

1 HB241  
2 147851-1  
3 By Representative Tuggle  
4 RFD: Children and Senior Advocacy  
5 First Read: 12-FEB-13

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8 SYNOPSIS: Under existing law, Department of Human  
9 Resources defines a daycare home and night time  
10 home as one allowed to care for six children or  
11 less. In 2010, the State Fire Marshal adopted by  
12 reference the International Fire Code requiring a  
13 sprinkler system in such homes if they care for  
14 more than five children. Family residential homes  
15 in Alabama are not routinely equipped with  
16 sprinkler systems.

17 This bill would allow daycare homes and  
18 night time homes to continue to care for six  
19 children without the installation of a sprinkler  
20 system.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT

25  
26 To amend Sections 38-7-3 and 38-7-7, Code of Alabama  
27 1975, to allow family daycare homes and night time homes to

1 care for six children without the requirement of having a  
2 sprinkler system installed in the home, notwithstanding the  
3 Alabama Administrative Code Section 482-2-101-.02.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 38-7-3 and 38-7-7, Code of  
6 Alabama 1975, are amended to read as follows:

7 "§38-7-3.

8 "No person, group of persons or corporation may op-  
9 erate or conduct any facility for child care, as defined in  
10 this chapter, without being licensed or approved as provided  
11 in this chapter; provided, however, that nothing in this sec-  
12 tion or in this chapter prohibits an employee of the depart-  
13 ment from carrying out the duties of the department as pro-  
14 vided in this title. Provided, further, the provisions of this  
15 chapter shall not apply to preschool programs which are an  
16 integral part of a local church ministry or a religious non-  
17 profit elementary school, and are so recognized in the church  
18 or school's documents, whether operated separately or as a  
19 part of a religious nonprofit elementary school unit, second-  
20 ary school unit or institution of higher learning under the  
21 governing board or authority of said local church or its con-  
22 vention, association, or regional body to which it may be sub-  
23 ject; provided that notice is filed by the governing board or  
24 authority of the church or school with the department that  
25 said church or school meets the definition of a local church  
26 ministry or a religious nonprofit elementary school under  
27 terms of this section and are exempt from regulation by the

1 department and a notice of intent to operate said programs is  
2 given to the appropriate fire and health departments so that  
3 said facilities shall be inspected in accordance with the  
4 state and local fire and health requirements for such pro-  
5 grams; except that daycare homes and night time homes are ex-  
6 empt from the State Fire Marshal's standard contained in Ala-  
7 bama Administrative Rule 482-2-101-.02 requiring sprinklers in  
8 daycare homes and night time homes which receive five or more  
9 children for care. This exemption allows daycare homes and  
10 night time homes to continue to care for up to six children  
11 without the requirement that a sprinkler system be installed  
12 in such homes. In addition, all exempt churches hereunder  
13 shall publish annually, on church letterhead, a notice to the  
14 department certifying that the following records are being  
15 maintained by the church: fire and health inspection reports;  
16 immunization verifications for all children; medical history  
17 forms for all staff and children and that the following infor-  
18 mation shall be available to parents or guardian prior to en-  
19 rolling their children in said church ministry; staff qualifi-  
20 cations; pupil-staff ratio; discipline policies; type of cur-  
21 riculum used in the learning program; the religious teachings  
22 to be given each child; and the type of lunch program avail-  
23 able; provided further that prior to enrolling and annually  
24 thereafter parents or guardian and a responsible individual  
25 representing the governing board as authority of the church or  
26 school be required to sign and file with the department the  
27 affidavits provided by this section that the parents or guard-

1       ian have been notified by said responsible individual that the  
2       church or school has filed notice and is exempt from regula-  
3       tion by the department. The district attorney of the county in  
4       which the preschool program is located shall, upon proper pre-  
5       sentment of charges, investigate at his discretion any allega-  
6       tions against any such church under the laws of the State of  
7       Alabama.

8   Form of Affidavit for Parent/Guardian  
9

10       STATE OF ALABAMA

11   "COUNTY OF \_\_\_\_\_

12   "Before me, a notary public in and for said state  
13       and county, appeared \_\_\_\_\_ and is known to me, after being  
14       duly sworn or affirmed, says as follows:

15   "That affiant is the parent or legal guardian of the  
16       minor child/children \_\_\_\_\_; that affiant has been notified by  
17       \_\_\_\_\_, a representative of \_\_\_\_\_ church/school, that said  
18       church or school has filed notice and is exempt under law from  
19       regulation by the Department of Human Resources.

20   "\_\_\_\_\_ Parent/Legal Guardian

21   "Sworn, or affirmed to and subscribed before me this  
22       \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

1 Form of Affidavit for Church/School

2  
3 "STATE OF ALABAMA

4 "COUNTY OF \_\_\_\_\_

5 "Before me, a notary public in and for said state  
6 and county, appeared \_\_\_\_\_ and is known to me, after being  
7 duly sworn or affirmed says as follows:

8 "That affiant is the designated representative of  
9 \_\_\_\_\_ church/school and that the below listed  
10 parents/guardians have been notified prior to  
11 enrollment/reenrollment that \_\_\_\_\_ church/school has filed  
12 notice with and is exempt under law from regulation by the  
13 Department of Human Resources: \_\_\_\_\_

14 "\_\_\_\_\_ Representative

15 "Sworn or affirmed to and subscribed before me this  
16 \_\_\_\_ day of \_\_\_\_\_, 19\_\_ .

17 "\_\_\_\_\_ Notary Public

18 "§38-7-7.

19 "(a) The department shall prescribe and publish  
20 minimum standards for licensing and for approving all  
21 child-care facilities, as defined in this chapter. In  
22 establishing such standards the department shall seek the  
23 advice and assistance of persons representative of the various  
24 types of child-care facilities. The standards prescribed and

1 published under this chapter shall include regulations  
2 pertaining to:

3 "(1) The operation and conduct of the child-care  
4 facility and the responsibility it assumes for child care;

5 "(2) The character, suitability and qualifications  
6 of the applicant and other persons directly responsible for  
7 the care and welfare of children served;

8 "(3) The general financial ability and competence of  
9 the applicant to provide necessary care for children and to  
10 maintain prescribed standards;

11 "(4) The number of individuals or staff required to  
12 insure adequate supervision and care of the children served;

13 "(5) The appropriateness, safety, cleanliness, and  
14 general adequacy of the premises, including maintenance of  
15 adequate fire prevention, except that daycare homes and night  
16 time homes shall not be required to comply with the State Fire  
17 Marshal's standard requiring sprinklers in daycare homes and  
18 night time homes which receive six or more children for care,  
19 and health standards conforming to state laws and municipal  
20 codes to provide for the physical comfort, care, well-being  
21 and safety of children served;

22 "(6) Provisions for food, clothing, educational  
23 opportunities, program equipment and individual supplies to  
24 assure the healthy physical and mental development of children  
25 served, consistent with the definitions contained in this  
26 chapter;

1           "(7) Maintenance of records pertaining to the  
2 admission, progress, health and discharge of children, and  
3 provisions for confidentiality of such records;

4           "(8) Filing of reports with the department; and

5           "(9) Discipline of children.

6           "(b) If, in a facility for child care, there are  
7 children diagnosed as mentally ill, mentally retarded or  
8 physically handicapped who are determined to be in need of  
9 special mental treatment or of nursing care, or both mental  
10 treatment and nursing care, the department shall seek the  
11 advice and recommendation of the Department of Mental Health  
12 or the State Board of Health, or of both, regarding the  
13 residential treatment and nursing care provided by the  
14 facility.

15           "(c) The department, in applying standards  
16 prescribed and published, as herein provided, shall offer  
17 consultation through employed staff or other specified persons  
18 to assist applicants and licensees in meeting and maintaining  
19 minimum requirements for a license and to help them otherwise  
20 to achieve programs of excellence related to the care of  
21 children served."

22           Section 2. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.