

**CHAPTER 434**

H.B. No. 1345

AN ACT

relating to the licensing of adult day-care facilities; providing a criminal penalty.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 103, Human Resources Code, is amended by adding Sections 103.0041, 103.0091, and 103.0092 to read as follows:

*Sec. 103.0041. LICENSE REQUIRED. (a) A person may not operate an adult day-care facility without a license issued under this chapter.*

*(b) A person commits an offense if the person violates Subsection (a) of this section. An offense under this subsection is a Class A misdemeanor.*

*Sec. 103.0091. INJUNCTION. (a) The Texas Department of Health may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the Texas Department of Health finds that the violation creates an immediate threat to the health and safety of the adult day-care residents.*

*(b) A district court, on petition of the Texas Department of Health and on a finding by the court that a person is violating the standards or licensing requirements provided under this chapter, may by injunction:*

*(1) prohibit a person from continuing a violation of the standards or licensing requirements provided under this chapter;*

*(2) restrain or prevent the establishment or operation of a facility without a license issued under this chapter; or*

*(3) grant any other injunctive relief warranted by the facts.*

*(c) The attorney general may institute and conduct a suit authorized by this section at the request of the Texas Department of Health.*

*(d) Venue for a suit brought under this section is in the county in which the facility is located or in Travis County.*

*Sec. 103.0092. EMERGENCY SUSPENSION AND CLOSING ORDER. (a) If the Texas Department of Health finds an adult day-care facility operating in violation of the standards prescribed by this chapter and the violations create an immediate threat to the health and safety of a resident in the facility, the Texas Department of Health shall suspend the license or order immediate closing of all or part of the facility.*

*(b) The order suspending a license under Subsection (a) is immediately effective on written notice to the license holder or on the date specified on the order.*

*(c) The order suspending the license and ordering closure of all or part of a facility is valid for 10 days after the effective date.*

SECTION 2. Subdivisions (1) and (2), Section 103.003, Human Resources Code, are amended to read as follows:

(1) "Adult day-care facility" means a facility that provides [~~counseling, recreation, or food or any combination of these~~] services *under an adult day-care program* on a daily or regular basis but not overnight to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility.

(2) "~~Adult day-care program~~" means a structured, comprehensive program that is designed to meet the needs of adults with functional impairments through an individual plan of care by providing health, social, and related support services in a protective setting [~~"Adult day health care facility" means a facility that provides health care or physical therapy or both and that may also provide adult day-care services on a daily or regular basis but not overnight to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility~~].

SECTION 3. Section 103.006(a), Human Resources Code, is amended to read as follows:

(a) The Texas Department of Health shall issue a license to operate an adult day-care facility [~~or an adult day health care facility~~] to a person who has met the application requirements and received approval after an on-site inspection.

SECTION 4. Section 103.007(a), Human Resources Code, is amended to read as follows:

(a) An applicant for a license to operate an adult day-care [~~or an adult day health care~~] facility must file an application on a form prescribed by the Texas Department of Health together with a license fee of \$25.

SECTION 5. Section 103.009, Human Resources Code, is amended to read as follows:

Sec. 103.009. LICENSE DENIAL, SUSPENSION, OR REVOCATION. (a) The Texas Department of Health may deny, suspend, or revoke the license of an applicant or holder of a license who fails to comply with the rules or standards for licensing required by this chapter.

(b) *The denial, suspension, or revocation of a license and the appeal from that action are governed by the procedures for a contested case hearing under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) [Texas Department of Health may revoke or suspend a license to be effective immediately when the health and safety of persons attending a facility are threatened. A person whose license is suspended or revoked under this subsection is entitled to a hearing within seven days after the effective date of the suspension or revocation].*

SECTION 6. Section 103.011, Human Resources Code, is amended to read as follows:

Sec. 103.011. RIGHTS OF THE ELDERLY. (a) In addition to other rights an individual attending an adult day care facility [~~or an adult day health care facility~~] has as a citizen, an individual who is 55 years of age or older has the rights prescribed by Chapter 102 of this code.

(b) The Texas Department of Human Services and the Texas Department of Health shall require each adult day care [~~or adult day health care~~] facility to implement and enforce the applicable provisions of Chapter 102 of this code.

SECTION 7. This Act takes effect January 1, 1994. A license issued under Chapter 103, Human Resources Code, before the effective date of this Act remains valid until it expires, is revoked, or is surrendered.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 23, 1993, by a non-record vote; passed by the Senate on May 22, 1993, by a viva-voce vote.

Approved June 6, 1993.

Effective Jan. 1, 1994.