**A** **BILL**

TO AMEND TITLE 63 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA CHILDREN’S CODE, BY ADDING CHAPTER 2, TO PROVIDE FOR THE LICENSURE OF SUMMER CAMPS, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MUST INVESTIGATE APPLICANTS FOR LICENSURE, THEIR PROPOSED PLANS OF CARE FOR CHILDREN, AND THEIR PROPOSED PLANS FOR OPERATING THE SUMMER CAMP, TO PROVIDE THAT A LICENSE MAY NOT BE GRANTED TO AN APPLICANT CONVICTED OF CERTAIN CRIMES, TO PROVIDE THAT A PERSON APPLYING FOR A LICENSE PURSUANT TO THIS CHAPTER, A PERSON SEEKING EMPLOYMENT WITH A SUMMER CAMP, OR A PERSON SEEKING TO PROVIDE CAREGIVER SERVICES AT A SUMMER CAMP LICENSED PURSUANT TO THIS CHAPTER SHALL BE SCREENED AGAINST THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT, SHALL UNDERGO A STATE FINGERPRINT REVIEW TO DETERMINE ANY STATE CRIMINAL HISTORY, AND SHALL UNDERGO A FINGERPRINT REVIEW CONDUCTED BY THE FEDERAL BUREAU OF INVESTIGATION TO DETERMINE ANY OTHER CRIMINAL HISTORY, TO PROVIDE THAT 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 IF ANY DEVIATIONS DO NOT SERIOUSLY THREATEN THE HEALTH OR SAFETY OF THE CHILDREN, TO PROVIDE FOR A LICENSE RENEWAL PROCESS, TO PROVIDE THAT EVERY SUMMER CAMP SHALL MAINTAIN A REGISTER SETTING FORTH ESSENTIAL FACTS CONCERNING EACH CHILD ENROLLED UNDER THE AGE OF EIGHTEEN YEARS, TO PROVIDE THAT 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, TO PROVIDE THAT THE DEPARTMENT SHALL ESTABLISH A PROCEDURE FOR RECEIVING AND RECORDING COMPLAINTS, AND TO PROVIDE FOR AN ADMINISTRATIVE PROCEDURES PROCESS FOR HEARINGS; TO AMEND SECTIONS 63-13-20(4)(e) AND (f) OF THE 1976 CODE, RELATING TO DEFINITIONS CONCERNING CHILDCARE FACILITIES, TO INCLUDE SUMMER CAMPS AS DEFINED BY CHAPTER 2; AND TO DEFINE NECESSARY TERMS.

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

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

“CHAPTER 2

Summer Camps

Section 63-2-10. For purposes of this chapter:

(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, lasting four or more consecutive days, that provides recreational, athletic, religious, or educational activities, primarily during any portion of the day between seven o’clock in the morning and ten o’clock at night, and may include an occasional overnight activity under the supervision of the operator.

(4) 'Summer resident camp for children' means a program offered during the summer, lasting more than seventy-two consecutive hours, that provides recreational, athletic, religious, or educational activities for five or more children who are under eighteen years of age and not accompanied by their parents, adult relatives, or legal guardians.

Section 63-2-20. A person, corporation, partnership, association, or other organization must obtain a license from the department in order to operate a summer camp in this State.

Section 63-2-30. (A) Application for licensure to operate a summer camp must be made on forms supplied by the department and in the manner prescribed by the department.

(B) Before issuing a license to operate as a summer camp in this State, the department must investigate the applicant, the proposed plan of care for children, and the proposed plan 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 chapter and the applicable regulations promulgated by the department are satisfied, then a license must be issued.

(C) Failure to comply with subsections (A) and (B) are grounds for denial of licensure.

(D) If the department fails to issue or deny issuance of a license within ninety days of receipt of a completed application, then the applicant is granted a provisional license, except as provided in subsection (E).

(E) A license may not be granted to an applicant who is listed in the Central Registry of Child Abuse and Neglect as the perpetrator in an indicated case, who is required to register under the sex offender registry as provided in Section 23-3-430, or who has been convicted of:

(1) a crime listed in Chapter 3, Title 16;

(2) a crime listed in Chapter 15, Title 16;

(3) contributing to the delinquency of a minor as defined in Section 16-17-490;

(4) those felonies classified in Section 16-1-10;

(5) those offenses enumerated in Section 16-1-10(D); or

(6) a criminal offense similar in nature to those listed in this subsection committed in another jurisdiction or under federal law.

(F) Nothing in this section prohibits an applicant from obtaining licensure when a conviction, guilty plea, or plea of nolo contendere for one of the crimes enumerated in subsection (E) 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.

Section 63-2-40. (A) A person applying for a license pursuant to this chapter, a person seeking employment with a summer camp, or a person seeking to provide caregiver services at a summer camp licensed pursuant to this chapter shall:

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

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

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

(B) The fingerprint reviews required by this section are not required upon each licensure renewal, unless a renewal coincides with the employment of a new operator.

(C) For conducting a state criminal history review as required by this section, 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 63-2-50. 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 if any deviations do not seriously threaten the health or safety of the children. A provisional license may be issued for a period 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 63-2-60. (A) A summer camp may not 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, who is required to register under the sex offender registry as provided in Section 23-3-430, or who has been convicted of:

(1) a crime listed in Chapter 3, Title 16;

(2) a crime listed in Chapter 15, Title 16;

(3) contributing to the delinquency of a minor as defined in Section 16-17-490;

(4) those felonies classified in Section 16-1-10, except as otherwise provided in this section;

(5) those 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.

(B) Subsection (A) does not apply to Section 56-5-2930. A person who has been convicted of a first-offense violation of Section 56-5-2930 shall not operate a motor vehicle or provide transportation while in the course of his duties as an employee of a summer camp. If a person is subsequently convicted of, receives a sentence upon a guilty plea or plea of nolo contendere, or forfeits bail posted for a violation of Section 56-5-2930 or for a violation of another law that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics, then the person’s employment must be terminated.

(C) Subsection (A) does not apply to Section 56-5-2945 if the conviction occurred at least ten years prior to the application for employment and the applicant:

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

(2) 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

(3) has successfully completed 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.

(D) Nothing in this section shall be construed as prohibiting employment of caregiver services when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this section 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.

Section 63-2-70. A license issued pursuant to this chapter may be renewed upon application and approval. The department shall establish and notify summer camps of the time, manner, and requirements for license renewal. However, a license may not be renewed if a summer camp operator:

(1) is convicted of:

(a) a crime listed in Chapter 3, Title 16;

(b) a crime listed in Chapter 15, Title 16;

(c) contributing to the delinquency of a minor as defined in Section 16-17-490;

(d) those felonies classified in Section 16-1-10;

(e) those offenses enumerated in Section 16-1-10(D); or

(f) a criminal offense similar in nature to those listed in this subsection committed in another jurisdiction or under federal law; or

(2) hires an employee or engages the services of a caregiver in violation of Section 63-2-60.

Section 63-2-80. (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 or the location of a summer camp or place of performance of service changed without the written consent of the department. The department shall consent to a change for a reasonable period of time if emergency conditions require it, so long as the new location or place of performance substantially conforms to state fire and health requirements.

Section 63-2-90. Every summer camp shall maintain a register setting forth essential facts concerning each child enrolled under the age of eighteen years.

Section 63-2-100. During 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 63-2-110. 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 63-2-115. 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 63-2-120. In carrying out its responsibilities under this chapter, 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, including 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 63-2-130. (A) If the department finds upon inspection that a summer camp is not complying with applicable licensing regulations, then 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 is 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 in the time period prescribed, then the department may revoke the summer camp’s license.

Section 63-2-140. 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) a violation of this chapter or of the regulations promulgated by the department that threatens serious harm to children in the summer camp exists; or

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

Section 63-2-150. (A) An applicant who has been denied a license by the department, 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 his 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 South Carolina 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 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 South Carolina Administrative Procedures Act.

Section 63-2-160. (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; and

(4) operators of summer camps.

(B) Regulations promulgated concerning the operation and maintenance of 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 a sufficient number of capable, qualified personnel.

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

SECTION 2. Sections 63-13-20(4)(e) and (f) of the 1976 Code are amended to read:

“(4)(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 63-2-10(3);

(f) summer resident camps for children, as defined in Section 63-2-10(4);”

SECTION 3. This act takes effect upon approval by the Governor.

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