

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 248

SENATE BILL 1315

AN ACT

AMENDING SECTIONS 36-882 AND 36-897.01, ARIZONA REVISED STATUTES; RELATING TO
CHILD CARE PROGRAMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-882, Arizona Revised Statutes, is amended to
3 read:

4 36-882. License; posting; transfer prohibited; fees;
5 provisional license; renewal

6 A. A child care facility shall not receive any child for care,
7 supervision or training unless the facility is licensed by the department of
8 health services.

9 B. An application for a license shall be made on a written or
10 electronic form prescribed by the department and shall include:

11 1. Information required by the department for the proper
12 administration of this chapter and rules adopted pursuant to this chapter.

13 2. The name and business or residential address of each controlling
14 person.

15 3. An affirmation by the applicant that no controlling person has been
16 denied a certificate to operate a child care group home or a license to
17 operate a child care facility for the care of children in this state or
18 another state or has had a license to operate a child care facility or a
19 certificate to operate a child care group home revoked for reasons that
20 relate to the endangerment of the health and safety of children.

21 C. An application for an initial license shall include:

22 1. The form that is required pursuant to section 36-883.02, subsection
23 C and that is completed by the applicant.

24 2. A copy of a valid fingerprint clearance card issued to the
25 applicant pursuant to section 41-1758.07.

26 3. If the applicant's facility is located within one-fourth mile of
27 any agricultural land, the names and addresses of the owners and lessees of
28 the agricultural land and a copy of the agreement required pursuant to
29 subsection D of this section.

30 D. The department shall deny any license that affects agricultural
31 land regulated pursuant to section 3-365, except that the owner of the
32 agricultural land may agree to comply with the buffer zone requirements of
33 section 3-365. If the owner agrees in writing to comply with the buffer zone
34 requirements and records the agreement in the office of the county recorder
35 as a restrictive covenant running with the title to the land, the department
36 may license the child care facility to be located within the affected buffer
37 zone. The agreement may include any stipulations regarding the child care
38 facility, including conditions for future expansion of the facility and
39 changes in the operational status of the facility that will result in a
40 breach of the agreement. This subsection shall not apply to the issuance or
41 renewal of a license for a child care facility located in the same location
42 for which a child care facility license was previously issued.

43 E. On receipt of an application for an initial license, the department
44 shall inspect the applicant's physical space, activities and standards of

1 care. If the department determines that the applicant and the applicant's
2 facility are in substantial compliance with this chapter and rules adopted
3 pursuant to this chapter and the applicant agrees to carry out a plan
4 acceptable to the department to eliminate any deficiencies, the department
5 shall issue an initial license to the applicant.

6 F. BEGINNING JANUARY 1, 2010, SUBJECT TO THE AVAILABILITY OF MONIES,
7 THE DEPARTMENT MAY ESTABLISH A DISCOUNT PROGRAM FOR LICENSING FEES PAID BY
8 CHILD CARE FACILITIES, INCLUDING A PUBLIC HEALTH DISCOUNT.

9 ~~F.~~ G. The director, by rule, may establish and collect ~~nonrefundable~~
10 fees for child care facilities ~~for initial and renewal license applications~~
11 and A FEE for late filing of applications. Beginning January 1, 2010, ninety
12 per cent of the fees collected pursuant to this section shall be deposited,
13 pursuant to sections 35-146 and 35-147, in the health services licensing fund
14 established by section 36-414 and ten per cent of the fees collected pursuant
15 to this section shall be deposited, pursuant to sections 35-146 and 35-147,
16 in the state general fund.

17 H. PURSUANT TO AVAILABLE FUNDING, THE DEPARTMENT SHALL COLLECT ANNUAL
18 FEES.

19 ~~G.~~ I. A license is valid ~~for three years~~ from the date of issuance
20 UNLESS IT IS SUBSEQUENTLY REVOKED OR SUSPENDED OR THE LICENSEE DOES NOT PAY
21 THE LICENSURE FEE and shall specify the following:

- 22 1. The name of the applicant.
- 23 2. The exact address where the applicant will locate the facility.
- 24 3. The maximum number and age limitations of children that shall be
25 cared for at any one time.
- 26 4. The classification of services that the facility is licensed to
27 provide.

28 ~~H.~~ J. The department may issue a provisional license, not to exceed
29 six months, to an applicant or a licensed child care facility if:

- 30 1. The facility changes director.
- 31 2. The department determines that an applicant for an initial license
32 or a licensed child care facility is not in substantial compliance with this
33 chapter and rules adopted pursuant to this chapter and the immediate
34 interests of children, families and the general public are best served if the
35 child care facility or the applicant is given an opportunity to correct
36 deficiencies.

37 ~~I.~~ K. A provisional license shall state the reason for the
38 provisional status.

39 ~~J.~~ L. On the expiration of a provisional license, the department
40 shall issue a regular license ~~for the remainder of the license period~~ if the
41 department determines that the licensee and the child care facility are in
42 substantial compliance with this chapter and rules adopted pursuant to this
43 chapter and the applicant agrees to carry out a plan acceptable to the
44 department to eliminate any deficiencies.

1 ~~K. Except as provided in section 36-893, subsection A, on receipt of a~~
2 ~~renewal application that complies with this chapter and rules adopted~~
3 ~~pursuant to this chapter, the department shall issue a renewal license to the~~
4 ~~child care facility.~~

5 ~~L. M. The licensee shall notify the department in writing within ten~~
6 ~~days of any change in the child care facility's director.~~

7 ~~M. N. The license is not transferable from person to person and is~~
8 ~~valid only for the quarters occupied at the time of issuance.~~

9 ~~N. O. The license shall be conspicuously posted in the child care~~
10 ~~facility.~~

11 ~~O. P. The licensee shall conspicuously post a schedule of fees~~
12 ~~charged for services and the established policy for a refund of fees for~~
13 ~~services not rendered.~~

14 ~~P. Q. The licensee shall keep current department inspection reports~~
15 ~~at the child care facility and shall make them available to parents on~~
16 ~~request. The licensee shall conspicuously post a notice that identifies the~~
17 ~~location where these inspection reports are available for review.~~

18 ~~Q. R. The department of health services shall notify the department~~
19 ~~of public safety if the department of health services receives credible~~
20 ~~evidence that a licensee who possesses a valid fingerprint clearance card~~
21 ~~either:~~

22 1. Is arrested for or charged with an offense listed in section
23 41-1758.07, subsection B.

24 2. Falsified information on any form required by section 36-883.02.

25 S. LICENSEES MAY PAY LICENSURE FEES BY INSTALLMENT PAYMENTS BASED ON
26 PROCEDURES ESTABLISHED BY THE DEPARTMENT.

27 T. THE DEPARTMENT SHALL REVIEW ITS ACTUAL COSTS TO ADMINISTER THIS
28 ARTICLE AT LEAST ONCE EVERY TWO YEARS. IF THE DEPARTMENT DETERMINES THAT ITS
29 ADMINISTRATIVE COSTS ARE LOWER THAN THE FEES IT HAS COLLECTED PURSUANT TO
30 THIS SECTION, IT SHALL ADJUST FEES.

31 U. IF THE DEPARTMENT LOWERS FEES, THE DEPARTMENT MAY REFUND OR CREDIT
32 FEES TO LICENSEES.

33 V. FEE REDUCTIONS ARE EXEMPT FROM THE RULE MAKING REQUIREMENTS OF
34 TITLE 41, CHAPTER 6.

35 Sec. 2. Section 36-897.01, Arizona Revised Statutes, is amended to
36 read:

37 36-897.01. Certification; application; fees; rules;
38 fingerprinting; renewal

39 A. A child care group home shall be certified by the department. An
40 application for a certificate shall be made on a written or electronic form
41 prescribed by the department and shall contain all information required by
42 the department.

43 B. If a child care group home is within one-fourth mile of agriculture
44 land, the application shall include the names and addresses of the owners and

1 lessees of any agricultural land within one-fourth mile of the facility.
2 Within ten days after receipt of an application for a certificate, the
3 department shall notify the owners and lessees of agricultural land as listed
4 on the application. The department shall deny a certificate that affects
5 agricultural land regulated pursuant to section 3-365, except that the owner
6 of the agricultural land may agree to comply with the buffer zone
7 requirements of section 3-365. If the owner agrees in writing to comply with
8 the buffer zone requirements and records the agreement in the office of the
9 county recorder as a restrictive covenant running with the title to the land,
10 the department may issue a certificate to the child care group home to be
11 located within the affected buffer zone. The agreement may include any
12 stipulations regarding the child care group home, including conditions for
13 future expansion of the facility and changes in the operational status of the
14 facility that will result in a breach of the agreement. This subsection
15 applies to the renewal of a certificate for a child care group home located
16 in the same location if the child care group home certificate was not
17 previously issued under this subsection.

18 C. The director, by rule, may establish and collect ~~nonrefundable~~ fees
19 for child care group homes ~~for initial and renewal certificate applications~~
20 and ~~for~~ A late filing fees FEE. Beginning January 1, 2010, ninety per cent
21 of the fees collected pursuant to this section shall be deposited, pursuant
22 to sections 35-146 and 35-147, in the health services licensing fund
23 established by section 36-414 and ten per cent of the fees collected pursuant
24 to this section shall be deposited, pursuant to sections 35-146 and 35-147,
25 in the state general fund.

26 D. PURSUANT TO AVAILABLE FUNDING THE DEPARTMENT SHALL COLLECT ANNUAL
27 FEES.

28 E. BEGINNING JANUARY 1, 2010, SUBJECT TO THE AVAILABILITY OF MONIES,
29 THE DEPARTMENT MAY ESTABLISH A DISCOUNT PROGRAM FOR CERTIFICATION FEES PAID
30 BY CHILD CARE GROUP HOMES, INCLUDING A PUBLIC HEALTH DISCOUNT PROGRAM.

31 ~~D.~~ F. The department shall issue an initial certificate if the
32 department determines that the applicant and the applicant's child care group
33 home are in substantial compliance with the requirements of this article and
34 department rules and the facility agrees to carry out a plan acceptable to
35 the director to eliminate any deficiencies.

36 ~~E.~~ G. A certificate is valid ~~for three years~~ UNLESS IT IS REVOKED OR
37 SUSPENDED OR THE LICENSEE DOES NOT PAY THE LICENSURE FEE and may be renewed
38 ~~for successive three-year periods~~ by submitting a ~~renewal application~~ THE
39 CERTIFICATION FEE as prescribed by the department and ~~submitting a~~
40 ~~nonrefundable renewal application fee~~ established pursuant to subsection C of
41 this section. An applicant for renewal who fails to submit the application
42 ~~forty five days before the expiration of the certificate~~ is subject to a late
43 ~~filing fee established pursuant to subsection C of this section.~~

1 ~~F.~~ H. In order to ensure that the equipment and services of a child
2 care group home and the good character of an applicant are conducive to the
3 welfare of children, the department by rule shall establish the criteria for
4 granting, denying, suspending and revoking a certificate.

5 ~~G.~~ I. The director shall adopt rules and prescribe forms as may be
6 necessary for the proper administration and enforcement of this article.

7 ~~H.~~ J. The certificate shall be conspicuously posted in the child care
8 group home for viewing by parents and the public.

9 ~~I.~~ K. Current department inspection reports shall be kept at the
10 child care group home and shall be made available to parents on request.

11 ~~J.~~ L. A certificate is not transferable and is valid only for the
12 location occupied at the time it is issued.

13 ~~K.~~ M. An application for an initial certificate shall include:

14 1. The form that is required pursuant to section 36-897.03, subsection
15 B and that is completed by the applicant.

16 2. A copy of a valid fingerprint clearance card issued to the
17 applicant pursuant to section 41-1758.07.

18 ~~L. Except as provided in section 36-897.10, subsection A, on receipt
19 of a renewal application that complies with this chapter and rules adopted
20 pursuant to this chapter, the department shall issue a renewal certificate to
21 the child care group home.~~

22 ~~M.~~ N. The department of health services shall notify the department
23 of public safety if the department of health services receives credible
24 evidence that a person who possesses a valid fingerprint clearance card
25 either:

26 1. Is arrested for or charged with an offense listed in section
27 41-1758.07, subsection B.

28 2. Falsified information on any form required by section 36-897.03.

29 O. CERTIFICATE HOLDERS MAY PAY FEES BY INSTALLMENT PAYMENTS BASED ON
30 PROCEDURES ESTABLISHED BY THE DEPARTMENT.

31 P. THE DEPARTMENT SHALL REVIEW ITS ACTUAL COSTS TO ADMINISTER THIS
32 ARTICLE AT LEAST ONCE EVERY TWO YEARS. IF THE DEPARTMENT DETERMINES THAT ITS
33 ADMINISTRATIVE COSTS ARE LOWER THAN THE FEES IT HAS COLLECTED PURSUANT TO
34 THIS SECTION, IT SHALL ADJUST FEES.

35 Q. IF THE DEPARTMENT LOWERS FEES, THE DEPARTMENT MAY REFUND OR CREDIT
36 FEES TO LICENSEES.

37 R. FEE REDUCTIONS ARE EXEMPT FROM THE RULE MAKING REQUIREMENTS OF
38 TITLE 41, CHAPTER 6.

39 Sec. 3. Child care programs; study; report

40 A. The department of health services shall conduct a study of its
41 specific costs to administer title 36, chapter 7.1, Arizona Revised Statutes.
42 The study shall identify costs specific to the following areas relating to
43 child care facilities and child care group homes:

44 1. The licensure and certification process.

- 1 2. Inspections.
- 2 3. Complaints.
- 3 4. Enforcement.
- 4 5. Training.
- 5 6. Technical assistance.
- 6 7. Consumer assistance.

7 B. The study shall analyze how these costs are related to the type and
8 size of facilities and shall identify any other related costs that are
9 included in licensure and certification fees.

10 C. In conducting its study, the department shall consult with
11 representatives of facilities that are licensed and certified pursuant to
12 title 36, chapter 7.1, Arizona Revised Statutes.

13 D. The study shall assess the efficiency of the department's
14 regulation of child care facilities and child care group homes and develop
15 recommendations to improve the efficiency and cost-effectiveness of its
16 regulation without jeopardizing the health and safety of children.

17 E. The study shall identify issues, options, and recommendations for a
18 permanent transition from three year to annual fees.

19 F. The department shall submit a written report of the study's
20 findings and recommendations to the governor, the speaker of the house of
21 representatives and the president of the senate on or before February 1,
22 2011. The department shall provide a copy of its report to the secretary of
23 state.

24 G. On or before October 1, 2010, the department shall adopt rules to
25 streamline its regulation of facilities pursuant to section 36-883, Arizona
26 Revised Statutes.

27 H. On or before October 1, 2011, the department shall adopt rules for
28 group homes based on minimum standards pursuant to section 36-897.02, Arizona
29 Revised Statutes.

30 I. The department shall adjust fees based on the findings of its study
31 and the rules adopted pursuant to subsection F of this section.

32 Sec. 4. Payment of annual fees

33 A. When the department transitions from three year fees to annual
34 fees, a licensed child care facility that paid three year fees for a license
35 that became effective on or after January 1, 2010, is not required to pay
36 annual fees for three years after that payment.

37 B. A licensed child care facility that paid three year fees for a
38 license that became effective before January 1, 2010, shall pay annual fees
39 when established by the department pursuant to the requirements of section
40 36-882, Arizona Revised Statutes, as amended by this act.

41 C. When the department transitions from three year fees to annual
42 fees, a certified child care group home that paid three year fees for a
43 license that became effective on or after January 1, 2010 is not required to
44 pay annual fees for three years after that payment.

1 D. A certified child care group home that paid three year fees for a
2 certificate that became effective before January 1, 2010, shall pay annual
3 fees when established by the department pursuant to the requirements of
4 section 36-897.01, Arizona Revised Statutes, as amended by this act.

5 Sec. 5. Exemption from rule making

6 For the purposes of this act, the department of health services is
7 exempt from the rule making requirements of title 41, chapter 6, Arizona
8 Revised Statutes, for one year after the effective date of this act.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.

Passed the House April 29, 2010,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate March 8, 2010,

by the following vote: 24 Ayes,

2 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1315

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 29, 20 10

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Robert L. Bennett
President of the Senate

Cherilyn Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this
3 day of May, 20 10
at 8:50 o'clock A. M.

Michelle Bondce
Secretary to the Governor

Approved this 6 day of

May, 2010

at 10:40 o'clock A. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State
this 6th day of April, 20 10

at 3:08 o'clock P. M.

Ken Bennett
Secretary of State