

2193--D

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, RAI, 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:

1 Section 1. Section 1391 of the public health law, as added by chapter
2 515 of the laws of 2000, is amended to read as follows:
3 S 1391. Declaration of public policy. It is the declared policy of the
4 state of New York to protect the health, safety and welfare of children
5 attending what are commonly called children's overnight, summer day,
6 [and] traveling summer day, AND SINGLE-PURPOSE DAY camps.
7 S 2. The opening paragraph of subdivision 2 of section 1392 of the
8 public health law is designated paragraph a and a new paragraph b is
9 added to read as follows:

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

LBD04908-14-4

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

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 Section 1392-a of the public health law is REPEALED.

17 S 4. Section 1393 of the public health law, as added by chapter 515 of
18 the laws of 2000, subdivision 4 as amended by chapter 439 of the laws of
19 2009, is amended to read as follows:

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

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

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

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

1 DURING A SINGLE SESSION SHALL BE FIVE HUNDRED DOLLARS, CAMPS WITH A
2 MAXIMUM CAPACITY OF FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL
3 BE SEVEN HUNDRED DOLLARS, AND CAMPS WITH A MAXIMUM CAPACITY EXCEEDING
4 FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE ONE THOUSAND
5 DOLLARS. NO FEE SHALL BE CHARGED TO A CHILDREN'S OVERNIGHT, SUMMER DAY,
6 TRAVELING SUMMER DAY, OR SINGLE-PURPOSE DAY CAMP, OPERATED BY A MUNICI-
7 PALITY OR A PERSON, FIRM, CORPORATION OR ASSOCIATION FOR CHARITABLE,
8 PHILANTHROPIC OR RELIGIOUS PURPOSES. THE FEES SET FORTH IN THIS SUBDI-
9 VISION SHALL EXCLUSIVELY GOVERN ALL CHILDREN'S OVERNIGHT, SUMMER DAY,
10 TRAVELING SUMMER DAY, AND SINGLE-PURPOSE DAY CAMP NOTWITHSTANDING THE
11 PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, AND SHALL PREEMPT ANY LOCAL
12 LAW OR REGULATION REQUIRING THE PAYMENT OF ANY ADDITIONAL FEE TO
13 INSPECT, PERMIT, OR OPERATE ALL OR ANY PART OF A CHILDREN'S OVERNIGHT,
14 SUMMER DAY, TRAVELING SUMMER DAY OR SINGLE-PURPOSE DAY CAMP EXCEPT AS
15 EXPRESSLY SET FORTH IN THIS SECTION.

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

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

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

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

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

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

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

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

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

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

54 3. Any person, firm, corporation, or association that operates a chil-
55 dren's overnight, summer day, [or] traveling summer day, OR SINGLE-PUR-
56 POSE DAY camp, and has obtained a permit pursuant to section thirteen

1 hundred ninety-three of this article, shall be authorized to employ or
2 contract with a physician, nurse practitioner, physician assistant,
3 registered nurse, or licensed practical nurse or emergency medical tech-
4 nician to act as a designated camp health director or to provide health
5 services in assistance to the camp health director pursuant to applica-
6 ble regulations promulgated by the commissioner.

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

17 S 7. Section 1394-a of the public health law, as amended by chapter
18 428 of the laws of 2008, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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