

AMENDED IN SENATE JUNE 21, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1660

Introduced by Assembly Member Campos

February 14, 2012

An act to add Chapter 5 (commencing with Section 1706) to Part 6 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1660, as amended, Campos. Representation of minors: permits.

Existing law requires that persons or corporations that act as talent agencies pay a filing fee and obtain a license from the Labor Commissioner.

This bill would prohibit a person, except a person licensed as a talent agent and other specified persons, from representing or providing specified services to artists who are minors, under 18 years of age, unless he or she submits to the Labor Commissioner an application for a Child Performer Services Permit and receives that permit. The bill would require the Labor Commissioner to set forth a filing fee to be paid by the applicant to the commissioner at the time the application for the permit is filed. Upon receiving the application and filing fee and determining from the below-described information provided by the Department of Justice that the applicant is not required to register as a sex offender, as specified, the commissioner shall issue a Child Performer Services Permit to the applicant. The bill would require the applicant to renew the permit on a biennial basis, as specified.

The bill would create the Child Performer Services Permit Fund into which would be deposited the above-described filing fee. Upon appropriation by the Legislature, the proceeds from the fund would be used to pay the costs of the above-described permit program.

This bill would also require each person required to submit the above-described application to submit to the commissioner his or her fingerprints and related information required by the Department of Justice, as specified. The bill would require the Labor Commissioner to electronically submit to the Department of Justice fingerprint images and the related information. The bill would require the Department of Justice to use the fingerprint images and information to provide the Labor Commissioner with both state and federal criminal history information, as specified.

The bill would require the Labor Commissioner to maintain a list of all persons holding a valid Child Performer Services Permit issued under the above-described provisions and make this list publicly available on its Internet Web site.

The bill would prohibit a person, including a person who is licensed as a talent agent and any other person who is exempt from the above-described permit requirement, who is required to register as a sex offender, as specified, from being permitted to represent or provide specified services to artists who are minors.

The bill would provide for penalties for persons who violate its provisions, enforceable by persons injured, and by specified public entities authorized by the bill to seek remedies that include misdemeanor criminal penalties. It would provide that its provisions do not excuse compliance with other laws, and that its remedies are not exclusive.

By providing for criminal penalties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5 (commencing with Section 1706) is
2 added to Part 6 of Division 2 of the Labor Code, to read:

3

4

CHAPTER 5. CHILD PERFORMER SERVICES PERMITS

5

6 1706. (a) (1) No person shall represent or provide specified
7 services to any artist who is a minor, under 18 years of age, without
8 first submitting an application to the Labor Commissioner for a
9 Child Performer Services Permit and receiving that permit.

10

11 (2) The Labor Commissioner shall set forth a filing fee, to be
12 paid by the applicant to the commissioner at the time the
13 application is filed, in an amount sufficient to reimburse the Labor
14 Commissioner for the costs of the permit program, but not to
15 exceed fifty dollars (\$50). This amount shall be in addition to any
16 charge imposed by the Labor Commissioner pursuant to paragraph
17 (3) of subdivision (c).

17

18 (3) (A) The Labor Commissioner shall issue a Child Performer
19 Services Permit to the applicant after he or she has received the
20 application and filing fee and determined from information
21 provided by the Department of Justice that the person is not
22 required to register pursuant to Sections 290 to 290.006, inclusive,
23 of the Penal Code.

23

24 (B) After receiving his or her first Child Performer Services
25 Permit, a person shall on a biennial basis renew his or her
26 application by resubmitting his or her name and a new filing fee
27 to the Labor Commissioner in the amount set forth by the Labor
28 Commissioner pursuant to paragraph (2). The Labor Commissioner
29 shall issue a renewed permit to the person after receiving his or
30 her application and filing fee and determining from the subsequent
31 arrest notification provided by the Department of Justice pursuant
32 to subparagraph (D) of paragraph (2) of subdivision (c) that the
33 person is not required to register pursuant to Sections 290 to
34 290.006, inclusive, of the Penal Code. A person shall not be
35 required to resubmit his or her fingerprints in order to renew his
36 or her permit.

36

37 (b) Except for subdivision ~~(e)~~ (f) and Sections 1706.1 to 1706.5,
38 inclusive, when applied to a violation of subdivision ~~(e)~~ (f), this
chapter does not apply to the following:

1 (1) A person licensed as a talent agent as specified in Chapter
2 4 (commencing with Section 1700), or operating under the license
3 of a talent agent.

4 (2) A studio teacher certified by the Labor Commissioner as
5 defined in Section 11755 of Title 8 of the California Code of
6 Regulations.

7 (3) A person whose contact with minor children is restricted to
8 locations where, either by law or regulation, the minor must be
9 accompanied at all times by a parent or guardian, and the parent
10 or guardian must be within sight or sound of the minor.

11 (4) A person who has only incidental and occasional contact
12 with minor children, unless the person works directly with minor
13 children, has supervision or disciplinary power over minor children,
14 or receives a fee.

15 (c) (1) Each person required to submit an application to the
16 Labor Commissioner pursuant to paragraph (1) of subdivision (a)
17 shall also submit to the Labor Commissioner his or her fingerprints
18 and related information required by the Department of Justice of
19 all permit applicants, for the purposes of obtaining information as
20 to the existence and content of a record of state or federal arrests
21 and convictions, including arrests for which the Department of
22 Justice establishes that the person is free on bail or on his or her
23 recognizance pending trial or appeal.

24 (2) (A) The Labor Commissioner shall electronically submit
25 to the Department of Justice fingerprint images and the related
26 information described in paragraph (1).

27 (B) When received, the Department of Justice shall forward the
28 fingerprint images and related information described in paragraph
29 (1) to the Federal Bureau of Investigation and request a federal
30 summary for criminal history information.

31 (C) (i) The Department of Justice shall review the information
32 returned from the Federal Bureau of Investigation and compile
33 and disseminate a response to the Labor Commissioner.

34 (ii) The Department of Justice's response shall provide both
35 state and federal criminal history information pursuant to paragraph
36 (1) of subdivision (p) of Section 11105 of the Penal Code.

37 (D) The Labor Commissioner shall request from the Department
38 of Justice subsequent arrest notification service, as provided
39 pursuant to Section 11105.2 of the Penal Code, for each person

1 who submitted fingerprint images and the related information
2 pursuant to paragraph (1).

3 (3) (A) The Department of Justice ~~may~~ shall charge the Labor
4 Commissioner a fee sufficient to cover the cost of processing the
5 request described in paragraph (2).

6 (B) In addition to the filing fee paid by the applicant pursuant
7 to subdivision (a) to reimburse the Labor Commissioner for the
8 costs of the permit program, the Labor Commissioner may charge
9 the applicant a fee sufficient to cover the costs of the fee imposed
10 by the Department of Justice pursuant to subparagraph (A). The
11 amount of the fee imposed pursuant to this subparagraph shall be
12 forwarded by the Labor Commissioner to the Department of Justice
13 with the applicant's name, fingerprints, and other information
14 described in paragraph (1). This fee shall be available to the
15 Department of Justice for the purposes described in subparagraph
16 (A), upon appropriation by the Legislature.

17 (4) Upon receipt of information from the Department of Justice
18 provided pursuant to subparagraphs (C) and (D) of paragraph (2),
19 the commissioner shall timely cause a copy of the information to
20 be sent to the person who has submitted the application, and shall
21 keep a copy of the information and application on file. ~~The person
22 shall post this information received from the commissioner in a
23 conspicuous place in his or her place of business.~~

24 (d) The Labor Commissioner shall maintain a list of all persons
25 holding a valid Child Performer Services Permit issued under this
26 chapter and make this list publicly available on its Internet Web
27 site.

28 (e) *Upon receipt of a valid Child Performer Services Permit,*
29 *the recipient shall post the permit in a conspicuous place in his or*
30 *her place of business.*

31 ~~(e)~~

32 (f) No person, including a person described in subdivision (b),
33 who is required to register pursuant to Sections 290 to 290.006,
34 inclusive, of the Penal Code may represent or provide specified
35 services to any artist who is a minor.

36 ~~(f)~~

37 (g) For purposes of this section, the following terms have the
38 following meanings:

39 (1) ~~“Artist” or “artists” means persons who seek to become or~~
40 ~~are actors or actresses rendering services on the legitimate stage~~

1 ~~or in the production of motion pictures, radio artists, musical artists,~~
2 ~~musical organizations, directors of legitimate stage, motion picture,~~
3 ~~and radio productions, musical directors, writers, cinematographers,~~
4 ~~composers, lyricists, arrangers, models, extras, and other artists or~~
5 ~~persons rendering professional services in motion picture,~~
6 ~~theatrical, radio, television, advertising, including print advertising,~~
7 ~~and other entertainment enterprises means a person who is or seeks~~
8 ~~to become an actor, actress, model, extra, radio artist, musical~~
9 ~~artist, musical organization, director, musical director, writer,~~
10 ~~cinematographer, composer, lyricist, arranger, or other person~~
11 ~~rendering professional services in motion picture, theatrical, radio,~~
12 ~~television, Internet, print media, or other entertainment enterprises~~
13 ~~or technologies.~~

14 (2) Except as used in the context of a fee an applicant is required
15 to pay with his or her application, “fee” means any money or other
16 valuable consideration paid or promised to be paid by an artist, by
17 an individual on behalf of an artist, or by a corporation formed on
18 behalf of an artist for services rendered or to be rendered by any
19 person conducting the business of representing artists.

20 (3) “Person” means any individual, company, society, firm,
21 partnership, association, corporation, limited liability company,
22 trust, or other organization.

23 (4) To “represent or provide specified services to” means to
24 provide, *offer to provide, or advertise or represent as providing,*
25 for a fee one or more of the following services:

26 (A) *Photography for use as an artist, including, but not limited*
27 *to, still photography, digital photography, and video and film*
28 *services provided directly to the artist.*

29 (B) Managing or directing the development or advancement of
30 the artist’s career as an artist.

31 (C) Career counseling, career consulting, vocational guidance,
32 aptitude testing, evaluation, or planning, in each case relating to
33 the preparation of the artist for employment as an artist.

34 (D) Public relations services or publicity, or both, including
35 arranging personal appearances, developing and distributing press
36 packets, managing fan mail, designing and maintaining Internet
37 Web sites, and consulting on media relations.

38 (E) *Instruction, evaluation, or teaching of lessons, coaching,*
39 *seminars, workshops, or similar training as an artist, including,*

1 *but not limited to*, acting, singing, dance, voice, or similar
2 instruction services.

3 ~~(g)~~

4 *(F) A camp for artists, which includes, but is not limited to, a*
5 *day camp or overnight camp in which any portion of the camp*
6 *includes any services described in subparagraphs (A) to (E),*
7 *inclusive.*

8 *(h) The Labor Commissioner shall deposit all filing fees*
9 *described in subdivision (a) into the Child Performer Services*
10 *Permit Fund, which is hereby created in the State Treasury. The*
11 *funds deposited in the Child Performer Services Permit Fund shall*
12 *be available to the Labor Commissioner, upon appropriation by*
13 *the Legislature, to pay for the costs of administration of the Child*
14 *Performer Services Permit program.*

15 1706.1. A person who willfully violates any provision of this
16 chapter is guilty of a misdemeanor. Each violation is punishable
17 by a fine not exceeding ten thousand dollars (\$10,000), by
18 imprisonment in a county jail for not more than one year, or by
19 both that fine and imprisonment.

20 1706.2. The Attorney General, any district attorney, or any
21 city attorney may institute an action for a violation of this chapter,
22 including an action to restrain and enjoin a violation.

23 1706.3. A person who is injured by any violation of this chapter
24 may bring an action to recover damages or to restrain and enjoin
25 a violation, or both. The amount of damages that may be awarded
26 for a violation of this chapter is up to three times the damages
27 actually incurred. A final judgment may be satisfied from the bond
28 or deposit maintained by the Labor Commissioner, if any. A person
29 bringing an action under this chapter who prevails shall be awarded
30 reasonable attorney's fees and costs. The court may award punitive
31 damages in addition to any other amounts if it determines, by clear
32 and convincing evidence, that the violation of this chapter was
33 willful.

34 1706.4. The provisions of this chapter are not exclusive and
35 do not relieve any person subject to this chapter from the duty to
36 comply with all other laws.

37 1706.5. The remedies provided in this chapter are not exclusive
38 and are in addition to any other remedies or procedures provided
39 in any other law.

1 SEC. 2. If any provision of this act or the application thereof
2 to any person or circumstances is held to be unconstitutional in a
3 reported opinion of a court of competent jurisdiction, the remainder
4 of the act and the application of that provision to other persons
5 and circumstances shall not be affected.

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.