(122nd General Assembly)
(Amended Substitute House Bill Number 570)

AN ACT

To amend sections 3313.813, 3737.22, 5104.02, and 5104.053 and to enact section 5104.021 of the Revised Code to exempt youth development programs from child day-care licensing requirements and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3313.813, 3737.22, 5104.02, and 5104.053 be amended and section 5104.021 of the Revised Code be enacted to read as follows:

Sec. 3313.813. (A) As used in this section:

(1) "Outdoor education center" means a public or nonprofit private entity that provides to pupils enrolled in any public or chartered nonpublic elementary or secondary school an outdoor educational curriculum that the school considers to be part of its educational program.

(2) "Outside-school-hours care center" has the meaning established in 7 C.F.R. 226.2.

(B) The state board of education shall establish standards for a school lunch program, school breakfast program, child and adult care food program, special food service program for children, summer food service program for children, special milk program for children, food service equipment assistance program, and commodity distribution program established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended. Any board of education of a school district, nonprofit private school, outdoor education center, child care institution, outside-school-hours care center, or summer camp desiring to participate in such a program or required to participate under this section shall, if eligible to participate under the "National School Lunch Act," as amended, or the "Child Nutrition Act of 1966," as amended, make application to the state board of education for assistance. The board shall administer the allocation and distribution of all state and federal funds for these programs.

~~(B)~~(C) The state board of education shall require the board of education of each school district included under this division to establish and maintain a school breakfast and lunch program pursuant to the "National School Lunch Act" and the "Child Nutrition Act of 1966."

(1) The state board shall require the board of education in each school district to establish a breakfast program in every school where at least one-third of the pupils in the school are eligible under federal requirements for free breakfasts and to establish a lunch program in every school where at least one-third of the pupils are eligible for free lunches. The board of education required to establish a breakfast program under this division may make a charge in accordance with federal requirements for each reduced price breakfast or paid breakfast to cover the cost incurred in providing that meal.

(2) The state board shall require the board of education in each school district to establish a breakfast program in every school in which the parents of at least one-half of the children enrolled in the school have requested that the breakfast program be established. The board of education required to establish a program under this division may make a charge for each meal to cover all or part of the costs incurred in establishing such a program.

(3) If a school district cannot for good cause comply with the requirements of division ~~(B)~~(C)(1) or (2) of this section at the time the state board determines that a district is subject to these requirements, the state board of education shall grant a reasonable extension of time. Good cause for an extension of time shall include, but need not be limited to, economic impossibility of compliance with the requirements at the time the state board determines that a district is subject to them.

~~(C)~~(D)(1) The state board of education shall accept the application of any outdoor education center in the state making application for participation in a program pursuant to division ~~(A)~~(B) of this section.

(2) For purposes of participation in any program pursuant to this section, the board shall certify any outdoor education center making application as an educational unit that is part of the educational system of the state, if the center:

(a) Meets the definition of an outdoor education center ~~established in this division~~;

(b) Provides its outdoor education curriculum to pupils on an overnight basis so that pupils are in residence at the center for more than twenty-four consecutive hours;

(c) Operates under public or nonprofit private ownership in a single building or complex of buildings.

(3) The board shall approve any outdoor education center certified under this division for participation in the program for which the center is making application on the same basis as any other applicant for that program.

~~(4) For purposes of this section, "outdoor education center" means a public or nonprofit private entity that provides to pupils enrolled in any public or chartered nonpublic elementary or secondary school an outdoor educational curriculum that the school considers to be part of its educational program.~~

Sec. 3737.22. (A) The fire marshal shall do all of the following:

(1) Adopt the state fire code under sections 3737.82 to 3737.86 of the Revised Code;

(2) Enforce the state fire code;

(3) Appoint assistant fire marshals who are authorized to enforce the state fire code;

(4) Conduct investigations into the cause, origin, and circumstances of fires and explosions, and prosecute persons believed to be guilty of arson or a similar crime;

(5) Compile statistics concerning loss due to fire and explosion as the fire marshal considers necessary, and consider the compatibility of the fire marshal's system of compilation with the systems of other state and federal agencies and fire marshals of other states;

(6) Engage in research on the cause and prevention of losses due to fire and explosion;

(7) Engage in public education and informational activities which will inform the public of fire safety information;

(8) Operate a fire training academy and arson crime laboratory;

(9) Conduct such other fire safety and fire fighting training activities for the public and groups as will further the cause of fire safety;

(10) Issue permits, licenses, and certificates as authorized by the Revised Code;

(11) Conduct tests of fire protection systems and devices, and fire fighting equipment to determine compliance with the state fire code, unless a building is insured against the hazard of fire, in which case such tests may be performed by the company insuring the building;

(12) Establish and collect fees for permits, licenses, and certificates;

(13) Make available for the prosecuting attorney and an assistant prosecuting attorney from each county of this state, in accordance with section 3737.331 of the Revised Code, a seminar program, attendance at which is optional, that is designed to provide current information, data,

ing, and techniques relative to the prosecution of arson cases;

(14) Administer and enforce Chapter 3743. of the Revised Code;

(15) Develop a form for the written report required to be filed under division (E)(4) of section 2921.22 of the Revised Code, and accept such reports when they are filed.

(B) The fire marshal shall appoint a chief deputy, and shall employ professional and clerical assistance as the fire marshal considers necessary. The chief deputy shall be a competent former or current member of a fire agency and possess five years of recent, progressively more responsible experience in fire inspection and fire code management. All employees, other than the fire marshal, the chief deputy, the superintendent of the Ohio fire academy, the grants administrator, the fiscal officer, the executive secretary to the state fire marshal, and the chiefs of the bureau of fire prevention, the arson bureau, the arson crime laboratory, and the bureau of underground storage tanks, shall be in the classified civil service. The fire marshal shall authorize the chief deputy and other employees under the fire marshal's supervision to exercise powers granted to the fire marshal by law as may be necessary to carry out the duties of the fire marshal's office.

(C) The fire marshal shall create, in and as a part of the office of fire marshal, an arson bureau consisting of a chief of the bureau, and such additional assistant fire marshals as the fire marshal determines necessary for the efficient administration of the bureau. The chief shall be experienced in the investigation of the cause, origin, and circumstances of fires, and in administration, including the supervision of subordinates. The chief, among other duties delegated to the chief by the fire marshal, shall be responsible, under the direction of the fire marshal, for the investigation of the cause, origin, and circumstances of each fire, and for the prosecution of persons believed to be guilty of arson or a similar crime.

(D) At the fire marshal's discretion, the fire marshal, or the chief deputy under the direction of the fire marshal, may cause the inspection to be conducted of all buildings, structures, and other places, the condition of which may be dangerous from a fire safety standpoint to life or property, or to property adjacent thereto.

(E) The fire marshal shall create, as a part of the office of fire marshal, a bureau of fire prevention consisting of a chief of the bureau, and such additional assistant fire marshals as the fire marshal determines necessary for the efficient administration of the bureau. The chief shall be qualified, by education or experience, to promote programs for rural and urban fire prevention and protection. The chief, among other duties delegated to the chief by the fire marshal, is responsible, under the direction of the fire

marshal, for the promotion of rural and urban fire prevention and protection through public information and education programs.

(F) The fire marshal shall cooperate with the director of human services when the director promulgates rules pursuant to section 5104.052 of the Revised Code regarding fire prevention and fire safety in certified type B family day-care homes, as defined in section 5104.01 of the Revised Code, recommend procedures for inspecting type B homes to determine whether they are in compliance with those rules, and provide training and technical assistance to the director and county directors of human services on the procedures for determining compliance with those rules.

(G) The fire marshal, upon request of a provider of child day-care in a type B home that is not certified by the county director of human services, as a precondition of approval by the state board of education pursuant to section 3313.813 of the Revised Code for receipt of United States department of agriculture child and adult care food program funds established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, shall inspect the type B home to determine compliance with rules promulgated pursuant to section 5104.052 of the Revised Code regarding fire prevention and fire safety in certified type B homes. In municipal corporations and in townships where there is a certified fire safety inspector, the inspections shall be made by that inspector under the supervision of the fire marshal, according to rules promulgated pursuant to section 5104.052 of the Revised Code. In townships outside municipal corporations where there is no certified fire safety inspector, inspections shall be made by the fire marshal.

Sec. 5104.02. (A) The director of human services is responsible for the licensing of child day-care centers and type A family day-care homes, and for the enforcement of this chapter and of rules promulgated pursuant to this chapter. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the ~~provisions~~ requirements of this chapter:

(1) A program of child day-care that operates for two or less consecutive weeks;

(2) Child day-care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child day-care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of human services or the state board of education when the director of human services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of human services a copy of the rules that govern programs that provide child day-care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;

(iii) The number of adults providing child day-care for the number of infants, toddlers, preschool children, or school children;

(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of human services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

Sec. 5104.021. The director of human services may not issue a child day-care center or type A family day-care home license to a youth development program that is exempted by division (B)(9) of section 5104.02 of the Revised Code from the requirements of this chapter.

Sec. 5104.053. As a precondition of approval by the state board of education pursuant to section 3313.813 of the Revised Code for receipt of United States department of agriculture child and adult care food program funds established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, the provider of child day-care in a type B family day-care home that is not certified by the county director of human services shall request an inspection of the type B home by the fire marshal,

who shall inspect the type B home pursuant to section 3737.22 of the Revised Code to determine that it is in compliance with rules established pursuant to section 5104.052 of the Revised Code for certified type B homes.

SECTION 2. That existing sections 3313.813, 3737.22, 5104.02, and 5104.053 of the Revised Code are hereby repealed.

SECTION 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the Midwest Regional Office of the Food and Consumer Service, United States Department of Agriculture, has informed the Ohio Department of Education that, as long as licensing is available to youth development programs, unlicensed programs will no longer be eligible to participate in the Child and Adult Care Food Program effective March 30, 1998, and this act provides that licensing is not available to youth development programs. Therefore, this act shall go into immediate effect.

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Speaker _____ of the House of Representatives.

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President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____