

EHB 2863

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THE STATE SENATE
Monday, April 07, 2008

ENGROSSED

House Bill No. 2863

ENGROSSED HOUSE BILL NO. 2863 - By: Shelton, BigHorse, Pittman and Sherrer of the House and Leftwich of the Senate.

An Act relating to children; creating Demarion's Law; providing for mandated liability insurance for child care facilities under the Oklahoma Child Care Facilities Licensing Act; specifying coverage; providing for proof of coverage; directing the Department of Human Services to promulgate rules establishing certain form; providing exception for mandated coverage; providing for certain form; providing for suspension of license; exempting certain persons; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as "Demarion's Law".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404.3 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A child care facility shall maintain liability insurance coverage of at least Two Hundred Thousand Dollars (\$200,000.00) for each occurrence of negligence. An insurance policy or contract required under this section shall cover injury to a child that

1 occurs while the child is on the premises of the child care facility
2 or in the care of the child care facility.

3 B. The Department of Human Services shall promulgate rules
4 providing for a standard form to be signed and dated by an insurance
5 agent licensed in this state stating that the child care facility
6 has an unexpired and uncanceled insurance policy or contract of at
7 least Two Hundred Thousand Dollars (\$200,000.00) that meets the
8 requirements of this section. This form shall be completed annually
9 and shall be kept in the file of the facility.

10 C. Should the child care facility for financial reasons or for
11 lack of availability of an underwriter willing to issue a policy be
12 unable to secure the insurance required under subsection A of this
13 section or should the policy limits be exhausted, the child care
14 facility shall notify the parent or guardian of each child for whom
15 the child care facility provides care a written notice that the
16 liability coverage is not provided and there will not be a ground
17 for suspension or revocation of the child care facility's license
18 under the Oklahoma Child Care Facilities Licensing Act. The child
19 care facility shall also notify the Department that coverage is not
20 provided and provide the reason for same.

21 D. The Department shall promulgate rules providing for a
22 standard form for the facility to provide to parents or guardians
23 notifying the parents or guardians that the facility does not carry

1 liability insurance for the reasons allowed in subsection C of this
2 section. This form shall be signed and dated by a parent or
3 guardian and maintained in the file of the child. If the facility
4 is without insurance for reasons provided for in subsection C of
5 this section for longer than one (1) year, the facility shall update
6 this notification form with signatures and dates annually. In no
7 case shall the inability to secure coverage serve to indemnify the
8 child care facility due to negligence.

9 E. The insurance policy or contract shall be maintained at all
10 times in an amount as required by this section, except as provided
11 for in subsections C and D of this section. Failure by a child care
12 facility to renew the policy or contract or to maintain the policy
13 or contract in the required amount is a ground for suspension or
14 revocation of the child care facility license under the Oklahoma
15 Child Care Facilities Licensing Act.

16 F. This section shall not apply to foster family homes or group
17 homes.

18 SECTION 3. This act shall become effective November 1, 2008.

19 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 4-2-08 - DO PASS.