S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. PAULIN, ROSENTHAL, MILLMAN, ROBINSON, SCHIMEL, JAFFEE, HOOPER, PERRY, OTIS, GRAF, ROBERTS -- Multi-Sponsored by -- M. of A. BUCHWALD, CLARK, COOK, CROUCH, ENGLEBRIGHT, FAHY, FITZPATRICK, GOTTFRIED, GUNTHER, LUPARDO, MARKEY, McDONOUGH, RAIA, ROSA, SCARBOROUGH, WEISENBERG -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the permitting requirements for children's camps; and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1391 of the public health law, as added by chapter 515 of the laws of 2000, is amended to read as follows:

S 1391. Declaration of public policy. It is the declared policy of the state of New York to protect the health, safety and welfare of children attending what are commonly called children's overnight, summer day, [and] traveling summer day, AND SINGLE-PURPOSE DAY camps.

S 2. The opening paragraph of subdivision 2 of section 1392 of the public health law is designated paragraph a and a new paragraph b is added to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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B. "SINGLE-PURPOSE DAY CAMP" SHALL MEAN A PROPERTY CONSISTING OF A TRACT OF LAND AND ANY TENTS, VEHICLES, BUILDINGS OR OTHER STRUCTURES THAT MAY BE PERTINENT TO ITS USE, ANY PART OF WHICH MAY BE OCCUPIED ON A SCHEDULED BASIS AT ANY TIME BETWEEN JUNE FIRST AND SEPTEMBER FIFTEENTH IN ANY YEAR BY CHILDREN UNDER SIXTEEN YEARS OF AGE UNDER GENERAL SUPERVISION, FOR THE PURPOSE OF A SINGLE INDOOR OR OUTDOOR ORGANIZED GROUP ACTIVITY OR A SERIES OF SINGLE INDOOR OR OUTDOOR ORGANIZED GROUP ACTIVITIES, INVOLVING A NONPASSIVE RECREATIONAL ACTIVITY WITH SIGNIFICANT RISK OF INJURY, AS SUCH ACTIVITIES ARE DEFINED BY THE DEPARTMENT IN RULES AND REGULATIONS, FOR A PERIOD OF LESS THAN TWENTY-FOUR HOURS ON ANY DAY, OPERATING FOR A TOTAL OF TWENTY OR MORE DAYS WHEN THE PROPERTY IS SO OCCUPIED, AND ON WHICH NO PROVISIONS ARE MADE FOR OVERNIGHT OCCUPANCY BY SUCH CHILDREN. THE COMMISSIONER SHALL HAVE THE POWER TO EXCEPT BY RULE FROM THIS ARTICLE AND THE SANITARY CODE A PLACE, FACILITY OR ACTIVITY THAT IS NOT WITHIN THE INTENT OF THIS DEFINITION.

S 3. Section 1392-a of the public health law is REPEALED.

S 4. Section 1393 of the public health law, as added by chapter 515 of the laws of 2000, subdivision 4 as amended by chapter 439 of the laws of 2009, is amended to read as follows:

S 1393. Permit requirements. 1. No person, firm, corporation, or association shall operate a children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp without first obtaining a permit from an officer.

2. An officer shall issue a permit if, after inspection, the children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp is in compliance with this chapter and the sanitary code. All permits shall expire one year from the date of issuance of such permit or upon such earlier date as specified by such officer which date shall in no event be earlier than the latest date that such camps may remain open pursuant to regulations prescribed by the commissioner. Nothing in this section shall be construed to limit the responsibilities and duties of compliance arising out of any other provision of law.

3. Notwithstanding any other provision of law, an officer in issuing a permit may waive any requirement of the sanitary code setting a minimum standard of floor space per camper in a camp's sleeping quarters. Such a waiver may be granted upon written application therefor, and shall be accompanied by a statement by the officer of the specific terms and conditions under which the waiver shall have been granted. Such waivers may be granted only to camps constructed prior to January first, nineteen hundred seventy-five. An officer shall grant such waiver where the application therefor is accompanied by a written certification by the local health officer of its need or desirability to avoid an immediate undue hardship upon the operator which may result in the closing of the children's overnight camp to prospective campers, and a statement by the local health officer that the granting of a waiver shall not present a hazard to public health and safety. All such waivers shall expire on December thirty-first of the year in which they are granted, but may be renewed for good and sufficient reason.

4. The fee for a permit [shall be two hundred dollars, except that no fee shall be charged in the case of a children's overnight, summer day or traveling summer day camp operated by a person, firm, corporation or association for charitable, philanthropic or religious purposes] FOR A FOR-PROFIT CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY OR SINGLE-PURPOSE DAY CAMP SHALL BE AS FOLLOWS: CAMPS WITH A MAXIMUM CAPACITY OF TWO HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE THREE HUNDRED DOLLARS, CAMPS WITH A MAXIMUM CAPACITY OF THREE HUNDRED CHILDREN

DURING A SINGLE SESSION SHALL BE FIVE HUNDRED DOLLARS, CAMPS WITH A MAXIMUM CAPACITY OF FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE SEVEN HUNDRED DOLLARS, AND CAMPS WITH A MAXIMUM CAPACITY EXCEEDING FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE ONE THOUSAND DOLLARS. NO FEE SHALL BE CHARGED TO A CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY, OR SINGLE-PURPOSE DAY CAMP, OPERATED BY A MUNICIPALITY OR A PERSON, FIRM, CORPORATION OR ASSOCIATION FOR CHARITABLE, PHILANTHROPIC OR RELIGIOUS PURPOSES. THE FEES SET FORTH IN THIS SUBDIVISION SHALL EXCLUSIVELY GOVERN ALL CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY, AND SINGLE-PURPOSE DAY CAMP NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, AND SHALL PREEMPT ANY LOCAL LAW OR REGULATION REQUIRING THE PAYMENT OF ANY ADDITIONAL FEE TO INSPECT, PERMIT, OR OPERATE ALL OR ANY PART OF A CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY OR SINGLE-PURPOSE DAY CAMP EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION.

5. Any enrollment application forms and/or enrollment contract forms mailed or delivered to a person for purposes of enrollment of a child for any children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp shall contain or be accompanied by a written statement which declares:

(a) that such camp is required to be licensed by the [New York state] department [of health];

(b) that [such camp is required to be inspected twice yearly] CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY OR SINGLE-PURPOSE DAY CAMPS ARE REQUIRED TO BE INSPECTED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION THIRTEEN HUNDRED NINETY-THREE-A OF THIS ARTICLE; [and]

(c) the address where inspection reports concerning such camp are filed[.]; AND

(D) THAT SUCH CAMP IS REQUIRED TO PURCHASE LIABILITY INSURANCE.

S 5. The public health law is amended by adding a new section 1393-a to read as follows:

S 1393-A. INSPECTION REQUIREMENTS. 1. CHILDREN'S OVERNIGHT CAMPS ARE REQUIRED TO BE INSPECTED TWICE YEARLY. CHILDREN'S SUMMER DAY CAMPS AND TRAVELING SUMMER DAY CAMPS ARE REQUIRED TO BE INSPECTED ONCE PER YEAR. CHILDREN'S SINGLE-PURPOSE DAY CAMPS ARE REQUIRED TO BE INSPECTED AT LEAST ONCE PER YEAR.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY WAIVE ONE ANNUAL INSPECTION FOR ANY CHILDREN'S OVERNIGHT, SUMMER DAY, OR TRAVELING SUMMER DAY CAMP. IN CONTEMPLATION OF SUCH WAIVER, THE DEPARTMENT SHOULD GIVE PRIORITY TO CAMPS THAT ARE ACCREDITED BY AN ORGANIZATION THAT THE DEPARTMENT DEEMS ACCEPTABLE, CAMPS THAT HAVE NO RECORD OF OUTBREAKS, INCIDENTS OR SAFETY PROBLEMS, CAMPS THAT HAVE BEEN RESPONSIVE TO THE DEPARTMENT'S REQUESTS, CAMPS WITH EXPERIENCED LEADERSHIP STAFF, SMALLER CAMPS, AND CAMPS THAT OFFER MORE LOW-RISK ACTIVITIES.

S 6. Subdivisions 1, 3 and 4 of section 1394 of the public health law, subdivision 1 as added by chapter 515 of the laws of 2000, subdivision 3 as added by chapter 214 of the laws of 2012 and subdivision 4 as added by chapter 242 of the laws of 2013, are amended to read as follows:

1. The public health council shall prescribe standards and establish regulations for children's overnight, summer day [and], traveling summer day, AND SINGLE-PURPOSE DAY camps, as defined in this article, concerning such matters as may be appropriate for the protection and security of the life, health and safety of the occupants of such camps.

3. Any person, firm, corporation, or association that operates a children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp, and has obtained a permit pursuant to section thirteen

hundred ninety-three of this article, shall be authorized to employ or contract with a physician, nurse practitioner, physician assistant, registered nurse, or licensed practical nurse or emergency medical technician to act as a designated camp health director or to provide health services in assistance to the camp health director pursuant to applicable regulations promulgated by the commissioner.

4. Each children's overnight camp, summer day camp, SINGLE-PURPOSE DAY CAMP and travelling summer day camp shall allow children attending such camp to carry and use topical sunscreen products approved by the federal Food and Drug Administration for over-the-counter use for the purpose of avoiding overexposure to the sun and not for medical treatment of an injury or illness, with the written permission of the parent or guardian of the child. A record of such permission shall be maintained by the camp. A child who is unable to physically apply sunscreen may be assisted by unlicensed personnel when directed to do so by the child, if permitted by a parent or guardian and authorized by the camp.

S 7. Section 1394-a of the public health law, as amended by chapter 428 of the laws of 2008, is amended to read as follows:

S 1394-a. Requirement to check sex offender registry. Every person, firm, limited liability company, association and corporation which operates a CHILDREN'S OVERNIGHT, summer day, TRAVELING SUMMER DAY, OR SINGLE-PURPOSE DAY camp shall be required, to ascertain whether an employee or volunteer is listed on the state sex offender registry pursuant to article six-C of the correction law prior to the day such employee or volunteer commences work at said camp and annually thereafter prior to their arrival at said camp.

S 8. Section 1394-b of the public health law is REPEALED.

S 9. Section 1395 of the public health law, as added by chapter 515 of the laws of 2000, is amended to read as follows:

S 1395. Violations; temporary restraining order. 1. A violation of this chapter or of the sanitary code in the operation of a children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp shall constitute a public nuisance which may be enjoined or restrained.

2. When an officer has cause to believe that there has been a violation of this chapter or the sanitary code in the operation of a children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp which does not constitute a public health hazard as defined by the sanitary code, and that such violation has continued for more than three days after notice of the violation and demand for discontinuance and abatement thereof has been served in writing on the children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp operator in the manner prescribed for the service of summons set forth in the civil practice law and rules, an officer may:

(a) Conduct a hearing upon at least three days notice served on the camp operator in the manner prescribed for the service of summons as set forth in the civil practice law and rules, and

(b) Make a determination after such hearing with respect to the alleged violation or violations and have the power to assess a fine on the children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp operator not to exceed two hundred fifty dollars for each violation for each day succeeding the third day after the notice of violation and demand for discontinuance and abatement thereof has been given, and

(c) With respect to the hearing set forth herein the officer in accordance with the civil practice law and rules may: issue subpoena,

compel the attendance of witnesses, and administer oaths to witnesses, and

(d) Make an ex parte application to the supreme court of the state of New York for a temporary restraining order which the court may grant when it determines that there is a violation which requires immediate relief.

3. When an officer has cause to believe that there has been a violation of this chapter or the sanitary code in the operation of A children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp which constitutes a public health hazard as defined by the sanitary code, and after notice of the violation has been served in writing on the children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp operator in the manner prescribed for the service of summons set forth in the civil practice law and rules, an officer may:

(a) Conduct a hearing upon at least fifteen days notice in accordance with the provisions of section twelve-a of this chapter served on the camp operator in the manner prescribed for the service of summons as set forth in the civil practice law and rules, and

(b) Make a determination after such hearing with respect to the alleged violation or violations and have the power to assess a fine on the children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp operator in accordance with the provisions of section twelve of this chapter for each violation, and

(c) With respect to the hearing set forth herein the officer in accordance with the civil practice law and rules may: issue A subpoena, compel the attendance of witnesses, and administer oaths to witnesses, and

(d) Make an ex parte application to the supreme court of the state of New York for a temporary restraining order which the court may grant when it determines that there is a violation which requires immediate relief.

4. The officer may appoint one or more hearing officers as shall be necessary to do or perform in his place or stead the acts authorized by paragraphs (a) and (c) of subdivision two of this section. The hearing officer shall make findings of fact and submit recommendations to the officer.

5. An officer may institute proceedings to enjoin the continuance of such violation or the continued operation of such camp. No bond or undertaking shall be required of such officer in such proceedings and no application to vacate or modify any judgment obtained shall be entertained by any court without proof to such court that ten days notice of such application, and copies of the papers upon which the application is to be made, have been served upon such officer.

6. Nothing contained in this section shall be construed to limit the duty or power of an officer to act with regard to an immediate threat to the health of the occupants of a children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp or the community in which it is located, or to alter or abridge any of the duties and powers now or hereafter existing in the commissioner, state district health officers, county boards of health, county commissioners of health or local boards of health.

7. Nothing contained in this section shall be construed to limit or preclude the officer from enforcing or pursuing any remedies or penalties available under this chapter or THE sanitary code with respect to violations which constitute a public health hazard as defined by the

sanitary code, in the operation of the children's overnight, summer day, [or] traveling summer day, OR SINGLE-PURPOSE DAY camp, including, but not limited to, those remedies or penalties available under sections twelve, sixteen, two hundred six, two hundred twenty-nine, three hundred nine, and three hundred forty-eight of this chapter.

S 10. This act shall take effect 1 year after it shall have become a law.