

2016 Regular Session

HOUSE BILL NO. 197

BY REPRESENTATIVE PYLANT

CRIME: Creates crime of failure to properly operate a child day care center

1 AN ACT

2 To enact R.S. 14:91.15, relative to offenses affecting health of minors; to create the crime  
3 of unlawful operation of an unlicensed child day care center; to provide definitions;  
4 to provide criminal penalties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:91.15 is hereby enacted to read as follows:

7 §91.15. Unlawful operation of an unlicensed child day care center

8 A. Unlawful operation of an unlicensed child day care center is any of the  
9 following:

10 (1) The intentional operation of a child day care center without a license as  
11 provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes  
12 of 1950, comprised of R.S. 17:407.31 through 407.53.

13 (2) The continued operation of a child day care center after notification by  
14 the Department of Education that the person operating the facility should seek a  
15 license as provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised  
16 Statutes of 1950, comprised of R.S. 17:407.31 through 407.53.

17 (3) The continued operation of a child day care center after the Department  
18 of Education has revoked a license to operate a child day care center as provided for  
19 in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950,  
20 comprised of R.S. 17:407.31 through 407.53.

1           B. For the purposes of this Section, "child day care center" means any place  
2           or facility operated by any institution, political subdivision, society, agency,  
3           corporation, person or persons, or any other group for the purpose of providing care,  
4           supervision, and guidance of seven or more children, not including those related to  
5           the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at  
6           least twelve and one-half hours in a continuous seven-day week. If a child day care  
7           center provides transportation or arranges for transportation to and from the center,  
8           either directly or by contract with third parties, all hours during which a child is  
9           being transported shall be included in calculating the hours of operation.

10           C. Whoever commits the crime of unlawful operation of an unlicensed child  
11           day care center shall be subject to the following penalties:

12           (1) For a first offense violation of this Section, the violator shall be fined not  
13           more than one thousand dollars or imprisoned for not more than six months, or both,

14           (2) For a second offense violation of this Section, the violator shall be fined  
15           not more than two thousand five hundred dollars or imprisoned for not more than six  
16           months, or both. Furthermore, the violator shall be ineligible to apply for a license  
17           to operate a child day care facility or operate a child day care facility for up to  
18           twenty-four months.

19           (3) For a third offense violation of this Section, the violator shall be fined not  
20           more than five thousand dollars or imprisoned for not more than twelve months, or  
21           both. Furthermore, the violator shall be ineligible to apply for a license to operate  
22           a child day care facility or operate a child day care facility for up to twenty-four  
23           months.

24           D. In accordance with R.S. 17:407.31 et seq., the Department of Education  
25           shall be responsible for the investigation of any unlicensed day care center to  
26           determine if the center is required by law to have a license issued by the department  
27           and to determine if the center is operating without a valid license issued by the  
28           department. After conducting any necessary investigation, the department shall  
29           make a determination with respect to licensing status, and collect any evidence

- 1        necessary with respect to violations of the licensing laws. All evidence and findings  
 2        by the department shall be submitted to a law enforcement agency for any arrest for  
 3        a violation of the provisions of this Section.

### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 197 Reengrossed

2016 Regular Session

Pylant

**Abstract:** Creates the crime of unlawful operation of a child day care center.

Proposed law provides that unlawful operation of an unlicensed child day care center is any of the following:

- (1) The intentional operation of a child day care center without a license.
- (2) The continued operation of a child day care center after notification by the Dept. of Education that the person operating the facility should seek a license.
- (3) The continued operation of a child day care center after the Dept. of Education has revoked a license.

Proposed law provides for the following penalties:

- (1) First offense - a fine of not more than \$1,000, imprisonment for not more than six months, or both.
- (2) Second offense - A fine of not more than \$2,500, imprisonment for not more than six months, or both. Provides that the violator shall be ineligible to apply for a day care license for up to 24 months.
- (3) Third offense - A fine of not more than \$5,000, imprisonment for not more than 12 months, or both. Provides that the violator shall be ineligible to apply for a day care license for up to 24 months.

Proposed law provides that the Dept. of Education shall conduct any necessary investigation, determine whether a license is required by present law, and determine if the center is operating without a valid license. Requires the department to determine the licensing status and collect any evidence necessary with respect to violations of proposed law. Evidence and findings by the Dept. of Education shall be submitted to a law enforcement agency for any arrest.

(Adds R.S. 14:91.15)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Adds that the Dept. of Education shall conduct any investigation and make determinations regarding violations of proposed law for referral to a law enforcement agency.

The House Floor Amendments to the engrossed bill:

1. Adds additional criminal penalties for a second or third offense.
2. Provides that persons convicted of a second or third offense are ineligible to apply for a child day care facility license for up to 24 months.
3. Changes provisions regarding the investigation by the Dept. of Education of violations of proposed law.