

## Assembly Bill No. 1660

### CHAPTER 634

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

[Approved by Governor September 27, 2012. Filed with Secretary of State September 27, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1660, 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. The bill would authorize the Labor Commissioner, until June 30, 2013, on a one-time basis, to borrow and repay up to \$250,000 from the Labor Enforcement and Compliance Fund to the Child Performer Services Permit Fund for startup costs related to the above-described permit program.

This bill would also require each person required to submit the above-described application to provide electronic fingerprint images 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.

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

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

#### CHAPTER 5. CHILD PERFORMER SERVICES PERMITS

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

(2) The Labor Commissioner shall set forth a filing fee, to be paid by the applicant to the commissioner at the time the application is filed, in an amount sufficient to reimburse the Labor Commissioner for the costs of the permit program. This amount shall be in addition to any charge imposed by the Labor Commissioner pursuant to paragraph (3) of subdivision (c).

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

(B) After receiving his or her first Child Performer Services Permit, a person shall on a biennial basis renew his or her application by resubmitting his or her name and a new filing fee to the Labor Commissioner in the amount set forth by the Labor Commissioner pursuant to paragraph (2). The Labor Commissioner shall issue a renewed permit to the person after

receiving his or her application and filing fee and determining from the subsequent arrest notification provided by the Department of Justice pursuant to subparagraph (D) of paragraph (2) of subdivision (c) that the person is not required to register pursuant to Sections 290 to 290.006, inclusive, of the Penal Code. A person shall not be required to resubmit his or her fingerprints in order to renew his or her permit.

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

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

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

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

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

(c) (1) Each person required to submit an application to the Labor Commissioner pursuant to paragraph (1) of subdivision (a) shall provide to the Department of Justice electronic fingerprinted images and related information required by the department of all permit applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal arrests and convictions, including arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

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

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

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

(C) The Labor Commissioner shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for each person who submitted fingerprint images and the related information pursuant to paragraph (1).

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

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

(4) Upon receipt of information from the Department of Justice provided pursuant to subparagraphs (C) and (D) of paragraph (2), the commissioner shall timely cause a copy of the information to be sent to the person who has submitted the application, and shall keep a copy of the information and application on file.

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

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

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

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

(1) "Artist" means a person who is or seeks to become an actor, actress, model, extra, radio artist, musical artist, musical organization, director, musical director, writer, cinematographer, composer, lyricist, arranger, or other person rendering professional services in motion picture, theatrical, radio, television, Internet, print media, or other entertainment enterprises or technologies.

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

(3) "Person" means any individual, company, society, firm, partnership, association, corporation, limited liability company, trust, or other organization.

(4) To "represent or provide specified services to" means to provide, offer to provide, or advertise or represent as providing, for a fee one or more of the following services:

(A) Photography for use as an artist, including, but not limited to, still photography, digital photography, and video and film services.

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

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

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

(E) Instruction, evaluation, lessons, coaching, seminars, workshops, or similar training as an artist, including, but not limited to, acting, singing, dance, voice, or similar instruction services.

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

(h) (1) The Labor Commissioner shall deposit all filing fees described in subdivision (a) into the Child Performer Services Permit Fund, which is hereby created in the State Treasury. The funds deposited in the Child Performer Services Permit Fund shall be available to the Labor Commissioner, upon appropriation by the Legislature, to pay for the costs of administration of the Child Performer Services Permit program and to repay any loan from the Labor Enforcement and Compliance Fund made pursuant to paragraph (2).

(2) Until June 30, 2013, the Labor Commissioner may, on a one-time basis, borrow up to two hundred fifty thousand dollars (\$250,000) from the Labor Enforcement and Compliance Fund, as established by subdivision (e) of Section 62.5, for deposit in the Child Performer Services Permit Fund to cover the one-time startup costs related to the Child Performer Services Permit program. The loan shall be repaid to the Labor Enforcement and Compliance Fund, or any successor fund, as soon as sufficient funds exist in the Child Performer Services Permit Fund to repay the loan without compromising the operations of the permit program.

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

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

1706.3. A person who is injured as a result of any violation of this chapter committed by a person required to obtain a permit pursuant to paragraph (1) of subdivision (a) of Section 1706 may bring an action to recover damages or to restrain and enjoin a violation, or both. The amount of damages that may be awarded for a violation of this chapter is up to three times the damages actually incurred. A final judgment may be satisfied from the bond or deposit maintained by the Labor Commissioner, if any. A person bringing an action under this chapter who prevails shall be awarded

reasonable attorney's fees and costs. The court may award punitive damages in addition to any other amounts if it determines, by clear and convincing evidence, that the violation of this chapter was willful.

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

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

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

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