

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 4
HOUSE BILL 24

AN ACT TO AMEND ARTICLE 7 OF CHAPTER 110 OF THE GENERAL STATUTES,
ENTITLED "DAY-CARE FACILITIES" TO PROVIDE CHANGES IN THE
DEFINITION OF DAY CARE AND TO PROVIDE THAT THE COMMISSION SHALL
HAVE THE POWER TO SEEK INJUNCTIVE RELIEF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-86(2), as it appears in the 1975 Replacement of Volume 3A of the General Statutes, is rewritten to read as follows:

"(2) 'Day care' includes any child-care arrangement under which a child less than 13 years of age receives care away from his own home by persons other than his parents, grandparents, guardians or full-time custodians."

Sec. 2. G.S. 110-86(3), as it appears in the 1975 Replacement of Volume 3A of the General Statutes, is rewritten to read as follows:

"(3) 'Day-care facility' includes any day-care center or child-care arrangement which provides day care on a regular basis for more than four hours per day for more than five children, wherever operated and whether or not operated for profit, except that the following are not included: public schools; nonpublic schools whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods."

Sec. 3. G.S. 110-86(4), as it appears in the 1975 Replacement of Volume 3A of the General Statutes, is amended by deleting the words "and receives a payment, fee or grant for any of the children receiving care" from lines 3 and 4 thereof.

Sec. 4. G.S. 110-93(d), as it appears in the 1975 Cumulative Supplement to Volume 3A of the General Statutes, is amended by changing the period (.) at the end thereof to a comma (,) and by adding the following:

"but shall be subject to injunction as provided in G.S. 110-104."

Sec. 5. Article 7 of Chapter 110 of the General Statutes is hereby amended by adding a new section to be designated G.S. 110-104 and to read as follows:

"§ 110-104. **Injunctive relief.** — The secretary or his designee is empowered to seek injunctive relief in the superior court of the county in which a day-care center is located against the continuing operation of that day-care facility at anytime, whether or not any administrative proceedings are pending. The superior court may grant injunctive relief, temporary, preliminary or permanent when there is any violation of this Article, or of the rules and regulations promulgated by the commission, which threatens serious harm to children in the day-care facility or when a final order to deny or revoke a license has been violated."

Sec. 6. Article 7 of Chapter 110 is hereby amended by inserting a new section to be designated G.S. 110-98.1 and to read as follows:

"§ 110-98.1. **Prima facie evidence of existence of day-care facility.** — A child-care arrangement providing day care for more than five children for more than four hours per day on

two or more consecutive days shall be prima facie evidence of the existence of a day-care facility."

Sec. 7. G.S. 105-60, as it appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes, is amended by rewriting the first sentence to read as follows:

"Every person, firm or corporation engaged in operating a day-care facility as defined by G.S. 110-86(3) shall pay an annual license tax for the privilege of operating a day-care facility."

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1977.