

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 688

Introduced by Blood, 3.

Read first time January 03, 2018

Committee: Judiciary

1 A BILL FOR AN ACT relating to children; to amend sections 71-3101,
2 71-3105, 71-3107, and 71-6720, Reissue Revised Statutes of Nebraska,
3 and section 71-1908, Revised Statutes Cumulative Supplement, 2016;
4 to provide for the possession, use, and application of sunscreen by
5 and for children and students as prescribed; to provide immunity
6 from liability as prescribed; to provide an exception to the
7 Medication Aide Act; to harmonize provisions; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Any child attending a recreation facility, center,
2 or program operated by a political or governmental subdivision pursuant
3 to authority provided in section 13-304 may possess and use a broad
4 spectrum topical sunscreen while attending such facility, center, or
5 program or an event sponsored by such entity without a note or
6 prescription from a licensed health care professional if the broad
7 spectrum topical sunscreen is in the original container, the container is
8 labeled as a broad spectrum sunscreen by the manufacturer, an expiration
9 date was printed on or otherwise affixed to such container by the
10 manufacturer, and the expiration date has not passed at the time of such
11 possession or use.

12 (2) A recreation facility, center, or program operated by a
13 political or governmental subdivision pursuant to authority provided in
14 section 13-304 may allow an employee or volunteer to assist in the
15 application of a broad spectrum topical sunscreen in the possession of a
16 child pursuant to subsection (1) of this section with the written consent
17 of such child's parent or guardian.

18 (3) Except in cases of gross negligence, willful misconduct, or
19 intentional wrongdoing, a recreation facility, center, or program
20 operated by a political or governmental subdivision pursuant to authority
21 provided in section 13-304 and any employee or volunteer of such
22 facility, center, or program shall be immune from civil liability with
23 respect to any decision made or action taken that is based on a good
24 faith implementation of this section.

25 Sec. 2. Section 71-1908, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 71-1908 (1) Sections 71-1908 to 71-1923 and section 3 of this act
28 shall be known and may be cited as the Child Care Licensing Act.

29 (2) The Legislature finds that there is a present and growing need
30 for quality child care programs and facilities. There is a need to
31 establish and maintain licensure of persons providing such programs to

1 ensure that such persons are competent and are using safe and adequate
2 facilities. The Legislature further finds and declares that the
3 development and supervision of programs are a matter of statewide concern
4 and should be dealt with uniformly on the state and local levels. There
5 is a need for cooperation among the various state and local agencies
6 which impose standards on licensees, and there should be one agency which
7 coordinates the enforcement of such standards and informs the Legislature
8 about cooperation among the various agencies.

9 Sec. 3. (1) Any child enrolled in or attending a program may
10 possess and use a broad spectrum topical sunscreen while on property used
11 by the program or at a program-sponsored event without a note or
12 prescription from a licensed health care professional if the broad
13 spectrum topical sunscreen is in the original container, the container is
14 labeled as a broad spectrum sunscreen by the manufacturer, an expiration
15 date was printed on or otherwise affixed to such container by the
16 manufacturer, and the expiration date has not passed at the time of such
17 possession or use.

18 (2) A program may allow an employee or volunteer to assist in the
19 application of a broad spectrum topical sunscreen in the possession of a
20 child pursuant to subsection (1) of this section with the written consent
21 of such child's parent or guardian.

22 (3) Except in cases of gross negligence, willful misconduct, or
23 intentional wrongdoing, a program and any employee or volunteer of such
24 program shall be immune from civil liability with respect to any decision
25 made or action taken that is based on a good faith implementation of this
26 section.

27 Sec. 4. Section 71-3101, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 71-3101 As used in sections 71-3101 to 71-3107 and section 5 of this
30 act, unless the context otherwise requires:

31 (1) Recreation camp shall mean one or more temporary or permanent

1 tents, buildings, structures, or site pads, together with the tract of
2 land appertaining thereto, established or maintained for more than a
3 forty-eight-hour period as living quarters or sites used for purposes of
4 sleeping or the preparation and the serving of food extending beyond the
5 limits of a family group for children or adults, or both, for recreation,
6 education, or vacation purposes, and including facilities located on
7 either privately or publicly owned lands except hotels or inns;

8 (2) Person shall mean any individual or group of individuals,
9 association, partnership, limited liability company, or corporation; and

10 (3) Department shall mean the Department of Health and Human
11 Services.

12 Sec. 5. (1) Any child attending a recreation camp may possess and
13 use a broad spectrum topical sunscreen while at such recreation camp or
14 an event sponsored by such recreation camp without a note or prescription
15 from a licensed health care professional if the broad spectrum topical
16 sunscreen is in the original container, the container is labeled as a
17 broad spectrum sunscreen by the manufacturer, an expiration date was
18 printed on or otherwise affixed to such container by the manufacturer,
19 and the expiration date has not passed at the time of such possession or
20 use.

21 (2) A recreation camp may allow an employee or volunteer to assist
22 in the application of a broad spectrum topical sunscreen in the
23 possession of a child pursuant to subsection (1) of this section with the
24 written consent of such child's parent or guardian.

25 (3) Except in cases of gross negligence, willful misconduct, or
26 intentional wrongdoing, a recreation camp and any employee or volunteer
27 of such recreation camp shall be immune from civil liability with respect
28 to any decision made or action taken that is based on a good faith
29 implementation of this section.

30 Sec. 6. Section 71-3105, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 71-3105 The department is authorized to and shall formulate, adopt,
2 publish, promulgate, and enforce such reasonable rules and regulations as
3 it deems necessary to enforce the provisions of sections 71-3101 to
4 71-3107 and section 5 of this act and to protect the health and welfare
5 of persons in attendance at recreation camps.

6 Sec. 7. Section 71-3107, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 71-3107 Any person who shall violate any of the provisions of
9 sections 71-3101 to 71-3107 and section 5 of this act or of the
10 regulations or standards adopted and promulgated under such sections
11 hereunder shall be guilty of a Class V misdemeanor.

12 Sec. 8. (1) Any child attending a program provided only to school-
13 age children during the summer and other extended breaks in the school
14 year may possess and use a broad spectrum topical sunscreen while
15 attending such program or an event sponsored by such program without a
16 note or prescription from a licensed health care professional if the
17 broad spectrum topical sunscreen is in the original container, the
18 container is labeled as a broad spectrum sunscreen by the manufacturer,
19 an expiration date was printed on or otherwise affixed to such container
20 by the manufacturer, and the expiration date has not passed at the time
21 of such possession or use.

22 (2) A program provided only to school-age children during the summer
23 and other extended breaks in the school year may allow an employee or
24 volunteer to assist in the application of a broad spectrum topical
25 sunscreen in the possession of a student pursuant to subsection (1) of
26 this section with the written consent of such child's parent or guardian.

27 (3) Except in cases of gross negligence, willful misconduct, or
28 intentional wrongdoing, a program provided only to school-age children
29 during the summer and other extended breaks in the school year and any
30 employee or volunteer of such program shall be immune from civil
31 liability with respect to any decision made or action taken that is based

1 on a good faith implementation of this section.

2 Sec. 9. Section 71-6720, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 71-6720 (1) The purposes of the Medication Aide Act are to ensure
5 the health, safety, and welfare of the public by providing for the
6 accurate, cost-effective, efficient, and safe utilization of medication
7 aides to assist in the administration of medications by (a) competent
8 individuals, (b) caretakers who are parents, foster parents, family,
9 friends or legal guardians, and (c) licensed health care professionals.

10 (2) The act applies to all settings in which medications are
11 administered except the home, unless the in-home administration of
12 medication is provided through a licensed home health agency or licensed
13 or certified home and community-based provider.

14 (3) The act does not apply to the provision of reminders to persons
15 to self-administer medication, assistance to students and children in the
16 application of broad spectrum topical sunscreen pursuant to sections 1,
17 3, 5, 8, and 10 of this act, or assistance to persons in the delivery of
18 nontherapeutic topical applications by in-home personal services workers.
19 For purposes of this subsection, in-home personal services worker has the
20 definition found in section 71-6501.

21 Sec. 10. (1) Any student enrolled in a public, private,
22 denominational, or parochial school may possess and use a broad spectrum
23 topical sunscreen while on school property or at a school-sponsored event
24 sponsored by such entity without a note or prescription from a licensed
25 health care professional if the broad spectrum topical sunscreen is in
26 the original container, the container is labeled as a broad spectrum
27 sunscreen by the manufacturer, an expiration date was printed on or
28 otherwise affixed to such container by the manufacturer, and the
29 expiration date has not passed at the time of such possession or use.

30 (2) A public, private, denominational, or parochial school may allow
31 an employee or volunteer to assist in the application of a broad spectrum

1 topical sunscreen in the possession of a student pursuant to subsection
2 (1) of this section with the written consent of such child's parent or
3 guardian.

4 (3) Except in cases of gross negligence, willful misconduct, or
5 intentional wrongdoing, a public, private, denominational, or parochial
6 school and any employee or volunteer of such school shall be immune from
7 civil liability with respect to any decision made or action taken that is
8 based on a good faith implementation of this section.

9 Sec. 11. Original sections 71-3101, 71-3105, 71-3107, and 71-6720,
10 Reissue Revised Statutes of Nebraska, and section 71-1908, Revised
11 Statutes Cumulative Supplement, 2016, are repealed.