

By Senator Latvala

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1                   A bill to be entitled  
2           An act relating to child care facilities; amending s.  
3           402.302, F.S.; revising and providing definitions;  
4           providing for certain household children to be  
5           included in calculations regarding the capacity of  
6           licensed family day care homes and large family child  
7           care homes; providing conditions for supervision of  
8           household children of operators of family day care  
9           homes and large family child care homes; amending s.  
10          402.318, F.S.; revising advertising requirements  
11          applicable to child care facilities; providing  
12          penalties; authorizing a cause of action against an  
13          unlicensed or unregistered individual if certain  
14          advertising requirements are not met; authorizing the  
15          award of attorney's fees and costs under certain  
16          conditions; amending s. 411.01, F.S., relating to  
17          school readiness programs; conforming a cross-  
18          reference; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Section 402.302, Florida Statutes, is amended to  
23 read:

24           402.302 Definitions.—As used in this chapter, the term:

25           (1) "Child care" means the care, protection, and  
26 supervision of a child, for a period of less than 24 hours a day  
27 on a regular basis, which supplements parental care, enrichment,  
28 and health supervision for the child, in accordance with his or  
29 her individual needs, and for which a payment, fee, or grant is

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30 made for care.

31 (2) "Child care facility" includes any child care center or  
32 child care arrangement which provides child care for more than  
33 five children unrelated to the operator and which receives a  
34 payment, fee, or grant for any of the children receiving care,  
35 wherever operated, and whether or not operated for profit. The  
36 following are not included:

37 (a) Public schools and nonpublic schools and their integral  
38 programs, except as provided in s. 402.3025;

39 (b) Summer camps having children in full-time residence;

40 (c) Summer day camps;

41 (d) Bible schools normally conducted during vacation  
42 periods; and

43 (e) Operators of transient establishments, as defined in  
44 chapter 509, which provide child care services solely for the  
45 guests of their establishment or resort, provided that all child  
46 care personnel of the establishment are screened according to  
47 the level 2 screening requirements of chapter 435.

48 (3) "Child care personnel" means all owners, operators,  
49 employees, and volunteers working in a child care facility. The  
50 term does not include persons who work in a child care facility  
51 after hours when children are not present or parents of children  
52 in a child care facility. For purposes of screening, the term  
53 includes any member, over the age of 12 years, of a child care  
54 facility operator's family, or person, over the age of 12 years,  
55 residing with a child care facility operator if the child care  
56 facility is located in or adjacent to the home of the operator  
57 or if the family member of, or person residing with, the child  
58 care facility operator has any direct contact with the children

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59 in the facility during its hours of operation. Members of the  
60 operator's family or persons residing with the operator who are  
61 between the ages of 12 years and 18 years are not required to be  
62 fingerprinted but must be screened for delinquency records. For  
63 purposes of screening, the term also includes persons who work  
64 in child care programs that provide care for children 15 hours  
65 or more each week in public or nonpublic schools, family day  
66 care homes, or programs otherwise exempted under s. 402.316. The  
67 term does not include public or nonpublic school personnel who  
68 are providing care during regular school hours, or after hours  
69 for activities related to a school's program for grades  
70 kindergarten through 12. A volunteer who assists on an  
71 intermittent basis for less than 10 hours per month is not  
72 included in the term "personnel" for the purposes of screening  
73 and training if a person who meets the screening requirement of  
74 s. 402.305(2) is always present and has the volunteer in his or  
75 her line of sight. Students who observe and participate in a  
76 child care facility as a part of their required coursework are  
77 not considered child care personnel, provided such observation  
78 and participation are on an intermittent basis and a person who  
79 meets the screening requirement of s. 402.305(2) is always  
80 present and has the student in his or her line of sight.

81 (4) "Child welfare provider" means a licensed child-caring  
82 or child-placing agency.

83 (5) "Department" means the Department of Children and  
84 Family Services.

85 (6) "Drop-in child care" means child care provided  
86 occasionally in a child care facility in a shopping mall or  
87 business establishment where a child is in care for no more than

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88 a 4-hour period and the parent remains on the premises of the  
89 shopping mall or business establishment at all times. Drop-in  
90 child care arrangements shall meet all requirements for a child  
91 care facility unless specifically exempted.

92 (7) "Evening child care" means child care provided during  
93 the evening hours and may encompass the hours of 6:00 p.m. to  
94 7:00 a.m. to accommodate parents who work evenings and late-  
95 night shifts.

96 (8) "Family day care home" means an occupied residence in  
97 which child care is regularly provided for children from at  
98 least two unrelated families and which receives a payment, fee,  
99 or grant for any of the children receiving care, whether or not  
100 operated for profit. Household children under 13 years of age,  
101 when on the premises of the family day care home or on a field  
102 trip with children enrolled in child care, shall be included in  
103 the overall capacity of the licensed home. A family day care  
104 home shall be allowed to provide care for one of the following  
105 groups of children, which shall include household ~~those~~ children  
106 under 13 years of age ~~who are related to the caregiver:~~

107 (a) A maximum of four children from birth to 12 months of  
108 age.

109 (b) A maximum of three children from birth to 12 months of  
110 age, and other children, for a maximum total of six children.

111 (c) A maximum of six preschool children if all are older  
112 than 12 months of age.

113 (d) A maximum of 10 children if no more than 5 are  
114 preschool age and, of those 5, no more than 2 are under 12  
115 months of age.

116 (9) "Household children" means children who are related by

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117 blood, marriage, or legal adoption to, or who are the legal  
118 wards of, the family day care home operator, the large family  
119 child care home operator, or an adult household member who  
120 permanently or temporarily resides in the home. Supervision of  
121 the operator's household children shall be left to the  
122 discretion of the operator unless those children receive  
123 subsidized child care to be in the home.

124 (10)-(9) "Large family child care home" means an occupied  
125 residence in which child care is regularly provided for children  
126 from at least two unrelated families, which receives a payment,  
127 fee, or grant for any of the children receiving care, whether or  
128 not operated for profit, and which has at least two full-time  
129 child care personnel on the premises during the hours of  
130 operation. One of the two full-time child care personnel must be  
131 the owner or occupant of the residence. A large family child  
132 care home must first have operated as a licensed family day care  
133 home for 2 years, with an operator who has had a child  
134 development associate credential or its equivalent for 1 year,  
135 before seeking licensure as a large family child care home.  
136 Household children under 13 years of age, when on the premises  
137 of the large family child care home or on a field trip with  
138 children enrolled in child care, shall be included in the  
139 overall capacity of the licensed home. A large family child care  
140 home shall be allowed to provide care for one of the following  
141 groups of children, which shall include household ~~those~~ children  
142 under 13 years of age ~~who are related to the caregiver:~~

143 (a) A maximum of 8 children from birth to 24 months of age.

144 (b) A maximum of 12 children, with no more than 4 children  
145 under 24 months of age.

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146        (11)~~(10)~~ "Indoor recreational facility" means an indoor  
147 commercial facility which is established for the primary purpose  
148 of entertaining children in a planned fitness environment  
149 through equipment, games, and activities in conjunction with  
150 food service and which provides child care for a particular  
151 child no more than 4 hours on any one day. An indoor  
152 recreational facility must be licensed as a child care facility  
153 under s. 402.305, but is exempt from the minimum outdoor-square-  
154 footage-per-child requirement specified in that section, if the  
155 indoor recreational facility has, at a minimum, 3,000 square  
156 feet of usable indoor floor space.

157        (12)~~(11)~~ "Local licensing agency" means any agency or  
158 individual designated by the county to license child care  
159 facilities.

160        (13)~~(12)~~ "Operator" means any onsite person ultimately  
161 responsible for the overall operation of a child care facility,  
162 whether or not he or she is the owner or administrator of such  
163 facility.

164        (14)~~(13)~~ "Owner" means the person who is licensed to  
165 operate the child care facility.

166        (15)~~(14)~~ "Screening" means the act of assessing the  
167 background of child care personnel and volunteers and includes,  
168 but is not limited to, employment history checks, local criminal  
169 records checks through local law enforcement agencies,  
170 fingerprinting for all purposes and checks in this subsection,  
171 statewide criminal records checks through the Department of Law  
172 Enforcement, and federal criminal records checks through the  
173 Federal Bureau of Investigation.

174        (16)~~(15)~~ "Secretary" means the Secretary of Children and

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175 Family Services.

176 (17)~~(16)~~ "Substantial compliance" means that level of  
177 adherence which is sufficient to safeguard the health, safety,  
178 and well-being of all children under care. Substantial  
179 compliance is greater than minimal adherence but not to the  
180 level of absolute adherence. Where a violation or variation is  
181 identified as the type which impacts, or can be reasonably  
182 expected within 90 days to impact, the health, safety, or well-  
183 being of a child, there is no substantial compliance.

184 (18)~~(17)~~ "Weekend child care" means child care provided  
185 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

186 Section 2. Section 402.318, Florida Statutes, is amended to  
187 read:

188 402.318 Advertisement.—

189 (1) A No person, as defined in s. 1.01(3), may not shall  
190 advertise or publish an advertisement for a child care facility,  
191 family day care home, or large family child care home without  
192 including within such advertisement the state or local agency  
193 license number or registration number of such facility or home.  
194 Violation of this subsection ~~section~~ is a misdemeanor of the  
195 first degree, punishable as provided in s. 775.082 or s.  
196 775.083.

197 (2) An individual or local licensing agency has a cause of  
198 action against an unlicensed or unregistered individual who  
199 violates subsection (1). The court shall award the prevailing  
200 party reasonable attorney's fees and costs incurred in  
201 connection with a claim filed under this section.

202 Section 3. Paragraph (c) of subsection (5) of section  
203 411.01, Florida Statutes, is amended to read:

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204 411.01 School readiness programs; early learning  
205 coalitions.—

206 (5) CREATION OF EARLY LEARNING COALITIONS.—

207 (c) *Program expectations*.—

208 1. The school readiness program must meet the following  
209 expectations:

210 a. The program must, at a minimum, enhance the age-  
211 appropriate progress of each child in attaining the performance  
212 standards and outcome measures adopted by the Agency for  
213 Workforce Innovation.

214 b. The program must provide extended-day and extended-year  
215 services to the maximum extent possible without compromising the  
216 quality of the program to meet the needs of parents who work.

217 c. The program must provide a coordinated professional  
218 development system that supports the achievement and maintenance  
219 of core competencies by school readiness instructors in helping  
220 children attain the performance standards and outcome measures  
221 adopted by the Agency for Workforce Innovation.

222 d. There must be expanded access to community services and  
223 resources for families to help achieve economic self-  
224 sufficiency.

225 e. There must be a single point of entry and unified  
226 waiting list. As used in this sub-subparagraph, the term "single  
227 point of entry" means an integrated information system that  
228 allows a parent to enroll his or her child in the school  
229 readiness program at various locations throughout a county, that  
230 may allow a parent to enroll his or her child by telephone or  
231 through an Internet website, and that uses a unified waiting  
232 list to track eligible children waiting for enrollment in the



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233 school readiness program. The Agency for Workforce Innovation  
234 shall establish through technology a single statewide  
235 information system that each coalition must use for the purposes  
236 of managing the single point of entry, tracking children's  
237 progress, coordinating services among stakeholders, determining  
238 eligibility, tracking child attendance, and streamlining  
239 administrative processes for providers and early learning  
240 coalitions.

241 f. The Agency for Workforce Innovation must consider the  
242 access of eligible children to the school readiness program, as  
243 demonstrated in part by waiting lists, before approving a  
244 proposed increase in payment rates submitted by an early  
245 learning coalition. In addition, early learning coalitions shall  
246 use school readiness funds made available due to enrollment  
247 shifts from school readiness programs to the Voluntary  
248 Prekindergarten Education Program for increasing the number of  
249 children served in school readiness programs before increasing  
250 payment rates.

251 g. The program must meet all state licensing guidelines,  
252 where applicable.

253 h. The program must ensure that minimum standards for child  
254 discipline practices are age-appropriate. Such standards must  
255 provide that children not be subjected to discipline that is  
256 severe, humiliating, or frightening or discipline that is  
257 associated with food, rest, or toileting. Spanking or any other  
258 form of physical punishment is prohibited.

259 2. Each early learning coalition must implement a  
260 comprehensive program of school readiness services in accordance  
261 with the rules adopted by the agency which enhance the

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262 cognitive, social, and physical development of children to  
263 achieve the performance standards and outcome measures. At a  
264 minimum, these programs must contain the following system  
265 support service elements:

266 a. Developmentally appropriate curriculum designed to  
267 enhance the age-appropriate progress of children in attaining  
268 the performance standards adopted by the Agency for Workforce  
269 Innovation under subparagraph (4) (d)8.

270 b. A character development program to develop basic values.

271 c. An age-appropriate screening of each child's  
272 development.

273 d. An age-appropriate assessment administered to children  
274 when they enter a program and an age-appropriate assessment  
275 administered to children when they leave the program.

276 e. An appropriate staff-to-children ratio, pursuant to s.  
277 402.305(4) or s. 402.302(8) or (10) ~~s. 402.302(7) or (8)~~, as  
278 applicable, and as verified pursuant to s. 402.311.

279 f. A healthy and safe environment pursuant to s.  
280 401.305(5), (6), and (7), as applicable, and as verified  
281 pursuant to s. 402.311.

282 g. A resource and referral network established under s.  
283 411.0101 to assist parents in making an informed choice and a  
284 regional Warm-Line under s. 411.01015.

285  
286 The Agency for Workforce Innovation, the Department of  
287 Education, and early learning coalitions shall coordinate with  
288 the Child Care Services Program Office of the Department of  
289 Children and Family Services to minimize duplicating interagency  
290 activities pertaining to acquiring and composing data for child

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291 care training and credentialing.

292 Section 4. This act shall take effect July 1, 2011.