

An Act

ENROLLED SENATE
BILL NO. 1274

By: Floyd, Bice and Pittman of
the Senate

and

Cockroft, Roberts (Sean),
Henke, Griffith and Munson
of the House

An Act relating to child care facilities; amending 10 O.S. 2011, Section 404.3, as amended by Section 5, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2015, Section 404.3), which relates to mandatory liability insurance; providing statutory reference; requiring facilities to maintain certain records onsite; specifying criteria for certain forms; clarifying language; directing promulgation of rules; and declaring an emergency.

SUBJECT: Child care facility requirements

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 404.3, as amended by Section 5, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2015, Section 404.3), is amended to read as follows:

Section 404.3. A. A child care facility shall maintain general liability insurance coverage as defined by Section 707 of Title 36 of the Oklahoma Statutes 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 due to negligence that occurs while the child is in the care of the child care facility.

B. The Department of Human Services shall promulgate rules providing for a standard form to be signed and dated by an insurance agent licensed in this state stating that the child care facility has an unexpired and uncanceled insurance policy or contract of at least Two Hundred Thousand Dollars (\$200,000.00) that meets the requirements of this section. This form shall be completed annually and shall be maintained by the child care facility. Upon request, the form shall be made available to the Department to determine compliance with licensing requirements.

C. Should the child care facility for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under subsection A of this section, should the policy limits be exhausted, or if the child care facility reports self-insurance in accordance with state law the child care facility shall:

1. Post a conspicuous notice at the facility indicating the facility does not have liability insurance coverage pursuant to this section or reports self-insurance in accordance with state law; and

2. Notify the Department that coverage is not provided or that the facility reports self-insurance in accordance with state law; and

3. Keep a form signed by the parent or legal guardian of each child that he or she has been told that the child care facility does not carry at least Two Hundred Thousand Dollars (\$200,000.00) of general liability insurance.

D. The Department shall promulgate rules providing for a standard notice form for the facility to post which indicates the facility does not carry liability insurance or reports self-insurance in accordance with state law. The form required pursuant to paragraph 1 of subsection C of this section shall be:

1. Printed with lettering that is legible and in at least three-fourths-inch boldfaced type;

2. Placed at the main entrance of the facility in a conspicuous location; and

3. Copied and provided to the parent or legal guardian of each child under supervision of the child care facility.

E. In no case shall the inability to secure coverage serve to indemnify the child care facility due to negligence.

~~E.~~ F. The insurance policy or contract shall be maintained at all times in an amount as required by this section, except as provided for in subsection C of this section.

G. Each child care facility shall maintain a copy of the most recent compliance file onsite. The Department shall promulgate rules providing for a standard notice form for the facility to post which indicates:

1. The facility has a copy of the most recent compliance files onsite for inspection upon request of a parent or guardian of each child under the supervision of the child care facility; and

2. Such files are also made available for public inspection by the Department.

H. The forms required pursuant to this subsection shall be:

1. Printed with lettering that is legible and in at least three-fourths-inch boldfaced type;

2. Placed at the main entrance of the facility in a conspicuous location; and

3. Copied and provided to the parent or legal guardian of each child under supervision of the child care facility.

~~F.~~ I. The requirements for posting provided by subsection D and G of this section shall not apply to:

1. Licensed child-placing agencies;

2. Licensed residential child care facilities; or

3. Department-certified child care facilities.

~~G.~~ J. The Department may promulgate rules requiring liability insurance for facilities listed in subsection ~~F~~ I of this section.

~~H.~~ K. Failure by a child care facility to comply with the provisions of this section is grounds for suspension or revocation of the child care facility license under the Oklahoma Child Care Facilities Licensing Act.

L. The Department shall promulgate rules to implement the provisions of this section.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 2nd day of May, 2016.

Kim Davis
Presiding Officer of the Senate

Passed the House of Representatives the 6th day of April, 2016.

Lee R. Danielson
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 3rd

day of May, 20 16, at 11:15 o'clock A M.

By: Audrey Rodwell

Approved by the Governor of the State of Oklahoma this 9th

day of May, 20 16, at 1:32 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 9th

day of May, 20 16, at 2:44 o'clock P. M.

By: Christa Renze