

2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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Introduced by M. of A. PAULIN, ROSENTHAL, ROBINSON, SCHIMEL, JAFFEE, HOOPER, PERRY, OTIS, GRAF, ROBERTS, ABINANTI -- Multi-Sponsored by -- M. of A. BUCHWALD, CLARK, COOK, CROUCH, ENGLEBRIGHT, FAHY, FITZPATRICK, GOTTFRIED, GUNTHER, LUPARDO, LUPINACCI, MARKEY, MAYER, McDOUGH, RAIA, SCARBOROUGH, STEC -- read once and referred to the Committee on Health

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:  
10    B. "SINGLE-PURPOSE DAY CAMP" SHALL MEAN A PROPERTY CONSISTING OF A  
11    TRACT OF LAND AND ANY TENTS, VEHICLES, BUILDINGS OR OTHER STRUCTURES  
12    THAT MAY BE PERTINENT TO ITS USE, ANY PART OF WHICH MAY BE OCCUPIED ON A  
13    SCHEDULED BASIS AT ANY TIME BETWEEN JUNE FIRST AND SEPTEMBER FIFTEENTH  
14    IN ANY YEAR BY CHILDREN UNDER SIXTEEN YEARS OF AGE UNDER GENERAL SUPER-  
15    VISION, FOR THE PURPOSE OF A SINGLE INDOOR OR OUTDOOR ORGANIZED GROUP  
16    ACTIVITY OR A SERIES OF SINGLE INDOOR OR OUTDOOR ORGANIZED GROUP ACTIV-  
17    ITIES, INVOLVING A NONPASSIVE RECREATIONAL ACTIVITY WITH SIGNIFICANT  
18    RISK OF INJURY, AS SUCH ACTIVITIES ARE DEFINED BY THE DEPARTMENT IN  
19    RULES AND REGULATIONS, FOR A PERIOD OF LESS THAN TWENTY-FOUR HOURS ON

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

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1 ANY DAY, OPERATING FOR A TOTAL OF TWENTY OR MORE DAYS WHEN THE PROPERTY  
2 IS SO OCCUPIED, AND ON WHICH NO PROVISIONS ARE MADE FOR OVERNIGHT OCCU-  
3 PANCY BY SUCH CHILDREN. THE COMMISSIONER SHALL HAVE THE POWER TO EXCEPT  
4 BY RULE FROM THIS ARTICLE AND THE SANITARY CODE A PLACE, FACILITY OR  
5 ACTIVITY THAT IS NOT WITHIN THE INTENT OF THIS DEFINITION.

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 Section 1392-a of the public health law is REPEALED.

7 S 4. Section 1393 of the public health law, as added by chapter 515 of  
8 the laws of 2000, subdivision 4 as amended by chapter 439 of the laws of  
9 2009, is amended to read as follows:

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

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

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

39 4. The fee for a permit [shall be two hundred dollars, except that no  
40 fee shall be charged in the case of a children's overnight, summer day  
41 or traveling summer day camp operated by a person, firm, corporation or  
42 association for charitable, philanthropic or religious purposes] FOR A  
43 FOR-PROFIT CHILDREN'S OVERNIGHT, SUMMER DAY, TRAVELING SUMMER DAY OR  
44 SINGLE-PURPOSE DAY CAMP SHALL BE AS FOLLOWS: CAMPS WITH A MAXIMUM CAPAC-  
45 ITY OF TWO HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE THREE  
46 HUNDRED DOLLARS, CAMPS WITH A MAXIMUM CAPACITY OF THREE HUNDRED CHILDREN  
47 DURING A SINGLE SESSION SHALL BE FIVE HUNDRED DOLLARS, CAMPS WITH A  
48 MAXIMUM CAPACITY OF FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL  
49 BE SEVEN HUNDRED DOLLARS, AND CAMPS WITH A MAXIMUM CAPACITY EXCEEDING  
50 FIVE HUNDRED CHILDREN DURING A SINGLE SESSION SHALL BE ONE THOUSAND  
51 DOLLARS. NO FEE SHALL BE CHARGED TO A CHILDREN'S OVERNIGHT, SUMMER DAY,  
52 TRAVELING SUMMER DAY, OR SINGLE-PURPOSE DAY CAMP, OPERATED BY A MUNICI-  
53 PALITY OR A PERSON, FIRM, CORPORATION OR ASSOCIATION FOR CHARITABLE,  
54 PHILANTHROPIC OR RELIGIOUS PURPOSES. THE FEES SET FORTH IN THIS SUBDI-  
55 VISION SHALL EXCLUSIVELY GOVERN ALL CHILDREN'S OVERNIGHT, SUMMER DAY,  
56 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

1 avoiding overexposure to the sun and not for medical treatment of an  
2 injury or illness, with the written permission of the parent or guardian  
3 of the child. A record of such permission shall be maintained by the  
4 camp. A child who is unable to physically apply sunscreen may be  
5 assisted by unlicensed personnel when directed to do so by the child, if  
6 permitted by a parent or guardian and authorized by the camp.

7 S 7. Section 1394-a of the public health law, as amended by chapter  
8 428 of the laws of 2008, is amended to read as follows:

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

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

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

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

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

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

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

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

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

53 3. When an officer has cause to believe that there has been a  
54 violation of this chapter or the sanitary code in the operation of A  
55 children's overnight, summer day, [or] traveling summer day, OR SINGLE-  
56 PURPOSE DAY camp which constitutes a public health hazard as defined by

1 the sanitary code, and after notice of the violation has been served in  
2 writing on the children's overnight, summer day, [or] traveling summer  
3 day, OR SINGLE-PURPOSE DAY camp operator in the manner prescribed for  
4 the service of summons set forth in the civil practice law and rules, an  
5 officer may:

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

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

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

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

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

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

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

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

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