

HOUSE BILL REPORT

EHB 2328

As Passed House:

February 14, 2002

Title: An act relating to day-care facility location restrictions.

Brief Description: Limiting restrictions on residential day-care facilities.

Sponsors: By Representatives Romero, Dunshee, Miloscia, Ogden and Edwards.

Brief History:

Committee Activity:

Local Government & Housing: 1/24/02, 1/30/02 [DP].

Floor Activity:

Passed House: 2/14/02, 96-2.

Brief Summary of Engrossed Bill

- Prohibits counties from prohibiting the use of a residential dwelling as a family day-care provider's facility in an area zoned as residential or commercial.
- Required Department of Social and Health Services to not count up to five extra children in the capacity of a workplace child day-care centers if they are children of parents that are visiting the business.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass. Signed by 11 members: Representatives Dunshee, Chair; Edwards, Vice Chair; Mulliken, Ranking Minority Member; Berkey, Crouse, DeBolt, Dunn, Hatfield, Kirby, Mielke and Sullivan.

Staff: Scott MacColl (786-7106).

Background:

A "family day care provider" is defined in child care statutes as a provider who regularly provides child day-care for not more than 12 children in the family living quarters of the provider's home. A "family day care home" is defined in the local planning statutes as a person who regularly provides child day-care during part of the day for six or fewer children in the person's family home.

Child day-care centers are facilities which regularly provides care for a group of children for periods of less than 24 hours. Child day-care centers have limits set in statute regulating the number of children in the facility, based on the age of the child. The Department of Social and Health Services (DSHS) may assess monetary fines upon proof that a child day-care facility is out of compliance with the rules set in statute.

Cities may not zone or otherwise regulate against use of a residential dwelling as a family day-care provider's home facility if the residential dwelling is located in a residential or commercial zone. Cities may:

- require compliance with building, safety, sign, licensing and other requirements;
- require compliance with development regulations applicable to the zone unless the facility is a legal nonconforming structure;
- impose zoning conditions on establishment and maintenance that are no more restrictive than conditions imposed on other residential dwellings in the same zone; and
- limit hours of operation for neighborhood compatibility purposes while allowing for the facility to serve persons working nonstandard shifts.

Cities also may require the family day-care provider to provide proof of written notification to immediately adjoining properties owners of the intent to operate the facility before state licensing occurs. The licensor may provide a dispute resolution forum for any disputes between neighbors and day-care providers.

Summary of Engrossed Bill:

Counties, cities and towns may not prohibit the use of a residential dwelling in an area zoned for residential or commercial use as a family day-care provider's facility serving 12 or fewer children. Counties, cities and towns may impose the same requirements and conditions on such facilities that cities were previously authorized to impose, including:

- requiring compliance with building, safety, sign, licensing and other requirements;
- requiring compliance with development regulations applicable to the zone unless the facility is a legal nonconforming structure;
- imposing zoning conditions on establishment and maintenance that are no more restrictive than conditions imposed on other residential dwellings in the same zone;
- requiring the family day-care provider to provide proof of written notification to immediately adjoining property of intent to operate the facility before state licensing occurs; and
- limiting hours of operation for neighborhood compatibility purposes while allowing for the facility to serve persons working nonstandard shifts.

These authorized regulations are expressly exempted from the general prohibition against

local regulation. Technical revisions are included to incorporate these provisions into appropriate planning statutes.

The DSHS is directed not to count up to five extra children in the capacity of child day-care centers operated primarily for parents employed on the premises if they are children of parents visiting the business.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: There are over 7,300 licensed child care providers in the state, and we are facing a shortage of providers which is acute for infants, evenings, and weekends. Most providers operate in their homes, and state licensing acknowledges this with the highest standards around the county. Tests are required for wells and septic tanks, there must be a fenced yard, etc. Counties currently can add regulations that are more stringent than a city, whereas cities are prohibited from any extra zoning. This adds to an already costly startup process for daycares. Cities and counties have supported this bill in the past.

Testimony Against: None.

Testified: Representative Romero, prime sponsor; Susan Kavanaugh, Child Care Action Council; Michelle Sokoloski, Child Care Family Association; Lonnie Johns-Brown; Washington Association for Education of Young Children; Jean Wessman, Washington State Association of Counties; and Dave Williams, Association of Washington Cities.