



# House of Representatives

**File No. 673**

General Assembly

February Session, 2010

**(Reprint of File No. 319)**

Substitute House Bill No. 5306  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 29, 2010

**AN ACT CONCERNING THE OPERATION OF CHILD DAY CARE  
CENTERS AND GROUP DAY CARE HOMES IN PUBLIC SCHOOLS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 19a-79 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Commissioner of Public Health shall adopt regulations, in  
4 accordance with the provisions of chapter 54, to carry out the purposes  
5 of sections 19a-77 to 19a-80, inclusive, and 19a-82 to 19a-87, inclusive,  
6 and to assure that child day care centers and group day care homes  
7 shall meet the health, educational and social needs of children utilizing  
8 such child day care centers and group day care homes. Such  
9 regulations shall (1) specify that before being permitted to attend any  
10 child day care center or group day care home, each child shall be  
11 protected as age-appropriate by adequate immunization against  
12 diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella,  
13 hemophilus influenzae type B and any other vaccine required by the  
14 schedule of active immunization adopted pursuant to section 19a-7f,  
15 including appropriate exemptions for children for whom such

16 immunization is medically contraindicated and for children whose  
17 parents object to such immunization on religious grounds, (2) specify  
18 conditions under which child day care center directors and teachers  
19 and group day care home providers may administer tests to monitor  
20 glucose levels in a child with diagnosed diabetes mellitus, and  
21 administer medicinal preparations, including controlled drugs  
22 specified in the regulations by the commissioner, to a child receiving  
23 child day care services at such child day care center or group day care  
24 home pursuant to the written order of a physician licensed to practice  
25 medicine or a dentist licensed to practice dental medicine in this or  
26 another state, or an advanced practice registered nurse licensed to  
27 prescribe in accordance with section 20-94a, or a physician assistant  
28 licensed to prescribe in accordance with section 20-12d, and the written  
29 authorization of a parent or guardian of such child, (3) specify that an  
30 operator of a child day care center or group day care home, licensed  
31 before January 1, 1986, or an operator who receives a license after  
32 January 1, 1986, for a facility licensed prior to January 1, 1986, shall  
33 provide a minimum of thirty square feet per child of total indoor  
34 usable space, free of furniture except that needed for the children's  
35 purposes, exclusive of toilet rooms, bathrooms, coatrooms, kitchens,  
36 halls, isolation room or other rooms used for purposes other than the  
37 activities of the children, (4) specify that a child day care center or  
38 group day care home licensed after January 1, 1986, shall provide  
39 thirty-five square feet per child of total indoor usable space, (5)  
40 establish appropriate child day care center staffing requirements for  
41 employees certified in cardiopulmonary resuscitation by the American  
42 Red Cross, the American Heart Association, the National Safety  
43 Council, American Safety and Health Institute or Medic First Aid  
44 International, Inc., (6) specify that on and after January 1, 2003, a child  
45 day care center or group day care home (A) shall not deny services to a  
46 child on the basis of a child's known or suspected allergy or because a  
47 child has a prescription for an automatic prefilled cartridge injector or  
48 similar automatic injectable equipment used to treat an allergic  
49 reaction, or for injectable equipment used to administer glucagon, (B)  
50 shall, not later than three weeks after such child's enrollment in such a

51 center or home, have staff trained in the use of such equipment on-site  
52 during all hours when such a child is on-site, (C) shall require such  
53 child's parent or guardian to provide the injector or injectable  
54 equipment and a copy of the prescription for such medication and  
55 injector or injectable equipment upon enrollment of such child, and (D)  
56 shall require a parent or guardian enrolling such a child to replace  
57 such medication and equipment prior to its expiration date, and (7)  
58 specify that on and after January 1, 2005, a child day care center or  
59 group day care home (A) shall not deny services to a child on the basis  
60 of a child's diagnosis of asthma or because a child has a prescription  
61 for an inhalant medication to treat asthma, and (B) shall, not later than  
62 three weeks after such child's enrollment in such a center or home,  
63 have staff trained in the administration of such medication on-site  
64 during all hours when such a child is on-site, and (8) establish physical  
65 plant requirements for licensed child day care centers and licensed  
66 group day care homes that exclusively serve school-age children.  
67 When establishing such requirements, the department shall give  
68 consideration to child day care centers and group day care homes that  
69 are located in private or public school buildings. With respect to this  
70 subdivision only, the commissioner shall implement policies and  
71 procedures necessary to implement the physical plant requirements  
72 established pursuant to this subdivision while in the process of  
73 adopting such policies and procedures in regulation form. Until  
74 replaced by policies and procedures implemented pursuant to this  
75 subdivision, any physical plant requirement specified in the  
76 department's regulations that is generally applicable to child day care  
77 centers and group day care homes shall continue to be applicable to  
78 such centers and group day care homes that exclusively serve school-  
79 age children. The commissioner shall print notice of the intent to adopt  
80 regulations pursuant to this subdivision in the Connecticut Law  
81 Journal not later than twenty days after the date of implementation of  
82 such policies and procedures. Policies and procedures implemented  
83 pursuant to this subdivision shall be valid until the time final  
84 regulations are adopted.

85 (b) The Commissioner of Public Health may adopt regulations,  
86 pursuant to chapter 54, to establish civil penalties of not more than one  
87 hundred dollars per day for each day of violation and other  
88 disciplinary remedies that may be imposed, following a contested-case  
89 hearing, upon the holder of a license issued under section 19a-80 to  
90 operate a child day care center or group day care home or upon the  
91 holder of a license issued under section 19a-87b to operate a family day  
92 care home.

93 (c) The Commissioner of Public Health shall exempt Montessori  
94 schools accredited by the American Montessori Society or the  
95 Association Montessori Internationale from any provision in  
96 regulations adopted pursuant to subsection (a) of this section which  
97 sets requirements on group size or child to staff ratios or the provision  
98 of cots.

99 [(d) Any child day care center or group day care home that operates  
100 in a public school building and serves exclusively school-age children  
101 may apply for a variance to the physical plant requirements adopted  
102 as regulations pursuant to subsection (a) of this section on a form and  
103 in the manner prescribed by the Commissioner of Public Health. The  
104 commissioner may not grant a variance under this subsection unless  
105 (1) the operator of a child day care center or group day care home  
106 provides documentation to the commissioner that the intent of the  
107 specific requirement or requirements affected by the variance will be  
108 satisfactorily achieved in a manner other than that prescribed by the  
109 regulations, and (2) the child day care center or group day care home  
110 and the Department of Public Health enter into a written agreement  
111 specifying the physical plant requirement or requirements affected by  
112 the variance, the duration of the variance and the terms under which  
113 the variance is granted. If a child day care center or group day care  
114 home fails to comply with the terms of such written agreement, the  
115 agreement and the variance shall be subject to immediate cancellation.  
116 Any operator of a child day care center or group day care home who is  
117 granted a variance under this section shall post such variance in close  
118 proximity to the operator's license and, at the time of enrollment of any

119 child in the child day care center or group day care home, and  
120 annually thereafter, notify the child's parents or guardians of such  
121 variance. Such notification shall include the specific physical plant  
122 requirement or requirements for which the variance has been granted  
123 and an explanation of how the child day care center or group day care  
124 home will achieve the intent of the specific requirement or  
125 requirements affected by the variance in a manner that protects the  
126 health and safety of the children enrolled in the child day care center  
127 or group day care home.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-79

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill requires the Department of Public Health to establish physical plant requirements for licensed child day care centers and group day care homes that exclusively serve school-age children. It also deletes language under current law that allows these centers and homes to apply for a variance to physical plant requirements. These provisions will not affect the number of child day care center and group day care home inspections that the Department of Public Health conducts<sup>1</sup>.

House "A" strikes the underlying bill and replaces it with language that does not result in a fiscal impact.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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<sup>1</sup> Currently, Department of Public Health has 13 inspectors that routinely inspect 1587 licensed day care centers and group day care homes, of which approximately 276 exclusively serve school-age children.

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**OLR Bill Analysis****sHB 5306 (as amended by House "A")\******AN ACT CONCERNING THE OPERATION OF CHILD DAY CARE CENTERS AND GROUP DAY CARE HOMES IN PUBLIC SCHOOLS.*****SUMMARY:**

This bill requires the Department of Public Health (DPH) to adopt regulations establishing physical plant requirements for licensed child day care centers and licensed group day care homes that exclusively serve school-age children. In doing so, DPH must consider those located in private or public school buildings. The bill requires DPH to implement policies and procedures while in the process of adopting these regulations.

Current law allows child day care centers and group day care homes located in a public school building to apply to DPH for a variance from any of the physical plant requirements specified in regulations.

\*House Amendment "A" directs DPH to adopt the regulations on physical plant requirements for child day care centers and group day care homes exclusively serving children with consideration for those in school buildings rather than exempting them from existing physical plant requirements as in the original bill.

EFFECTIVE DATE: Upon passage

**PHYSICAL PLANT REGULATIONS**

The bill requires DPH to implement policies and procedures necessary to implement the bill's physical plant requirements while in the process of adopting them as regulations. The DPH commissioner must print notice of the intent to adopt regulations in the Connecticut

Law Journal not later than 20 days after the policies and procedures are implemented. These policies and procedures are valid until the final regulations are adopted.

Until replaced by such regulations, any physical plant requirements already in DPH regulations generally applicable to child day care centers and group day care homes continue to apply to these centers and homes that exclusively serve school-age children.

## **VARIANCES**

The bill eliminates the variance process. This process allows day care centers and group day care homes that provide services exclusively to school-age children in a public school building to ask DPH for a variance from its regulations governing physical plant requirements. Before DPH can approve a variance, the center or home must (1) document that it will satisfactorily meet the regulation's specific intent by other means and (2) enter a written agreement with DPH specifying the variance, its duration, and the terms under which it is granted. The variance is cancelled immediately if the home or center fails to comply with the agreement.

The day care operator must post the variance near its license and, when a child enrolls and annually thereafter, notify the child's parents or guardian of the variance. The notice must include the DPH requirements for which the variance was granted and an explanation of how the variance will achieve the requirements' intent in a way that protects the children's health and safety.

## **BACKGROUND**

### ***Physical Plant Requirements***

DPH physical plant requirements for child day centers and group day care homes address water quality, emergency exiting, toileting and washing facilities, temperature, lighting, hazard protection, program space, outdoor play space and equipment, and building safety and cleanliness (Conn. Agency Regs. § 19a-79-7a).

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/19/2010)