

CHAPTER 1141

**RESIDENT HUNTING LICENSE FEE —
PHEASANT AND QUAIL RESTORATION**

H.F. 2591

AN ACT relating to an increase in the resident hunting license fee and establishing a pheasant and quail restoration program and making an appropriation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 483A.1, subsection 1, paragraph c, Code Supplement 2001, is amended to read as follows:

c. Hunting license \$ ~~12.50~~ 17.00

Sec. 2. NEW SECTION. 483A.25 PHEASANT AND QUAIL RESTORATION PROGRAM — APPROPRIATIONS.

The revenue received from the resident hunting license fee increase in this Act for each fiscal year of the fiscal period beginning July 1, 2002, and ending June 30, 2007, is appropriated to the department. Of the amount appropriated to the department pursuant to this section, at least sixty percent shall be used to fund a pheasant and quail restoration program. The department shall submit a report annually on the pheasant and quail restoration program to the chairpersons of the house committee on natural resources and the senate committee on natural resources and environment not later than January 1, 2004, and not later than January 1 of each subsequent year.

Approved April 30, 2002

CHAPTER 1142

REGULATION OF CHILD CARE AND CHILD CARE PROVIDERS

S.F. 2205

AN ACT relating to regulation of child care and child development homes and child care centers and providing effective date and applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.69, subsection 1, paragraph b, subparagraph (5), Code Supplement 2001, is amended to read as follows:

(5) An employee or operator of a licensed child care center, registered child ~~care~~ development home, head start program, family development and self-sufficiency grant program under section 217.12, or healthy opportunities for parents to experience success – healthy families Iowa program under section 135.106.

Sec. 2. Section 237.1, subsection 4, paragraph d, Code 2001, is amended to read as follows:

d. Child care furnished by a child care center, a child development home, or a child care home as defined in section 237A.1.

Sec. 3. Section 237A.1, subsection 2, Code Supplement 2001, is amended to read as follows:

2. "Child" means a either of the following:

a. A person under eighteen twelve years of age or younger.

b. A person thirteen years of age or older but younger than nineteen years of age who has a developmental disability as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. § 15002(8).

Sec. 4. Section 237A.1, subsection 3, paragraph h, Code Supplement 2001, is amended to read as follows:

h. An after school program continuously offered throughout the school year calendar to children who are at least five years of age and are enrolled in school, and attend the program intermittently or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.

Sec. 5. Section 237A.1, subsection 3, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided.

Sec. 6. Section 237A.1, subsections 4, 5, and 6, Code Supplement 2001, are amended to read as follows:

4. "Child care center" or "center" means a facility providing child care or preschool services for seven or more children, except when the facility is registered as a child care development home.

5. "Child care facility" or "facility" means a child care center, preschool, or a registered child care development home.

6. "Child care home" means a person or program providing child care as a family child care home or a group child care home to five or fewer children at any one time that is not registered to provide child care under this chapter, as authorized under section 237A.3.

Sec. 7. Section 237A.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Child development home" means a person or program registered under section 237A.3A that may provide child care to six or more children at any one time.

Sec. 8. Section 237A.1, subsections 7 and 10, Code Supplement 2001, are amended by striking the subsections.

Sec. 9. Section 237A.2, subsection 2, Code 2001, is amended to read as follows:

2. a. A person denied a license under ~~the provisions of this section~~ shall receive written notice of the denial stating the reasons for denial and shall be provided with an opportunity for an evidentiary hearing.

b. ~~Licenses granted~~ A license issued under this chapter shall be valid for ~~one year~~ twenty-four months from the date of issuance. A license shall remain valid unless it is revoked or suspended in accordance with the provisions of section 237A.8 or ~~is~~ reduced to a provisional license under subsection 3. The department may inspect a licensed center at any time. A record of the license shall be kept by the department.

c. The license shall be posted in a conspicuous place in the center and shall state the particular premises in which child care may be offered and the number of individuals who may be received for care at any one time. A greater number of children than is authorized by the license shall not be kept in the center at any one time.

Sec. 10. Section 237A.2, subsection 5, Code 2001, is amended to read as follows:

5. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of ~~six~~ twelve months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the ~~six-month~~ twelve-month period.

Sec. 11. Section 237A.3, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

237A.3 CHILD CARE HOMES.

A person or program providing child care to five children or fewer at any one time is a child care home provider and is not required to register under section 237A.3A as a child development home. However, the person or program may register as a child development home.

Sec. 12. Section 237A.3A, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

237A.3A CHILD DEVELOPMENT HOMES.

1. REGISTRATION.

a. A person shall not establish or operate a child development home unless the person obtains a certificate of registration. The department shall issue a certificate of registration upon receipt of a statement from the person or upon completion of an inspection conducted by the department or a designee of the department verifying that the person complies with applicable rules adopted by the department pursuant to this section and section 237A.12.

b. The certificate of registration shall be posted in a conspicuous place in the child development home and shall state the name of the registrant, the registration category of the child development home, the maximum number of children who may be present for child care at any one time, and the address of the child development home. In addition, the certificate shall include a checklist of registration compliances.

c. The registration process for a child development home shall be repeated every twenty-four months as provided by rule.

d. A person who holds a child foster care license under chapter 237 shall register as a child development home provider in order to provide child care.

2. REVOCATION OR DENIAL OF REGISTRATION. If the department has denied or revoked a certificate of registration because a person has continually or repeatedly failed to operate a registered or licensed child care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not operate or establish a registered child development home for a period of twelve months from the date the registration or license was denied or revoked. The department shall not act on an application for registration submitted by the person during the twelve-month period.

3. RULES.

a. Three categories of standards shall be applicable to child development homes. The initial designations of the categories, which may be revised by the department, shall be "A", "B", and "C", as ranked from less stringent standards and capacity to more stringent standards and capacity. The "C" registration category standards shall require the highest level of provider qualifications and allow the greatest capacity of the three categories. The department of human services, in consultation with the Iowa department of public health, shall adopt rules applying standards to each category specifying provider qualifications and training, health and safety requirements, capacity, amount of space available per child, and other minimum requirements. The capacity requirements shall take into consideration the provider's own children, children who have a mild illness, children receiving part-time child care, and children served as a sibling group in overnight care.

b. The rules shall allow a child development home to be registered in a particular category for which the provider is qualified even though the amount of space required to be available

for the maximum number of children authorized for that category exceeds the actual amount of space available in that home. However, the total number of children authorized for the child development home at that category of registration shall be limited by the amount of space available per child.

c. In consultation with the state fire marshal, the department shall adopt rules relating to the provision of fire extinguishers, smoke detectors, and two exits accessible to children in a child development home.

4. NUMBER OF CHILDREN.

a. In determining the number of children present for child care at any one time in a child development home, each child present in the child development home shall be considered as being provided child care unless the child is described by one of the following exceptions:

(1) The child's parent, guardian, or custodian operates or established the child development home and the child is attending school or the child is provided child care full-time on a regular basis by another person.

(2) The child has been present in the child development home for more than seventy-two consecutive hours and the child is attending school or the child is provided child care full-time on a regular basis by another person.

b. For purposes of determining the number of children present for child care in a child development home, a child receiving foster care from a child development home provider shall be considered to be the child of the provider.

5. Smoking, as defined in section 142B.1, shall not be permitted during a child development home's hours of operation in an area of the child development home which may be used by the children receiving child care.

Sec. 13. Section 237A.4, Code 2001, is amended to read as follows:

237A.4 INSPECTION AND EVALUATION.

The department shall make periodic inspections of licensed centers to ensure compliance with licensing requirements provided in this chapter, and the local boards of health may make periodic inspections of licensed centers to ensure compliance with health-related licensing requirements provided in this chapter. The ~~administrator~~ department may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The ~~administrator~~ department shall require that the center be inspected by the state fire marshal or a designee for compliance with rules relating to fire safety before a license is granted or renewed. The ~~administrator~~ department or a designee may periodically visit registered child care development homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules adopted under section 237A.12. Evaluation of child care development homes under this section may include consultative services provided pursuant to section 237A.6.

Sec. 14. Section 237A.12, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Subject to the provisions of chapter 17A, the ~~administrator~~ department shall adopt rules setting minimum standards to provide quality child care in the operation and maintenance of child care centers and registered child care development homes, relating to all of the following:

Sec. 15. Section 237A.12, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. The adequacy of activity programs and food services available to the children. The ~~administrator~~ department shall not restrict the use of or apply nutritional standards to a lunch or other meal which is brought to the center, child development home, or child care home by a school-age child for the child's consumption.

Sec. 16. Section 237A.12, subsection 3, Code 2001, is amended to read as follows:

3. Rules relating to fire safety ~~for child care centers~~ shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child care advisory council. The state fire marshal shall inspect the facilities.

Sec. 17. Section 237A.13, subsection 2, Code 2001, is amended to read as follows:

2. Services under the program may be provided in a licensed child care center, a ~~registered group child care development~~ home, a ~~registered family child care~~ home, the home of a relative, the child's own home, an ~~unregistered family~~ a child care home, or in a facility exempt from licensing or registration.

Sec. 18. Section 237A.13, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 5A. A child care facility that previously received child care wrap-around funding, meets the requirements for being a shared vision program except that a shared vision program is not operated in the county in which the facility is located, and is providing a child care wrap-around service that is included in the community empowerment area board's plan for the community empowerment area in which the facility is located shall be deemed to be qualified for child care wrap-around funding.

Sec. 19. Section 237A.19, Code 2001, is amended to read as follows:

237A.19 PENALTY.

1. A person who establishes, conducts, manages, or operates a center without a license shall be guilty of commits a serious misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, shall be considered a separate offense.

2. If registration is required under section ~~237A.3~~ 237A.3A, a person who establishes, conducts, manages, or operates a child care development home without registering or a person who operates a child care development home contrary to section 237A.5, is guilty of commits a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

Sec. 20. Section 237A.20, Code 2001, is amended to read as follows:

237A.20 INJUNCTION.

A person who establishes, conducts, manages, or operates a center without a license or a child care development home without a certificate of registration, if registration is required under section ~~237A.3~~ 237A.3A, may be restrained by temporary or permanent injunction. A person who has been convicted of a crime against a person or a person with a record of founded child abuse may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child care. The action may be instituted by the state, the county attorney, a political subdivision of the state, or an interested person.

Sec. 21. Section 237A.21, subsection 1, Code 2001, is amended to read as follows:

1. A state child care advisory council is established consisting of not more than thirty-five members from urban and rural areas across the state. The membership shall include, but is not limited to, all of the following persons or representatives with an interest in child care: a licensed center provider, a registered child care development home provider from a county with a population of less than twenty-two thousand, an unregistered child care home provider, a parent of a child in child care, staff members of appropriate governmental agencies, and oth-

er members as deemed necessary by the director. The members are eligible for reimbursement of their actual and necessary expenses while engaged in performance of their official duties.

Sec. 22. Section 237A.21, subsection 3, paragraphs a, e, and f, Code 2001, are amended to read as follows:

- a. Two parents of a child served by a registered child care development home.
- e. ~~Two family~~ One child care home providers provider.
- f. ~~Two group~~ Three child care development home providers.

Sec. 23. Section 237A.26, subsection 3, paragraph a, Code 2001, is amended to read as follows:

- a. Organize assistance to child care homes and child development homes utilizing training levels based upon the homes' degrees of experience and interest.

Sec. 24. Section 237A.26, subsection 6, paragraph e, Code 2001, is amended to read as follows:

- e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of technical assistance to develop employer-supported child care programs. The specialized services may include but are not limited to working with employers to identify networks of recommended registered and licensed child care providers for employee groups and to implement employer-supported quality improvement initiatives among the network providers.

Sec. 25. Section 237A.26, subsection 6, paragraph h, Code 2001, is amended to read as follows:

- h. Administer funding designated within the grant to provide a substitute caregiver program for registered child care development homes to provide substitute child care in a home when the home provider is ill, on vacation, receiving training, or is otherwise unable to provide the care.

Sec. 26. Section 237A.26, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For purposes of improving the quality and consistency of data collection, consultation, and other support to child care home and child development home providers, a resource and referral services agency grantee shall coordinate and assist with publicly and privately funded efforts administered at the community level to provide the support. The support and efforts addressed by a grantee may include but are not limited to community-funded child care home and child development home consultants. Community members involved with the assistance may include but are not limited to the efforts of a community empowerment area board under chapter 28, and of community representatives of education, health, human services, business, faith, and public interests.

Sec. 27. Section 237A.30, subsection 1, Code 2001, is amended to read as follows:

1. The department shall accept nationally recognized accreditations in identifying and listing high quality child care providers. Any registered ~~family or group~~ child development home or licensed child care provider in this state that is accredited in good standing by the national association for the education of young children or the national association for family child care shall be included in the listing.

Sec. 28. Section 237A.30, subsection 4, Code 2001, is amended to read as follows:

4. Subject to the availability of funding, an eligible holder of the gold seal quality designation receiving an initial or renewal national accreditation may receive a one-time cash award in the year of initial or renewal accreditation on or after July 1, 1999. Holders of the designation who received funding assistance to obtain the initial or renewal national accreditation

under a grant administered by the child development coordinating council or as part of being a federal head start program are not eligible for the cash award. Eligible holders of the designation may receive a cash award of two hundred fifty dollars for registered ~~family and group care~~ child development home providers and five hundred dollars for licensed centers.

Sec. 29. Section 237A.27, Code 2001, is repealed.

Sec. 30. CHILD DEVELOPMENT HOME REGISTRATION — TRANSITION EXCEPTION. The following transition exception shall apply to child development home providers initially registering under section 237A.3A or renewing a previously issued valid child care home registration on or after October 1, 2002:

1. If the provider is providing child care to four infants at the time of registration or renewal, the provider may continue to provide child care to those four infants. However, if the provider no longer provides child care to one or more of the four infants, or one or more of the four infants reaches the age of twenty-four months, the exception authorized in this subsection shall no longer apply. This exception does not affect the overall limitation authorized for the number of children in the child development home category within which the provider is registered.

2. If, at the time of registration or renewal, the provider is providing child care to school-age children in excess of the number of school-age children authorized for the provider's registration category, the provider may continue to provide child care to those children and the provider may exceed the total number of children authorized for the category of registration by the number of school-age children in excess of the number authorized for the registration level. This exception is subject to all of the following:

a. The provider must comply with the other requirements relating to the number of children for which the provider is authorized to provide child care at that registration category.

b. The maximum number of children attributable to the authorization for school-age children at the applicable registration category is five.

c. If more than eight children are present at any one time for more than two hours, the provider shall be assisted by a responsible person who is at least fourteen years of age.

d. If the provider no longer provides child care to an individual school-age child who was receiving child care from the provider at the time of registration under section 237A.3A, the excess number of children allowed under this exception shall be reduced accordingly.

Sec. 31. EFFECTIVE DATE — APPLICABILITY — EMERGENCY RULES.

1. This Act takes effect October 1, 2002, and applies to unregistered child care home providers and child development home providers that register or renew registration on or after that date. If a child care home is registered as a family or group child care home as of September 30, 2002, this Act shall apply upon registration renewal.

2. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall be effective immediately upon filing unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the administrative rules review committee reviews the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Approved May 2, 2002