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**SUBSTITUTE SENATE BILL 5806**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Rasmussen and Jacobsen)

READ FIRST TIME 02/28/05.

1       AN ACT Relating to child care services; amending RCW 74.15.130;  
2 adding new sections to chapter 74.15 RCW; creating a new section; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION. **Sec. 1.** The people of the state of Washington have  
6 an interest in obtaining access to information that is relevant to  
7 making informed decisions about the persons with whom they entrust the  
8 care of their children.

9       The purpose of this act is to establish a system, consistent  
10 throughout the state, through which parents, guardians, and other  
11 persons acting in loco parentis can obtain certain information about  
12 child care providers. The purpose of this act is also to require child  
13 day-care providers and family day-care providers to carry a minimal  
14 level of liability insurance or to give parents notice that they do not  
15 carry such insurance.

16       NEW SECTION. **Sec. 2.** A new section is added to chapter 74.15 RCW  
17 to read as follows:

18       (1) The department shall establish and maintain a toll-free

1 telephone number, and an interactive web-based system through which  
2 persons may obtain information regarding child day-care centers and  
3 family day-care providers. This number shall be available twenty-four  
4 hours a day for persons to request information. The department shall  
5 respond to recorded messages left at the number within two business  
6 days. The number shall be published in reasonably available printed  
7 and electronic media. The number shall be easily identifiable as a  
8 number through which persons may obtain information regarding child  
9 day-care centers and family day-care providers as set forth in this  
10 section.

11 (2) Through the toll-free telephone line established by this  
12 section, the department shall provide information to callers about:

13 (a) Whether a day-care provider is licensed; (b) whether a day-care  
14 provider's license is current; (c) the general nature of any  
15 enforcement against the providers; (d) how to report suspected or  
16 observed noncompliance with licensing requirements; (e) how to report  
17 alleged abuse or neglect in a day care; (f) how to report health,  
18 safety, and welfare concerns in a day care; (g) how to receive follow-  
19 up assistance, including information on the office of the family and  
20 children's ombudsman; and (h) how to receive referral information on  
21 other agencies or entities that may be of further assistance to the  
22 caller.

23 (3) Beginning in January 2006, the department shall print the toll-  
24 free number established by this section on the face of new licenses  
25 issued to child day-care centers and family day-care providers.

26 (4) This section shall not be construed to require the disclosure  
27 of any information that is exempt from public disclosure under chapter  
28 42.17 RCW.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.15 RCW  
30 to read as follows:

31 (1) Every child day-care center and family day-care provider shall  
32 prominently post the following items, clearly visible to parents and  
33 staff:

34 (a) The license issued under this chapter;

35 (b) The department's toll-free telephone number established by  
36 section 2 of this act;

1 (c) The notice of any pending enforcement action. The notice must  
2 be posted immediately upon receipt. The notice must be posted for at  
3 least two weeks or until the violation causing the enforcement action  
4 is corrected, whichever is longer;

5 (d) A notice that inspection reports and any notices of enforcement  
6 actions for the previous three years are available from the licensee  
7 and the department; and

8 (e) Any other information required by the department.

9 (2) The department shall disclose, upon request, the receipt,  
10 general nature, and resolution or current status of all complaints on  
11 record with the department after the effective date of this act against  
12 a child day-care center or family day-care provider that result in an  
13 enforcement action.

14 This section shall not be construed to require the disclosure of  
15 any information that is exempt from public disclosure under chapter  
16 42.17 RCW.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15 RCW  
18 to read as follows:

19 (1) Every child day-care center and family day-care provider shall  
20 have readily available for review by the department, parents, and the  
21 public a copy of each inspection report and notice of enforcement  
22 action received by the center or provider from the department for the  
23 past three years. This subsection only applies to reports and notices  
24 received on or after the effective date of this act.

25 (2) The department shall make available to the public during  
26 business hours all inspection reports and notices of enforcement  
27 actions involving child day-care centers and family day-care providers  
28 consistent with chapter 42.17 RCW. The department shall include in the  
29 inspection report a statement of the corrective measures taken by the  
30 center or provider.

31 **Sec. 5.** RCW 74.15.130 and 1998 c 314 s 6 are each amended to read  
32 as follows:

33 (1) An agency may be denied a license, or any license issued  
34 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
35 revoked, modified, or not renewed by the secretary upon proof (a) that  
36 the agency has failed or refused to comply with the provisions of

1 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated  
2 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or  
3 (b) that the conditions required for the issuance of a license under  
4 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect  
5 to such licenses. RCW 43.20A.205 governs notice of a license denial,  
6 revocation, suspension, or modification and provides the right to an  
7 adjudicative proceeding.

8 (2) In any adjudicative proceeding regarding the denial,  
9 modification, suspension, or revocation of a foster family home  
10 license, the department's decision shall be upheld if there is  
11 reasonable cause to believe that:

12 (a) The applicant or licensee lacks the character, suitability, or  
13 competence to care for children placed in out-of-home care, however, no  
14 unfounded report of child abuse or neglect may be used to deny  
15 employment or a license;

16 (b) The applicant or licensee has failed or refused to comply with  
17 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements  
18 adopted pursuant to such provisions; or

19 (c) The conditions required for issuance of a license under chapter  
20 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
21 licenses.

22 (3) In any adjudicative proceeding regarding the denial,  
23 modification, suspension, or revocation of any license under this  
24 chapter, other than a foster family home license, the department's  
25 decision shall be upheld if it is supported by a preponderance of the  
26 evidence.

27 (4) The department may assess civil monetary penalties upon proof  
28 that an agency has failed or refused to comply with the rules adopted  
29 under the provisions of this chapter and RCW 74.13.031 or that an  
30 agency subject to licensing under this chapter and RCW 74.13.031 is  
31 operating without a license except that civil monetary penalties shall  
32 not be levied against a licensed foster home. Monetary penalties  
33 levied against unlicensed agencies that submit an application for  
34 licensure within thirty days of notification and subsequently become  
35 licensed will be forgiven. These penalties may be assessed in addition  
36 to or in lieu of other disciplinary actions. Civil monetary penalties,  
37 if imposed, may be assessed and collected, with interest, for each day  
38 an agency is or was out of compliance. Civil monetary penalties shall

1 not exceed seventy-five dollars per violation for a family day-care  
2 home and two hundred fifty dollars per violation for group homes, child  
3 day-care centers, and child-placing agencies. Each day upon which the  
4 same or substantially similar action occurs is a separate violation  
5 subject to the assessment of a separate penalty. An agency that  
6 continues to operate following a license revocation is subject to the  
7 maximum penalty for each day of operation following the revocation.  
8 The department shall provide a notification period before a monetary  
9 penalty is effective and may forgive the penalty levied if the agency  
10 comes into compliance during this period. The department may suspend,  
11 revoke, or not renew a license for failure to pay a civil monetary  
12 penalty it has assessed pursuant to this chapter within ten days after  
13 such assessment becomes final. Chapter 43.20A RCW governs notice of a  
14 civil monetary penalty and provides the right of an adjudicative  
15 proceeding. The preponderance of evidence standard shall apply in  
16 adjudicative proceedings related to assessment of civil monetary  
17 penalties.

18 (5)(a) The department may place a child day-care center or family  
19 day-care provider on nonreferral status or stop placement status if the  
20 center or provider has failed or refused to comply with this chapter or  
21 rules adopted under this chapter or an enforcement action has been  
22 taken. The nonreferral status or stop placement status may continue  
23 until the department determines that: (i) No enforcement action is  
24 appropriate; (ii) a complaint is not founded or valid; or (iii) a  
25 corrective action plan has been successfully concluded. The department  
26 shall then remove the center or provider from nonreferral status and  
27 provide appropriate notice to the public and private child care  
28 resource and referral agencies.

29 (b) The department shall notify appropriate public and private  
30 child care resource and referral agencies of the department's decision  
31 to take an enforcement action against the center or provider.

32 (6) Whenever an enforcement action is taken, the department shall  
33 notify the child care agency subject to the action in writing by  
34 personal service within ten business days.

35 NEW SECTION. Sec. 6. A new section is added to chapter 74.15 RCW  
36 to read as follows:

37 (1) Every licensed child day-care center and family day-care

1 provider shall, at the time of licensure or renewal and at any  
2 inspection, provide to the department proof that the licensee has  
3 day-care insurance as defined in RCW 48.88.020 or for day-care centers,  
4 is self-insured pursuant to chapter 48.90 RCW. Liability limits under  
5 this section shall be the same as set forth in RCW 48.88.050.

6 (2) The licensee shall notify the department when coverage has been  
7 terminated. The licensee shall post at the day care, in a manner  
8 likely to be observed by patrons, notice that coverage has lapsed or  
9 been terminated. Within thirty days of lapse or termination, the  
10 licensee shall obtain from the parent an affidavit or declaration  
11 signed by him or her that states he or she has been informed coverage  
12 has lapsed or terminated.

13 (3) The department may take action as provided in RCW 74.15.130 if  
14 the licensee fails to maintain in full force and effect the insurance  
15 required by this section.

16 (4) This section applies to child day-care centers and family  
17 day-care providers holding licenses, initial licenses, and probationary  
18 licenses under this chapter.

19 (5) A child day-care center or family day-care provider holding a  
20 license under this chapter on the effective date of this act is not  
21 required to be in compliance with this section until the time of  
22 renewal of the license or until January 1, 2006, whichever is sooner.

23 (6) Instead of providing proof of insurance in compliance with this  
24 chapter, family day-care providers may maintain a file of affidavits or  
25 declarations signed by each parent with a child enrolled in family day  
26 care. The affidavit or declaration shall state that the parent has  
27 been informed that the family day-care provider does not carry day-care  
28 insurance and that the parent has been informed that the day-care  
29 insurance, if any, of the owner of the property or the homeowners'  
30 association, as appropriate, may not provide coverage for losses  
31 arising out of, or in connection with, the operation of the family  
32 day-care provider, except to the extent that the losses are caused by,  
33 or result from, an action or omission by the owner of the property or  
34 the homeowners' association, for which the owner of the property or the  
35 homeowners' association would otherwise be liable under the law. These  
36 affidavits or declarations shall be on a form provided by the  
37 department and shall be reviewed at each licensing inspection and at  
38 the time of licensure and renewal.

1           (7) Noncompliance or compliance with the provisions of this section  
2 shall not constitute evidence of liability or nonliability in any  
3 injury litigation.

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