

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

H.P. 1146 - L.D. 1661

**Resolve, Regarding Legislative Review of Portions of Chapter 33: Rule
Relating to the Licensing of Family Child Care Providers, a Major
Substantive Rule of the Department of Health and Human Services, Maine
Center for Disease Control and Prevention**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 33: Rule Relating to the Licensing of Family Child Care Providers, a provisionally adopted major substantive rule of the Department of Health and Human Services, Maine Center for Disease Control and Prevention that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if:

1. The requirement that providers must share information with parents regarding policies of parental visitation at the child care site in Section 5.C.11.b is removed from that section and a requirement that providers must allow parents to be able to visit and observe any time during the hours of operation is added to the rule;

2. In Section 8.A of the rule, the language stating that provider-child ratios are not based on the developmental stages in the definition section is removed;

3. In Section 8.A.1 of the rule, the ratios for mixed ages for one provider include the ratio of 8 children aged 2 to 5 years and 2 children aged more than 5 years;

4. In Section 8.A.3.a of the rule, the age of the children of the licensee that are counted in the provider-child ratio and included in the licensed capacity is changed from under the age of 3 to under the age of 4;

5. In Section 14.E.2.b of the rule, the language requiring climbers, swings and slides to be 6 feet from any hard surfaces is removed and replaced with a requirement that the climbers, swings and slides be located at a sufficient distance to prevent injury;

6. In Section 14.E.3 of the rule, the requirement for equipment that exceeds 36 inches in height is amended to specify that the equipment exceeds 36 inches at the climbable or standing surface;

7. In Section 14.E.3 of the rule, the requirement that the rubber tiles and mats used must be approved by the American Society for Testing and Materials is removed;

8. In Section 14.E.3.b of the rule, language is added to include swings with climbers and slides;

9. In Section 14.E.3.b of the rule, the requirement for a minimum amount of 6 inches or more of energy-absorbing materials is removed and replaced with a requirement for a sufficient amount of energy-absorbing materials to prevent injury;

10. In Section 14.E.3.c of the rule, the requirement for energy-absorbing materials to extend at least 6 feet from the equipment to protect children is removed and replaced with a requirement that energy-absorbing materials extend beyond the equipment in all directions to prevent injury in the event of a fall; and

11. In Section 17.A of the rule, language is added to require that a person assigned by a provider to drive children enrolled in care must complete training for transportation of children every 2 years.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.