  
8 home for any part of the twenty-four-hour day for  
9 compensation or otherwise. Child care is a voluntary  
10 supplement to parental responsibility for the child's  
11 protection, development, and supervision;

12 (3) "Child-care facility" or "child care facility", a  
13 house or other place conducted or maintained by any person  
14 who advertises or holds himself or herself out as providing  
15 child care for any part of the twenty-four-hour day for  
16 compensation or otherwise if providing child care to more  
17 than:

18 (a) Six children; or

19 (b) Three children under two years of age;

20 (4) "Child care provider" or "provider", the person or  
21 persons licensed or required to be licensed under section  
22 210.221 to establish, conduct, or maintain a child care  
23 facility;

24 (5) "Day camp", a program operated by a person or  
25 organization between the hours of 6:00 a.m. and 7:00 p.m.,  
26 when a local school system is not in session requiring

27 actual pupil attendance, and with the primary function of  
28 providing a recreational program for children five years of  
29 age or older who are enrolled in kindergarten or any grade  
30 above kindergarten, but providing no child care for children  
31 under five years of age who are not yet enrolled in  
32 kindergarten in the same space or in the same outdoor play  
33 area simultaneously;

34 (6) "Montessori school", a child care program that is  
35 either accredited by, actively seeking accreditation by, or  
36 maintains an active school membership with the American  
37 Montessori Society, the Association Montessori  
38 Internationale, the International Montessori Counsel, or the  
39 Montessori Educational Programs International;

40 (7) "Neighborhood youth development program", as  
41 described in section 210.278;

42 (8) "Nursery school", a program operated by a person  
43 or an organization with the primary function of providing an  
44 educational program for preschool-age children for no more  
45 than four hours per day per child;

46 (9) "Person", any individual, firm, corporation,  
47 partnership, association, agency, or an incorporated or  
48 unincorporated organization regardless of the name used;

49 (10) "Religious organization", a church, synagogue or  
50 mosque; an entity that has or would qualify for federal tax-  
51 exempt status as a nonprofit religious organization under  
52 Section 501(c) of the Internal Revenue Code; or an entity  
53 whose real estate on which the child-care facility is  
54 located is exempt from taxation because it is used for  
55 religious purposes;

56 (11) "School-age child", any child five years of age  
57 or older who is in kindergarten or above;

58 (12) "School system", a program established primarily  
59 for education and that meets the following criteria:

60 (a) Provides education in at least the first to the  
61 sixth grade; and

62 (b) Provides evidence that the school system's records  
63 will be accepted by a public or private school for the  
64 transfer of any student;

65 [(12)] (13) "Summer camp", a program operated from May  
66 to September by a person or organization with the primary  
67 function of providing a summer recreational program for  
68 children five years of age or older and providing no child  
69 care for children under five years of age in the same space  
70 or in the same outdoor play area simultaneously.

71 210.211. 1. It shall be unlawful for any person to  
72 establish, maintain or operate a child-care facility for  
73 children, or to advertise or hold himself or herself out as  
74 being able to perform any of the services as defined in  
75 section 210.201, without having in effect a written license  
76 granted by the department of elementary and secondary  
77 education; except that nothing in sections 210.203 to  
78 210.245 shall apply to:

79 (1) Any person who is caring for six or fewer  
80 children, including a maximum of three children under the  
81 age of two, at the same physical address. For purposes of  
82 this subdivision, children who live in the caregiver's home  
83 and who are eligible for enrollment in a public  
84 kindergarten, elementary, or high school shall not be  
85 considered in the total number of children being cared for;

86 (2) Any person who receives free of charge, and not as  
87 a business, for periods not exceeding ninety consecutive  
88 days, as bona fide, occasional and personal guests the child  
89 or children of personal friends of such person, and who  
90 receives custody of no other unrelated child or children;

91 (3) Any graded boarding school that is conducted in  
92 good faith primarily to provide education;

- 93           (4) Any summer or day camp that is conducted in good  
94 faith primarily to provide recreation;
- 95           (5) Any hospital, sanitarium, or home that is  
96 conducted in good faith primarily to provide medical  
97 treatment or nursing or convalescent care for children;
- 98           (6) Any residential facility or day program licensed  
99 by the department of mental health under sections 630.705 to  
100 630.760 that provides care, treatment, and habilitation  
101 exclusively to children who have a primary diagnosis of  
102 mental disorder, mental illness, intellectual disability, or  
103 developmental disability, as those terms are defined in  
104 section 630.005;
- 105           (7) Any school system as defined in section 210.201;
- 106           (8) Any Montessori school as defined in section  
107 210.201;
- 108           (9) Any business that operates a child care program  
109 for the convenience of its customers or its employees if the  
110 following conditions are met:
- 111           (a) The business provides child care for customers' or  
112 employees' children for no more than four hours per day; and
- 113           (b) Customers or employees remain on site while their  
114 children are being cared for by the business establishment;
- 115           (10) Any home school as defined in section 167.031;
- 116           (11) Any religious organization academic preschool or  
117 kindergarten for four- and five-year-old children;
- 118           (12) Any weekly Sunday or Sabbath school, a vacation  
119 bible school, or child care made available while the parents  
120 or guardians are attending worship services or other  
121 meetings and activities conducted or sponsored by a  
122 religious organization;
- 123           (13) Any neighborhood youth development program under  
124 section 210.278;

125           (14) Any program serving only children enrolled in  
126 grade six or above;

127           (15) Any religious organization elementary or  
128 secondary school;

129           [(15)] (16) Any private organization elementary or  
130 secondary school system providing child care to children  
131 younger than school age. If a facility or program is exempt  
132 from licensure based upon this exception, such facility or  
133 program shall submit documentation annually to the  
134 department to verify its licensure-exempt status;

135           [(16)] (17) Any nursery school as defined in section  
136 210.201; and

137           [(17)] (18) Any child care facility maintained or  
138 operated under the exclusive control of a religious  
139 organization. If a nonreligious organization having as its  
140 principal purpose the provision of child care services  
141 enters into an arrangement with a religious organization for  
142 the maintenance or operation of a child care facility, the  
143 facility is not under the exclusive control of the religious  
144 organization.

145           2. Notwithstanding the provisions of subsection 1 of  
146 this section, no child-care facility shall be exempt from  
147 licensure if such facility receives any state or federal  
148 funds for providing care for children, except for federal  
149 funds for those programs which meet the requirements for  
150 participation in the Child and Adult Care Food Program  
151 pursuant to 42 U.S.C. Section 1766. Grants to parents for  
152 child care pursuant to sections 210.201 to 210.257 shall not  
153 be construed to be funds received by a person or facility  
154 listed in subdivisions (1) and [(17)] (18) of subsection 1  
155 of this section.

156           3. Every child care facility shall disclose the  
157 licensure status of the facility to the parents or guardians

158 of children for which the facility provides care. No child  
159 care facility exempt from licensure shall represent to any  
160 parent or guardian of children for which the facility  
161 provides care that the facility is licensed when such  
162 facility is in fact not licensed. A parent or guardian  
163 utilizing an unlicensed child care facility shall sign a  
164 written notice indicating he or she is aware of the  
165 unlicensed status of the facility. The facility shall keep  
166 a copy of this signed written notice on file. All child  
167 care facilities shall provide the parent or guardian  
168 enrolling a child in the facility with a written explanation  
169 of the disciplinary philosophy and policies of the child  
170 care facility.

171 4. Up to two children who are five years of age or  
172 older and who are related within the third degree of  
173 consanguinity or affinity to, adopted by, or under court  
174 appointed guardianship or legal custody of a child care  
175 provider who is responsible for the daily operation of a  
176 licensed family child care home that is organized as a  
177 corporation, association, firm, partnership, limited  
178 liability company, sole proprietorship, or any other type of  
179 business entity in this state shall not be included in the  
180 number of children counted toward the maximum number of  
181 children for which the family child care home is licensed  
182 under section 210.221. If more than one member of the  
183 corporation, association, firm, partnership, limited  
184 liability company, or other business entity is responsible  
185 for the daily operation of the licensed family child care  
186 home, then the related children of only one such member  
187 shall be excluded. A family child care home caring for  
188 children not counted in the maximum number of children, as  
189 permitted under this subsection, shall disclose this to  
190 parents or guardians on the written notice required under

191 subsection 3 of this section. If a family child care home  
192 begins caring for children not counted in the maximum number  
193 of children after a parent or guardian has signed the  
194 written notice required under subsection 3 of this section,  
195 the family child care home shall provide a separate notice  
196 to the parent or guardian that the family child care home is  
197 caring for children not counted in the maximum number of  
198 children for which the family child care home is licensed  
199 and shall keep a copy of the signed notice on file.

200 5. Nothing in this section shall prevent the  
201 department from enforcing licensing regulations promulgated  
202 under this chapter, including, but not limited to,  
203 supervision requirements and capacity limitations based on  
204 the amount of child care space available.

205 210.252. 1. All buildings and premises used by a  
206 child-care facility to care for more than six children  
207 except those exempted from the licensing provisions of the  
208 department of elementary and secondary education pursuant to  
209 subdivisions (1) to ~~[(15)]~~ (16) of subsection 1 of section  
210 210.211, shall be inspected annually for fire and safety by  
211 the state fire marshal, the marshal's designee or officials  
212 of a local fire district and for health and sanitation by  
213 the department of elementary and secondary education or the  
214 department's designee, including officials of the department  
215 of health and senior services, or officials of the local  
216 health department. Evidence of compliance with the  
217 inspections required by this section shall be kept on file  
218 and available to parents of children enrolling in the child-  
219 care facility.

220 2. Local inspection of child-care facilities may be  
221 accomplished if the standards employed by local personnel  
222 are substantially equivalent to state standards and local  
223 personnel are available for enforcement of such standards.

224           3. Any child-care facility may request a variance from  
225 a rule or regulation promulgated pursuant to this section.  
226 The request for a variance shall be made in writing to the  
227 department of elementary and secondary education and shall  
228 include the reasons the facility is requesting the  
229 variance. The department shall approve any variance request  
230 that does not endanger the health or safety of the children  
231 served by the facility. The burden of proof at any appeal  
232 of a disapproval of a variance application shall be with the  
233 department of elementary and secondary education. Local  
234 inspectors may grant a variance, subject to approval by the  
235 department of elementary and secondary education.

236           4. The department of elementary and secondary  
237 education shall administer the provisions of sections  
238 210.252 to 210.256, with the cooperation of the state fire  
239 marshal, the department of health and senior services, local  
240 fire departments and local health agencies.

241           5. The department of elementary and secondary  
242 education shall promulgate rules and regulations to  
243 implement and administer the provisions of sections 210.252  
244 to 210.256. Such rules and regulations shall provide for  
245 the protection of children in all child-care facilities  
246 whether or not such facility is subject to the licensing  
247 provisions of sections 210.201 to 210.245.

248           6. The department of health and senior services, after  
249 consultation with the department of elementary and secondary  
250 education, may promulgate rules and regulations to implement  
251 and administer the provisions of this section related to  
252 sanitation requirements. Such rules and regulations shall  
253 provide for the protection of children in all child-care  
254 facilities whether or not such facility is subject to the  
255 licensing provisions of sections 210.201 to 210.245.

256           7. Any rule or portion of a rule, as that term is  
257 defined in section 536.010, that is created under the  
258 authority delegated in sections 210.252 to 210.256 shall  
259 become effective only if it complies with and is subject to  
260 all of the provisions of chapter 536 and, if applicable,  
261 section 536.028. All rulemaking authority delegated prior  
262 to August 28, 1999, is of no force and effect and repealed.  
263 Nothing in this section shall be interpreted to repeal or  
264 affect the validity of any rule filed or adopted prior to  
265 August 28, 1999, if it fully complied with all applicable  
266 provisions of law. This section and chapter 536 are  
267 nonseverable and if any of the powers vested with the  
268 general assembly pursuant to chapter 536 to review, to delay  
269 the effective date or to disapprove and annul a rule are  
270 subsequently held unconstitutional, then the grant of  
271 rulemaking authority and any rule proposed or adopted after  
272 August 28, 1999, shall be invalid and void.

273           210.275. Any program licensed by the department of  
274 elementary and secondary education pursuant to this chapter  
275 providing child care to only school-age children [that is  
276 located and operated on elementary or secondary school  
277 property] shall comply with the child-care licensure  
278 provisions in this chapter; except that, for safety, health  
279 and fire purposes, all buildings and premises for any such  
280 programs shall be deemed to be in compliance with the child-  
281 care licensure provisions in this chapter."; and

282           Further amend the title and enacting clause accordingly.