**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 13, TITLE 63 SO AS TO PROVIDE FOR THE LICENSURE AND REGULATION OF SUMMER CAMPS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO DEFINE SUMMER CAMPS AS RESIDENT CAMPS AND DAY CAMPS; TO PROHIBIT PERSONS WHO ARE LISTED AS A PERPETRATOR IN THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT, WHO ARE REQUIRED TO REGISTER UNDER THE SEX OFFENDER REGISTRY, OR WHO HAVE BEEN CONVICTED OF CERTAIN CRIMES TO BE LICENSED TO OPERATE A SUMMER CAMP OR TO BE EMPLOYED BY A SUMMER CAMP AND TO PROVIDE THAT IS A CRIMINAL OFFENSE FOR A PERSON WHO HAS BEEN CONVICTED OF SUCH A CRIME TO APPLY FOR SUCH A LICENSE OR EMPLOYMENT; TO REQUIRE STATE AND FEDERAL FINGERPRINT REVIEWS AS A PREREQUISITE TO LICENSURE AND EMPLOYMENT; TO PROVIDE FOR THE ISSUANCE OF PROVISIONAL LICENSES WHEN THE APPLICANT MEETS CERTAIN PRELIMINARY REQUIREMENTS; TO REQUIRE THE DEPARTMENT TO CONDUCT AN INVESTIGATION OF A SUMMER CAMP APPLICANT FOR LICENSURE; TO REQUIRE A SUMMER CAMP TO HAVE A PERSON ON SITE WHO IS CERTIFIED IN FIRST AID AND IN CHILD‑INFANT CARDIOPULMONARY RESUSCITATION; TO REQUIRE A SUMMER CAMP TO NOTIFY THE DEPARTMENT WHEN A CHILD DIES AT THE SUMMER CAMP; TO REQUIRE THE DEPARTMENT TO ESTABLISH PROCEDURES FOR RECEIVING COMPLAINTS; TO AUTHORIZE THE DEPARTMENT TO CONDUCT INVESTIGATIONS AND INSPECTIONS OF SUMMER DAY CAMPS; TO PROVIDE PROCEDURES FOR ISSUING CORRECTION NOTICES FOR DEFICIENCIES, FOR OBTAINING INJUNCTIONS, AND FOR APPEALS OF DEPARTMENT DECISIONS; TO PROHIBIT A PERSON SEEKING EMPLOYMENT IN THE DEPARTMENT’S SUMMER CAMP LICENSING PROGRAM FROM HAVING BEEN CONVICTED OF CERTAIN CRIMES AND TO PROVIDE THAT IT IS A CRIMINAL OFFENSE FOR A PERSON WHO HAS BEEN CONVICTED OF SUCH AN OFFENSE TO SEEK EMPLOYMENT; AND TO AMEND SECTION 63‑13‑20, RELATING TO DEFINITIONS IN THE LICENSURE AND REGULATION OF CHILDCARE FACILITIES, SO AS TO REVISE THE EXEMPTIONS FROM CHILDCARE LICENSURE FOR SCHOOL CAMPS AND SUMMER RESIDENT CAMPS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Article 13

Summer Camps

Section 63‑13‑1410. (A) For purpose of this article:

(1) ‘Department’ means the Department of Health and Environmental Control.

(2) ‘Summer camp’ includes both summer resident camps for children and summer day camps for children.

(3) ‘Summer day camp for children’ means a program offered during the summer that provides recreational activities primarily during daytime hours and may include an occasional overnight activity under the supervision of the operator.

(4) ‘Summer resident camp for children’ means a twenty‑four‑hour residential program offered during the summer that provides recreational activities for children.

(B) This article does not apply to summer camps operated by educational institutions that are accredited by the Southern Association of Colleges and Secondary Schools, but those educational institutions still must comply with any regulations covering public and private educational institutions.

Section 63‑13‑1420. The intent of this article is to define the regulatory duties of government necessary to safeguard children while attending summer camps. Toward that end, it is the purpose of this article to establish statewide minimum requirements for the care and protection of children attending summer camps and to provide for the enforcement of these requirements to ensure that this purpose is met.

Section 63‑13‑1430. No person, corporation, partnership, voluntary association, or other organization may operate a summer camp unless licensed by the department.

Section 63‑13‑1440. (A) Application for licensure to operate a summer camp must be made on forms supplied by the department and in the manner the department prescribes.

(B) Before issuing a license the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating the summer camp. The applicant shall cooperate with the investigation and related inspections by providing access to the physical facilities and grounds, records, excluding financial records, and staff. The investigation and inspections may involve consideration of any facts, conditions, or circumstances relevant to the operation of the summer camp, including references and other information about the character and quality of the personnel. If the results of the investigation verify that the provisions of this article and the applicable regulations promulgated by the department are satisfied, a license must be issued. Failure to comply with the requirements of this subsection is grounds for denial of licensure.

(C) Failure of the department to issue or deny issuance of a license within ninety days after receipt of a completed application results in the granting of a provisional license.

(D) No license may be issued to an operator who is listed in the Central Registry of Child Abuse and Neglect as the perpetrator in an indicated case or who is required to register under the sex offender registry pursuant to Section 23-3-430 or who has been convicted of:

(1) a crime listed in Chapter 3, Title 16, Offenses Against the Person;

(2) a crime listed in Chapter 15, Title 16, Offenses Against Morality and Decency;

(3) the crime of contributing to the delinquency of a minor, contained in Section 16‑17‑490;

(4) the felonies classified in Section 16‑1‑10(A);

(5) the offenses enumerated in Section 16‑1‑10(D); or

(6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This subsection does not prohibit licensing when a conviction, guilty plea, or plea of nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator.

(E) Application forms for licenses issued pursuant to this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (D) who applies for a license as an operator is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(F) A person applying for a license under this section:

(1) must be screened against the Central Registry of Child Abuse and Neglect in accordance with Section 63‑7‑1980;

(2) shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history;

(3) shall undergo a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history; and

(4) shall undergo a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

The fingerprint reviews required by this subsection are not required upon each renewal unless the renewal coincides with employment of a new operator.

Section 63‑13‑1450. The department may issue a provisional license, if the department is satisfied that the regulations can and will be met within a reasonable time, and the deviations do not seriously threaten the health or safety of the children. A provisional license may be issued for a period as may be determined by the department, and the provisional license may be extended. However, the provisional period and any extension together may not exceed one year.

Section 63‑13‑1460. (A) No summer camp may employ a person or engage the services of a caregiver who is listed in the Central Registry of Child Abuse and Neglect as the perpetrator in an indicated case or who is required to register under the sex offender registry pursuant to Section 23‑3‑430 or who has been convicted of:

(1) a crime listed in Chapter 3, Title 16, Offenses Against the Person;

(2) a crime listed in Chapter 15, Title 16, Offenses Against Morality and Decency;

(3) the crime of contributing to the delinquency of a minor, contained in Section 16‑17‑490;

(4) the felonies classified in Section 16‑1‑10(A), except that this prohibition does not apply to Section 56‑5‑2930, the Class F felony of driving under the influence pursuant to Section 56‑5‑2940(4) if the conviction occurred at least ten years prior to the application for employment and the following conditions are met:

(a) the person has not been convicted in this State or any other state of an alcohol or drug violation during the previous ten‑year period;

(b) the person has not been convicted of and has no charges pending in this State or any other state for a violation of driving while his license is canceled, suspended, or revoked during the previous ten‑year period; and

(c) the person has completed successfully an alcohol or drug assessment and treatment program provided by the South Carolina Department of Alcohol and Other Drug Abuse Services or an equivalent program designated by that agency.

A person who has been convicted of a first‑offense violation of Section 56‑5‑2930 must not drive a motor vehicle or provide transportation while in the official course of his duties as an employee of a summer camp.

If the person subsequently is convicted of, receives a sentence upon a guilty plea or a plea of nolo contendere, or forfeits bail posted for a violation of Section 56‑5‑2930 or for a violation of another law or ordinance of this State or any other state or of a municipality of this State or any other state that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics, the person’s employment must be terminated;

(5) the offenses enumerated in Section 16‑1‑10(D); or

(6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This subsection does not prohibit employment or provision of caregiver services when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, an operator or the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for employment or to provide caregiver services.

(B) A person who has been convicted of a crime enumerated in subsection (A) who applies for employment with, is employed by, or is a caregiver at a summer camp is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(C) Application forms for employment at summer camps must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (A) who applies for employment with, is employed by, or seeks to provide caregiver services or is a caregiver at a summer camp is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(D) A person seeking employment or seeking to provide caregiver services at a summer camp licensed under this article:

(1) must be screened against the Central Registry of Child Abuse and Neglect in accordance with Section 67‑7‑1980;

(2) must be screened against the Sex Offender Registry pursuant to Section 23‑3‑490;

(3) shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history; and

(4) shall undergo a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

Section 63‑13‑1470. For conducting a state criminal history review as required by this article, the State Law Enforcement Division may not impose a fee greater than the fee imposed by the Federal Bureau of Investigation for conducting such a review.

Section 63‑13‑1480. (A) Regular licenses may be renewed upon application and approval. The department shall notify the summer camp of the time, manner, and requirements for license renewal.

(B) Before renewing a license the department shall conduct an investigation of the summer camp. The licensee shall cooperate with the investigation and related inspections by providing access to the physical facilities and grounds, records, excluding financial records, and staff. The investigation and inspections may involve consideration of any facts, conditions, or circumstances relevant to the operation of the summer camp. If the results of the investigation verify that the provisions of this article and the applicable regulations promulgated by the department are satisfied, the license must be renewed.

(C) A license must not be renewed for an operator who has been convicted of:

(1) a crime listed in Chapter 3, Title 16, Offenses Against the Person;

(2) a crime listed in Chapter 15, Title 16, Offenses Against Morality and Decency;

(3) the crime of contributing to the delinquency of a minor, contained in Section 16‑17‑490;

(4) the felonies classified in Section 16‑1‑10(A);

(5) the offenses enumerated in Section 16‑1‑10(D); or

(6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This subsection does not prohibit renewal when a conviction, guilty plea, or plea of nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator.

(D) Application forms for license renewals issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (C) who applies for license renewal as operator is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

Section 63‑13‑1490. (A) Each license must clearly state the name and address of the licensee, the address of the summer camp, and the number of children who may be served. Each summer camp shall display its current license in a prominent place at all times and shall state its license number in all advertisements of the summer camp.

(B) A license may not be transferred and the location of a summer camp or place of performance of service may not be changed without the written consent of the department. The department shall consent to the change for a reasonable period of time when emergency conditions require it, so long as the new location or place of performance substantially conforms to state fire and health requirements.

Section 63‑13‑1500. Every summer camp shall maintain a register setting forth essential facts concerning each child enrolled under the age of eighteen years.

Section 63‑13‑1510. During the hours of operation all summer camps must have at least one caregiver on the premises with a current certificate for the provision of basic first aid and child‑infant cardiopulmonary resuscitation.

Section 63‑13‑1520. Upon the death of a child on the premises of a summer camp in which the child is enrolled or while under the constructive control of the holder of the license of the camp, the holder of the license shall notify the department within forty‑eight hours and follow up with a written report as soon as the stated cause of death is certified by the appropriate government official.

Section 63‑13‑1530. The department shall establish a procedure for receiving and recording complaints. Standard forms may be produced and made available to parents and users of facilities upon request to the department. A copy of any complaint must be made available to the involved operator immediately upon his request.

Section 63‑13‑1540. In carrying out its responsibilities under this article, the department shall investigate and inspect applicants and licensees. An authorized representative of the department may visit a summer camp anytime during the hours of operation to conduct investigations and inspections, and the department may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields. The inspection of the health and fire safety of summer camps must be completed upon the request of the department by the appropriate agencies (i.e., the Office of the State Fire Marshal, or local authorities). Inspection reports completed by state agencies and local authorities must be furnished to the department and become a part of the department’s record to be used in determining the action to be taken. After careful consideration of the assembled record, and consultation where necessary, the department assumes responsibility for the final determination made.

Section 63‑13‑1550. (A) If the department finds upon inspection that a summer camp is not complying with applicable licensing regulations, the department shall notify the operator to correct these deficiencies.

(B) Every correction notice must be in writing and must include a statement of the deficiencies found, the period within which the deficiencies must be corrected, and the regulation upon which the deficiency was based. The period must be reasonable and, except when the department finds an emergency dangerous to the health or safety of children, not less than thirty days from the receipt of the notice.

(C) Within two weeks of receipt of the notice, the operator of the summer camp may file a written request with the department for administrative reconsideration of the notice or any portion of the notice. The department shall grant or deny the written request within seven days of the filing of the request and shall notify the operator of the grant or denial.

(D) If the operator of the summer camp fails to correct deficiencies within the period prescribed, the department may revoke the license.

Section 63‑13‑1560. The department may seek an injunction against the continuing operation of a summer camp in the family court having jurisdiction over the county in which the camp is located if:

(1) a summer camp is operating without a license;

(2) there is any violation of this article or of the regulations promulgated by the department which threatens serious harm to children in the summer camp;

(3) an operator has repeatedly violated this article or the regulations of the department.

Section 63‑13‑1570. (A) An applicant who has been denied a license by the department or whose application for renewal has been denied or whose license is to be revoked must be given prompt written notice by certified or registered mail. The notice must indicate the reasons for the proposed action and shall inform the applicant of the right to appeal the decision to the director in writing within thirty days after receipt of the notice. An appeal from the final decision of the department may be taken to an administrative law judge pursuant to the Administrative Procedures Act.

(B) At a hearing on an appeal to the director, the applicant or licensee may be represented by counsel and has the right to call, examine, and cross‑examine witnesses and to otherwise introduce evidence. Parents appearing at the hearing also may be represented by counsel. The hearing examiner is authorized to require the presence of witnesses and evidence by subpoena on behalf of the appellant or department. The final decision of the department must be in writing, must contain the department’s findings of fact and rulings of law, and must be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise. A full and complete record must be kept of all proceedings, and all testimony must be reported but need not be transcribed unless the department’s decision is appealed, or a transcript is requested by an interested party. Upon an appeal, the department shall furnish to an appellant, free of charge, a certified copy of the transcript of all evidentiary proceedings before the department. Other parties shall pay the cost of transcripts prepared at their request.

(C) The decision of the department is final unless appealed by a party to an administrative law judge pursuant to the Administrative Procedures Act.

Section 63‑13‑1580. (A) The department shall promulgate regulations for the operation and maintenance of summer camps. In developing these regulations, the department shall consult with:

(1) other state agencies, including the Department of Social Services, the Office of the State Fire Marshal, and the Office of the Attorney General;

(2) parents, guardians, or custodians of children who attend summer camps;

(3) child advocacy groups;

(4) operators of summer camps.

(B) The regulations for operating and maintaining summer camps must be designed to promote the health, safety, and welfare of the children who are to be served by requiring safe and adequate physical surroundings and healthful food, and by requiring supervision and care of the children by capable, qualified personnel of sufficient number.

(C) The department shall promulgate regulations in accordance with the Administrative Procedures Act.

Section 63‑13‑1590. (A)(1) Before the department employs a person to work in summer camp licensing, the person shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. No person may be employed in this division if the person has been convicted of or pled guilty or nolo contendere to any crime listed in Section 63‑13‑1450.

(2) This subsection does not prohibit employment when a conviction or plea of guilty or nolo contendere for one of the crimes listed has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for employment.

(B) Notwithstanding subsection (A) or any other provision of law, a person may be provisionally employed to work in summer camp licensing upon receipt and review of the results of the State Law Enforcement Division fingerprint review if the results show no convictions of the crimes referenced in subsection (A). Pending receipt of the results of the Federal Bureau of Investigation fingerprint review, the department must obtain from the prospective employee a written affirmation on a form provided by the department that the employee has not been convicted of any crime referenced in Section 63‑13‑1450.

(C) A person who has been convicted of a crime referenced in Section 63‑13‑1450 who applies for employment with the department to work in summer camp licensing is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.”

SECTION 2. Section 63‑13‑20(4)(e) and (f) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(e) ~~school vacation or school holiday day camps for children operating in distinct sessions running less than three weeks per session unless the day camp permits children to enroll in successive sessions so that their total attendance may exceed three weeks~~ summer day camps for children, as defined in Section 63‑13‑1410;

(f) summer resident camps for children, as defined in Section 63‑13‑1410;”

SECTION 3. This act takes effect July 1, 2010, except that Section 63‑13‑1580 of the 1976 Code, as added by Section 1 of this act, takes effect upon approval by the Governor.

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