

TESTIMONY REGARDING SENATE BILL No. 453
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1. What legislative action is requested?

It is requested that public schools be exempt from day care regulations imposed by the Kansas Department of Health and Environment.

2. What legislative changes are needed to create this change?

The following changes have been introduced by Senator Jim Barnett as Senate Bill No. 453:

... The provisions of K.S.A. 65-501 et seq., and amendments thereto, shall not apply to: (c) any facility program or service operated or authorized to be operated by the board of education of a school district.

Since the Bill was introduced, amendments have been added.

3. Under what authority does the Kansas Department of Health and Environment assume control of public school programs?

LAWS REGARDING PUBLIC HEALTH

Article 5. – MATERNITY HOSPITALS OR HOMES AND HOME FOR CHILDREN

65-501 License or temporary permit required. It shall be unlawful for any person, firm, corporation or association to conduct or maintain a maternity hospital or home, or a boarding, receiving or detention home for children under 16 years of age without having a license or temporary permit therefore from the secretary of health and environment. Nothing in this act shall apply to any state institution maintained and operated by the state.

4. Why are some public school classrooms considered child care?

According to KDHE Guidelines for Clarifying Child Care Licensure Requirements for Public School Programs which was issued in 1996, licensure is required whenever a “Board of Education establishes, operates and maintains...a child care program that is not established as a summer program or an extraordinary school program as defined by statute. This type of school age program could be held before school, after school, on no school days, during the summer or all year round.” This has further been interpreted to mean any preschool program that is offered more than 4 hours per day, including lunch.

5. Why should public schools be exempt from KDHE day care regulations?

(a) School districts are already governed by locally elected representatives who serve on the Board of Education. Regardless of day care licensing, the board of education is always responsible and liable for any programs provided under its jurisdiction. Sufficient operational control is also provided by the Kansas State Department of Education, Kansas Board of Education, and the Kansas legislature.

(b) Additional rules and regulations imposed by KDHE result in time and resources being taken away from the mission of schools, to educate children. For instance, day care regulations require an on-site, full time administrator whenever a preschool has an

enrollment of more than 60 children. There are over 160 schools and 29 school districts in Kansas that operate without a full time administrator. Staffing decisions should be made by the local board of education.

(c) Professional educators know how to take good care of children.

6. Isn't there the potential for children to be placed in risk of danger if KDHE standards for care are not met?

(a) Depending upon the rule or regulation, most school districts already exceed the standards established by KDHE. For instance, the educational level for a child supervisor required by KDHE is lower than the educational level required for teachers. KSDE already requires a KBI criminal background check prior to issuing a Kansas teaching certificate. Our school district, like many others, conducts a KBI criminal background check on every staff member.

(b) KDHE officials have self-selected enforcement of their regulations on some of the most dangerous activities offered by school districts. KDHE child care regulations include children to the age of 16. Junior varsity football occurs outside of the school day, requires transportation outside of the school, and the activities often extend beyond 4 hours. When asked why KDHE did not enforce all the areas covered in their regulations, the response from a staff member was that it would be ridiculous to do so.