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# Emergency Rules

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**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 61—Licensing Rules for Family Day  
Care Homes**

**EMERGENCY AMENDMENT**

**19 CSR 30-61.085 Physical Requirements of the Family Day Care Home.** The department is amending subsection (1)(L).

*PURPOSE: This amendment specifies that smoking is prohibited in areas where children are cared for in a child care home as recommended by the American Academy of Pediatrics Task Force on Sudden Infant Death Syndrome for a safe infant sleeping environment.*

*EMERGENCY STATEMENT: According to the Centers for Disease Control and Prevention, Sudden Infant Death Syndrome (SIDS) was the fourth leading cause of death for infants in 2013. Approximately one hundred (100) Missouri infants die as a result of SIDS each year. In 2014, an infant in a licensed child care facility died as a result of SIDS after a weighted blanket was placed over the child's legs when he was lying face down. As a result, the Missouri legislature promulgated section 210.223.6, RSMo, as part of HCS for SCS for SB 341, 98th General Assembly, First Regular Session (2015). The bill authorizes the Department of Health and Senior Services (DHSS) to promulgate emergency rules to implement safe sleep practices as recommended by the American Academy of Pediatrics (AAP) for licensed child care facilities. The AAP Task Force on SIDS has made safe sleep recommendations for infants to help reduce the risk of SIDS. The AAP has recommended that child care providers not smoke in child care areas since infants have a higher risk of SIDS if they are exposed to secondhand smoke. Secondhand smoke can cause other health problems in infants and children such as more frequent and severe asthma attacks, respiratory infections, and ear infections. As a result, this emergency amendment is necessary to protect the health of children in child care settings and to implement safe sleep practices as recommended by the AAP in family child care homes in order to reduce the risk of SIDS. The DHSS finds an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest, which requires this emergency action. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The DHSS believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 10, 2015, becomes effective November 20, 2015, and expires May 17, 2016.*

(1) General Requirements.

(L) *[Caregivers shall not smoke when holding or feeding children, changing diapers, assisting with toileting or when preparing food.]* **No person shall smoke or otherwise use tobacco products in any area of the child care facility during the period of time when children cared for under the license are present.**

*AUTHORITY: sections 210.221[.1(3)] and 210.223, RSMo Supp. [1998] 2015. This rule previously filed as 13 CSR 40-61.070 and 13 CSR 30-61.085. Original rule filed March 29, 1991, effective Oct. 31, 1991. Changed to 19 CSR 40-61.085, effective Dec. 9, 1993. Changed to 19 CSR 30-61.085 July 30, 1998. Amended: Filed Feb. 18, 1999, effective Sept. 30, 1999. Emergency amendment filed Nov. 10, 2015, effective Nov. 20, 2015, expires May 17, 2016. An emergency amendment and a proposed amendment covering this same material will be published in the December 15, 2015, issue of the Missouri Register.*