**South Carolina General Assembly**

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**H. 4044**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, Erickson, White, Anthony, McEachern, Bannister and Bernstein

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Companion/Similar bill(s): 569

Introduced in the House on March 22, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Childcare facilities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/22/2017 House Introduced and read first time ([House Journal‑page 81](file:///h:\hj\20170322.docx))

3/22/2017 House Referred to Committee on **Judiciary** ([House Journal‑page 81](file:///h:\hj\20170322.docx))

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**VERSIONS OF THIS BILL**

[3/22/2017](file:///p:\pprever\2017-18\4044_20170322.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑13‑220 SO AS TO REQUIRE CHILDCARE FACILITIES TO BE LICENSED OR REGISTERED BY THE DEPARTMENT OF SOCIAL SERVICES TO RECEIVE ABC CHILDCARE PROGRAM VOUCHERS; BY ADDING SECTION 63‑13‑230 SO AS TO ALLOW CERTAIN INDIVIDUALS UNDER THE AGE OF EIGHTEEN YEARS TO BE EMPLOYED BY OR VOLUNTEER WITH CERTAIN CHILDCARE FACILITIES, TO ESTABLISH SUPERVISION AND OTHER REQUIREMENTS APPLICABLE TO THESE INDIVIDUALS, AND FOR OTHER PURPOSES; BY ADDING SECTION 63‑13‑470 SO AS TO PROVIDE FOR LICENSING AND APPROVAL REQUIREMENTS FOR PRIVATE CHILDCARE CENTERS AND GROUP CHILDCARE HOMES; TO AMEND SECTION 63‑13‑20, AS AMENDED, RELATING IN PART TO THE DEFINITION OF CHILDCARE FACILITIES, SO AS TO CLARIFY THE TYPES OF DAYTIME PROGRAMS, DAY CAMPS, AND FACILITIES TO WHICH THE DEFINITION DOES NOT APPLY, TO ESTABLISH REQUIREMENTS APPLICABLE TO CERTAIN CHILDCARE FACILITIES THAT CHOOSE NOT TO BECOME LICENSED, AND FOR OTHER PURPOSES; AND TO AMEND SECTION 63‑13‑210, RELATING TO INSURANCE REQUIREMENTS FOR CERTAIN CHILDCARE FACILITIES, SO AS TO REQUIRE THESE FACILITIES TO CARRY LIABILITY INSURANCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Section 63‑13‑220. The department’s childcare facility licensing division administers the ABC Childcare Program which makes payments to childcare providers to care for children from low income families so their parents can work. The department may issue ABC Childcare Program vouchers only to childcare facilities that are licensed or registered by the department’s childcare facility licensing division and that are in compliance with regulations promulgated by the department pursuant to this section or by another provision of law.”

SECTION 2. Article 1, Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Section 63‑13‑230. For any childcare facility defined by Section 63‑13‑20(4)(c) or (e), the following conditions apply:

(1) A teacher/caregiver who is sixteen or seventeen years of age may be employed and may be counted as adult staff for purposes of staff/child ratio as long as that teacher/caregiver is continuously supervised by a fully qualified teacher/caregiver, as defined by South Carolina Regulation 114‑503(K)(4), who is in the room at all times. One adult staff person may supervise no more than two teachers/caregivers who are sixteen or seventeen years of age.

(2) A volunteer, who is at least sixteen years of age, may work in the facility; however, the volunteer is not permitted to be counted for purposes of meeting the child/staff ratio requirements. In addition, the volunteer must be continuously supervised by a fully qualified teacher/caregiver, as defined by South Carolina Regulation 114‑503(K)(4), who is in the room at all times, and the volunteer must have a completed approved SLED background check. One adult staff person may supervise no more than two volunteers.

(3) For seasonal employees or after school employees the training criteria required by regulation shall be prorated according to the department policy on regulations.

(4) If a childcare facility is part of a multisite facility, the employee records required under the law and regulation may be kept on site or in a central location, or must be available electronically at each site.

(5) The education degrees required in South Carolina Regulation 114‑503(K)(3)(c)(i) also must include any other bachelors’ degrees such as recreation, sports management, elementary education, and family and social sciences.

(6) The childcare facility must have hot and cold water under pressure in at least the kitchen or food preparation area. Hot water must be between one hundred to one hundred twenty‑five degrees Fahrenheit. There must be at least one sink with running water under pressure to every twenty children over two years of age. Sinks must be located in or near each toilet area.

(7) Outdoor recreation fields are exempt from any department regulations concerning bathroom and water requirements.

(8) Background check fees related to employees and volunteers of a governmental agency pursuant to Chapter 13, Title 63 must be the same as the fees charged to nonprofit/charitable fees.”

SECTION 3. Article 3, Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Section 63‑13‑470. A regular license or regular approval issued by the department to private childcare centers or group childcare homes is valid for two years from the date of issuance, unless revoked by the department or voluntarily surrendered by the director of the private childcare center or the director of the group childcare home; provided, however, that a change in location, ownership, or sponsorship of the facility automatically voids the license or approval. After the private childcare center or group childcare home has been in business for two years, the renewal license is valid for three years from the date of issuance.”

SECTION 4. Section 63‑13‑20(4) of the 1976 Code is amended to read:

“(4) ‘Childcare facilities’ means a facility which provides care, supervision, or guidance for a minor child who is not related by blood, marriage, or adoption to the owner or operator of the facility whether or not the facility is operated for profit and whether or not the facility makes a charge for services offered by it. This definition includes, but is not limited to, day nurseries, nursery schools, childcare centers, group childcare homes, and family childcare homes. The term does not include:

(a) an educational facility, whether private or public, which operates solely for educational purposes in grade one or above;

(b) five‑year‑old kindergarten programs;

(c) kindergartens or nursery schools or other daytime programs, including public, private, and nonprofit programs, with or without stated educational purposes, operating no more than ~~four~~ two hours a day and receiving children younger than ~~lawful school~~ twelve years of age;

(d) facilities operated for more than ~~four~~ two hours a day in connection with a shopping center or service or other similar facility, where the same children are cared for less than four hours a day and not on a regular basis as defined in this chapter while parents or custodians of the children are occupied on the premises ~~or are in the immediate vicinity~~ and immediately available; however, these facilities must meet local fire and sanitation requirements and maintain documentation on these requirements on file at the facility available for public inspection;

(e) school vacation or school holiday day camps ~~for children operating in distinct sessions running less than three~~ with sessions lasting two weeks per session ~~unless the day camp permits children to enroll in successive sessions so that their total attendance may exceed three weeks~~. This chapter prohibits any business from operating any school vacation or school holiday camp or education program that cares for children for more than two weeks without having a childcare license or registration. This includes programs that run multiple‑week programs consecutively so that children can attend for more than two weeks by stacking programs/themes throughout the summer. Programs lasting more than two weeks must comply with this chapter before opening, including the requirement to be licensed or registered by the department;

(f) summer resident camps for children;

(g) bible schools normally conducted during vacation periods;

(h) facilities for persons with intellectual disability provided for in Chapter 21, Title 44;

(i) facilities for the mentally ill as provided for in Chapter 17, Title 44;

(j) childcare centers and group childcare homes owned and operated by a local church congregation, ~~or~~ an established religious denomination, or a religious college or university which does not receive state or federal financial assistance for childcare services; however, these facilities must comply with the provisions of Article 9~~,~~ and Sections 63‑13‑60 and 63‑13‑110, and ~~that~~ these facilities voluntarily may elect to become licensed according to the process as set forth in Article 3 and Sections 63‑13‑30, 63‑13‑40, 63‑13‑70, 63‑13‑80, 63‑13‑90, 63‑13‑100, 63‑13‑160, and 63‑13‑170;

(k) certain childcare facilities defined in subitems (c) and (e) that elect not to become licensed according to the process set forth in Article 3, Chapter 13, Title 63 and Sections 63‑13‑30, 63‑13‑40, 63‑13‑70, 63‑13‑80, 63‑13‑90, 63‑13‑100, 63‑13‑160, and 63‑13‑170, if the facility charges less than twenty‑five dollars per child per month inclusive of any associated fees. Any childcare facility electing not to become licensed must:

(i) comply with the requirements of Sections 63‑13‑30, 63‑13‑40, 63‑13‑70, 63‑13‑110, and 63‑13‑185 and any child safety training requirements; and

(ii) facilitate the annual inspection by the department pursuant to Section 63‑13‑80(A) to ensure compliance with the requirements of subsubitem (i); and

(l) any facility open to the general public that does not charge fees and where open play time, not part of a scheduled program, is available such as in community centers, playgrounds, sports fields, and gymnasiums.”

SECTION 5. Section 63‑13‑210 of the 1976 Code is amended to read:

“Section 63‑13‑210. ~~(A)~~ An owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63‑13‑20, ~~who does not carry liability insurance for the operation of his childcare business, shall, by no later than January 1, 2009, obtain signed statements from the custodial parent or parents or guardian or guardians of each child currently enrolled in the childcare center, group childcare home, or family childcare home indicating that the parent or parents or guardian or guardians have received notice that the childcare center, group childcare home, or family childcare home does not carry liability insurance for the operation of its childcare business~~ must carry liability insurance. ~~The owner or operator of a childcare center, group childcare home, or family childcare home must maintain a file of these signed statements at the home during the period of time a child is enrolled. For new enrollees to a childcare center, group childcare home, or family childcare home, the owner or operator must provide the parent or parents or guardian or guardians of a new enrollee with this information at the time of enrollment, obtain a signed statement from each parent or guardian at the time of enrollment, and maintain these signed statements at the home during the period of time a child is enrolled.~~

~~(B)~~ ~~If an owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63‑13‑20, has liability insurance for the operation of his childcare business that lapses or is canceled and not reinstated or replaced, the owner or operator shall obtain and maintain statements in accordance with subsection (A) from the custodial parent or parents or guardian or guardians of each child enrolled in the childcare center, group childcare home, or family childcare home no later than thirty days after the liability insurance lapses or is canceled.~~

~~(C)~~ ~~The department shall send a letter to each childcare center, group childcare home, and family childcare home licensed or registered as of June 30, 2008, with the department informing each home of the requirements of subsections (A) and (B), that each home must comply with these requirements by no later than January 1, 2009, and that compliance is a requirement for initial licensure and a continuing annual requirement for relicensure. For childcare centers, group childcare homes, and family childcare homes licensed or registered after June 30, 2008, the department shall provide the information contained in subsections (A) and (B) at the time the childcare center, group childcare home, or family childcare home applies for a license or registration.~~”

SECTION 6.A. Except as provided in SECTION 6.B., this act takes effect upon approval by the Governor.

B. The new requirements in SECTION 2 and SECTION 5 of this act take effect ninety days after approval by the Governor. The changes in this act that relate to experience and education requirements do not apply to staff employed on or before the effective date of the act. However, those staff must comply with any changes to background checks, training, and any other requirements. A teacher/caregiver employed on or before the effective date of this act who has more than a twelve‑month break in service after the effective date of this act must meet the regulations and guidelines for reemployment.

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