

1015--B

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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. Section 1392 of the public health law is amended by adding a new
8 subdivision 5 to read as follows:
9 5. "SINGLE-PURPOSE DAY CAMP" SHALL MEAN A PROPERTY CONSISTING OF A
10 TRACT OF LAND AND ANY TENTS, VEHICLES, BUILDINGS OR OTHER STRUCTURES
11 THAT MAY BE PERTINENT TO ITS USE, ANY PART OF WHICH MAY BE OCCUPIED ON A
12 SCHEDULED BASIS AT ANY TIME BETWEEN JUNE FIRST AND SEPTEMBER FIFTEENTH
13 IN ANY YEAR BY CHILDREN UNDER SIXTEEN YEARS OF AGE UNDER GENERAL SUPER-
14 VISION, FOR THE PURPOSE OF A SINGLE INDOOR OR OUTDOOR ORGANIZED GROUP
15 ACTIVITY, INVOLVING A NONPASSIVE RECREATIONAL ACTIVITY WITH SIGNIFICANT
16 RISK OF INJURY, AS SUCH ACTIVITIES ARE DEFINED BY THE DEPARTMENT IN
17 RULES AND REGULATIONS, FOR A PERIOD OF LESS THAN TWENTY-FOUR HOURS ON
18 ANY DAY THE PROPERTY IS SO OCCUPIED, AND ON WHICH NO PROVISIONS ARE MADE
19 FOR OVERNIGHT OCCUPANCY BY SUCH CHILDREN. THE COMMISSIONER SHALL HAVE
20 THE POWER TO EXCEPT BY RULE FROM THIS ARTICLE AND THE SANITARY CODE A

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

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1 PLACE, FACILITY OR ACTIVITY THAT IS NOT WITHIN THE INTENT OF THIS DEFI-
2 NITION.

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 Section 1392-a of the public health law is REPEALED.

4 S 4. Section 1393 of the public health law, as added by chapter 515 of
5 the laws of 2000, subdivision 4 as amended by chapter 439 of the laws of
6 2009, is amended to read as follows:

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

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

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

36 4. The fee for a permit [shall be two hundred dollars, except that no
37 fee shall be charged in the case of a children's overnight, summer day
38 or traveling summer day camp operated by a person, firm, corporation or
39 association for charitable, philanthropic or religious purposes] FOR A
40 FOR-PROFIT CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY OR
41 SINGLE-PURPOSE DAY CAMP SHALL BE AS FOLLOWS: CAMPS WITH A MAXIMUM CAPAC-
42 ITY OF TWO HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE THREE
43 HUNDRED DOLLARS, CAMPS WITH A MAXIMUM CAPACITY OF THREE HUNDRED CHILDREN
44 DURING A SINGLE SESSION SHALL BE FIVE HUNDRED DOLLARS, CAMPS WITH A
45 MAXIMUM CAPACITY OF FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL
46 BE SEVEN HUNDRED DOLLARS, AND CAMPS WITH A MAXIMUM CAPACITY EXCEEDING
47 FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE ONE THOUSAND
48 DOLLARS. THE FEE FOR A NOT-FOR-PROFIT CHILDREN'S OVERNIGHT, SUMMER DAY,
49 TRAVELING SUMMER DAY, OR SINGLE-PURPOSE DAY CAMP SHALL BE TWO HUNDRED
50 DOLLARS. THE FEES SET FORTH IN THIS SUBDIVISION SHALL EXCLUSIVELY GOVERN
51 ALL CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY, AND SINGLE-
52 PURPOSE DAY CAMP NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE
53 CONTRARY, AND SHALL PREEMPT ANY LOCAL LAW OR REGULATION REQUIRING THE
54 PAYMENT OF ANY ADDITIONAL FEE TO INSPECT, PERMIT, OR OPERATE ALL OR ANY
55 PART OF A CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY OR
56 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 EVERY OTHER 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 THE AMERICAN CAMP ASSOCIATION, 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. Section 1394 of the public health law, as added by chapter 515 of the laws of 2000, subdivision 3 as added by chapter 214 of the laws of 2012, is amended to read as follows:

S 1394. Children's camps; standards and regulations. 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.

2. All buses or other motor vehicles which are owned by a traveling summer day camp or which are operated or leased by such camp for the purpose of transporting children attending such camp shall meet the requirements for safe operation of such vehicles as provided for in section one hundred forty of the transportation law.

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.

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 oper-

ates 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 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

1 the children's overnight, summer day, [or] traveling summer day, OR
2 SINGLE-PURPOSE DAY camp operator in accordance with the provisions of
3 section twelve of this chapter for each violation, and

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

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

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

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

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

32 7. Nothing contained in this section shall be construed to limit or
33 preclude the officer from enforcing or pursuing any remedies or penal-
34 ties available under this chapter or sanitary code with respect to
35 violations which constitute a public health hazard as defined by the
36 sanitary code, in the operation of the children's overnight, summer day,
37 [or] traveling summer day, OR SINGLE-PURPOSE DAY camp, including, but
38 not limited to, those remedies or penalties available under sections
39 twelve, sixteen, two hundred six, two hundred twenty-nine, three hundred
40 nine, and three hundred forty-eight of this chapter.

41 S 9. This act shall take effect 1 year after it shall have become a
42 law.