

2015-2016 Regular Sessions

I N S E N A T E

January 7, 2015

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed 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
20 ANY DAY, OPERATING FOR A TOTAL OF TWENTY OR MORE DAYS WHEN THE PROPERTY
21 IS SO OCCUPIED, AND ON WHICH NO PROVISIONS ARE MADE FOR OVERNIGHT OCCU-
22 PANCY BY SUCH CHILDREN. THE COMMISSIONER SHALL HAVE THE POWER TO EXCEPT
23 BY RULE FROM THIS ARTICLE AND THE SANITARY CODE A PLACE, FACILITY OR
24 ACTIVITY THAT IS NOT WITHIN THE INTENT OF THIS DEFINITION.

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

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 Section 1392-a of the public health law is REPEALED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 3. Any person, firm, corporation, or association that operates a chil-
40 dren's overnight, summer day, [or] traveling summer day, OR SINGLE-PUR-
41 POSE DAY camp, and has obtained a permit pursuant to section thirteen
42 hundred ninety-three of this article, shall be authorized to employ or
43 contract with a physician, nurse practitioner, physician assistant,
44 registered nurse, or licensed practical nurse or emergency medical tech-
45 nician to act as a designated camp health director or to provide health
46 services in assistance to the camp health director pursuant to applica-
47 ble regulations promulgated by the commissioner.

48 4. Each children's overnight camp, summer day camp, SINGLE-PURPOSE DAY
49 CAMP and travelling summer day camp shall allow children attending such
50 camp to carry and use topical sunscreen products approved by the federal
51 Food and Drug Administration for over-the-counter use for the purpose of
52 avoiding overexposure to the sun and not for medical treatment of an
53 injury or illness, with the written permission of the parent or guardian
54 of the child. A record of such permission shall be maintained by the
55 camp. A child who is unable to physically apply sunscreen may be

1 assisted by unlicensed personnel when directed to do so by the child, if
2 permitted by a parent or guardian and authorized by the camp.

3 S 7. Section 1394-a of the public health law, as amended by chapter
4 428 of the laws of 2008, is amended to read as follows:

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

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

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

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

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

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

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

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

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

49 3. When an officer has cause to believe that there has been a
50 violation of this chapter or the sanitary code in the operation of A
51 children's overnight, summer day, [or] traveling summer day, OR SINGLE-
52 PURPOSE DAY camp which constitutes a public health hazard as defined by
53 the sanitary code, and after notice of the violation has been served in
54 writing on the children's overnight, summer day, [or] traveling summer
55 day, OR SINGLE-PURPOSE DAY camp operator in the manner prescribed for

1 the service of summons set forth in the civil practice law and rules, an
2 officer may:

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

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

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

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

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

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

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

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

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