

HEALTH & SAFETY CODE

SUBTITLE G. LICENSES

CHAPTER 141. YOUTH CAMPS

' 141.001. SHORT TITLE. This chapter may be cited as the Texas Youth Camp Safety and Health Act.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.

' 141.002. DEFINITIONS. In this chapter:

(1) "Camper" means a minor who is attending a youth camp on a day care or boarding basis.

(2) "Day camp" includes any camp that primarily operates during any portion of the day between 7 a.m. and 10 p.m. for a period of four or more consecutive days but may incidentally offer not more than two overnight stays each camp session. The term does not include a facility required to be licensed with the Department of Protective and Regulatory Services.

(3) "Person" means an individual, partnership, corporation, association, or organization.

(4) "Resident youth camp" includes any camp that for a period of four or more days continuously provides residential services, including overnight accommodations for the duration of the camp session.

(5) "Youth camp" means a facility or property, other than a facility required to be licensed by the Department of Protective and Regulatory Services, that:

(A) has the general characteristics of a day camp, resident camp, or travel camp;

(B) is used primarily or partially for recreational, athletic, religious, or educational activities; and

(C) accommodates at least five minors who attend or temporarily reside at the camp for all or part of at least four days.

(6) "Youth camp operator" means a person who owns, operates, controls, or supervises a youth camp, regardless of profit.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 251, ' 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, ' 8.076, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1373, ' 1, eff. Sept. 1, 2001.

' 141.0021. EXEMPTION. This chapter does not apply to a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

Added by Acts 2003, 78th Leg., ch. 1302, ' 1, eff. June 20, 2003.

' 141.003. LICENSE REQUIRED. A person may not own, operate, control, or supervise a youth camp unless the person:

- (1) holds a license issued under this chapter for that camp; and
- (2) complies with this chapter and department rules and orders.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.

' 141.0035. LICENSE FEES.

(a) The board by rule shall establish the amount of the fee for obtaining or renewing a license under this chapter. The board shall set the fee in a reasonable amount designed to recover the direct and indirect costs to the department of administering and enforcing this chapter. The board may set fees in a different amount for resident youth camps and day youth camps to reflect differences in the costs of administering and enforcing this chapter for resident and day camps.

(b) Before adopting or amending a rule under Subsection (a), the board shall solicit comments and information from the operators of affected youth camps and allow affected youth camp operators the opportunity to meet with appropriate department staff who are involved with the rulemaking process.

Added by Acts 2003, 78th Leg., ch. 1110, ' 1, eff. Sept. 1, 2003.

' 141.004. LICENSE APPLICATION AND ISSUANCE.

(a) To obtain a license, a person must submit a license application accompanied by a license fee in an amount set by the board.

(b) On receiving a license application, the department shall inspect the applicant's facilities, operations, and premises and shall issue a license to each applicant who will operate a youth camp in accordance with this chapter and rules adopted under this chapter.

(c) The department shall issue serially numbered licenses.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 251, ' 2, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1110, ' 2, eff. Sept. 1, 2003.

' 141.005. LICENSE RENEWAL.

(a) A person holding a license issued under this chapter must renew the license annually by submitting a renewal application on a date determined by board rule on a form provided by the department.

(b) The application must be accompanied by a renewal fee in an amount set by the board.

(c) The department may not renew the license of a youth camp which has not corrected deficiencies before the application for renewal is submitted. The board shall adopt substantive and procedural rules for the submission by a youth camp operator of evidence that a deficiency or deficiencies have been corrected.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 251, ' 3, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1373, ' 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1110, ' 3, eff. Sept. 1, 2003.

' 141.006. PRINCIPAL AUTHORITY FOR YOUTH CAMPS. The department is the principal authority on matters relating to health and safety conditions at youth camps. In addition to the powers and duties established by this chapter, the department has any other powers necessary and convenient to carry out its responsibilities under this chapter.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.

' 141.007. INSPECTIONS.

(a) An employee or agent of the department may enter any property for which a license is issued under this chapter, property for which a license application to operate a youth camp is pending, or property on which a youth camp is in operation to investigate and inspect conditions relating to the health and safety of the campers.

(b) An employee or agent who enters a youth camp to investigate and inspect conditions shall notify the person in charge of the camp of the inspector's presence and shall present proper credentials. The department may exercise the remedies authorized by Section 141.014(b) if the employee or agent is not allowed to enter.

(c) The department may prescribe reasonable record-keeping requirements for licensed youth camps, including a requirement that the youth camp keep records relating to matters involving the health and safety of campers. An employee or agent of the department may examine, during regular business hours, any records relating to the health and safety of campers.

(d) An employee or agent of the department who enters a youth camp to investigate and inspect conditions shall:

(1) notify the person in charge of the camp or the person's designee of any violations as they are discovered; and

(2) allow the camp to correct the violations while the investigation and inspection is occurring.

(e) The department may not extend or delay an investigation or inspection to allow the youth camp to correct a violation under Subsection (d) (2).

(f) An employee or agent of the department performing an investigation and inspection under this section may not report a violation that is significant under the department's rules if the violation is corrected during the investigation and inspection.

(g) A penalty may not be imposed on a youth camp for a violation that is significant under the department's rules if the violation is corrected during an investigation and inspection under this section.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 636, ' 1, eff. Sept. 1, 2003.

' 141.008. ADOPTION OF RULES; EXEMPTION FROM APPLICATION OF CERTAIN RULES.

(a) The board may adopt rules to implement this chapter. In adopting the rules the board shall comply with Subchapter B, Chapter 2001, Government Code, including Sections 2001.032(b) and 2001.033, Government Code. In developing the rules, the board shall consult parents, youth camp operators, and appropriate public and private officials and organizations.

(b) A youth camp operator may grant an exemption from compliance with a rule that requires physical examinations or inoculations for children or staff if the exemption is requested on the grounds of religious convictions.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 636, ' 2, eff. Sept. 1, 2003.

' 141.009. STANDARDS. The board by rule shall establish health and safety standards for youth camps. The standards may relate to:

- (1) adequate and proper supervision at all times of camp activities;
- (2) qualifications for directors, supervisors, and staff and sufficient numbers of those persons;
- (3) proper safeguards for sanitation and public health;
- (4) adequate medical services for personal health and first aid;
- (5) proper procedures for food preparation, handling, and mass feeding;
- (6) healthful and sufficient water supply;
- (7) proper waste disposal;
- (8) proper water safety procedures for swimming pools, lakes, and waterways;
- (9) safe boating equipment;
- (10) proper maintenance and safe use of motor vehicles;
- (11) safe buildings and physical facilities;
- (12) proper fire precautions;
- (13) safe and proper recreational and other equipment;
- (14) proper regard for density and use of the premises; and
- (15) records of criminal convictions of camp personnel.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1373, ' 3, eff. Sept. 1, 2001.

' 141.0095. TRAINING AND EXAMINATION PROGRAM.

(a) A person holding a license issued under this chapter may not employ or accept the volunteer service of an individual for a position involving contact with campers at a youth camp unless:

(1) the individual submits to the person or the youth camp has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program required by this section; or

(2) the individual successfully completes the youth camp's training and examination program, which must be approved by the

department as required by this section, during the individual's first workweek and the youth camp issues and files documentation verifying that fact.

(b) A person holding a license issued under this chapter must retain in the person's records a copy of the documentation required or issued under Subsection (a) for each employee or volunteer until the second anniversary of the examination date.

(c) A person applying for or holding an employee or volunteer position involving contact with campers at a youth camp must successfully complete the training and examination program on sexual abuse and child molestation required by this section during the applicable period described by Subsection (a).

(d) In accordance with this section and the criteria and guidelines developed by the training advisory committee established under Section 141.0096, the executive commissioner of the Health and Human Services Commission by rule shall establish criteria and guidelines for training and examination programs on sexual abuse and child molestation. The department may approve training and examination programs offered by trainers under contract with youth camps or by online training organizations or may approve programs offered in another format authorized by the department.

(e) A training and examination program on sexual abuse and child molestation approved by the department must include training and an examination on:

- (1) the definitions and effects of sexual abuse and child molestation;
- (2) the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk;
- (3) the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse; and
- (4) the recommended rules and procedures for youth camps to implement to address, reduce, prevent, and report suspected sexual abuse or child molestation.

(f) The department may assess a fee in the amount necessary to cover the costs of administering this section to each person that applies for the department's approval of a training and examination program on sexual abuse and child molestation under this section.

(g) The department at least every five years shall review each training and examination program on sexual abuse and child molestation approved by the department to ensure the program continues to meet the criteria and guidelines established by rule under this section.

Added by Acts 2005, 79th Leg., ch. 860, ' 1, eff. Sept. 1, 2005.

' 141.0096. TRAINING ADVISORY COMMITTEE.

(a) The department shall appoint a training advisory committee to advise the department and the executive commissioner of the Health and Human Services Commission in the development of criteria and guidelines for the training and examination program on sexual abuse and child molestation required under Section 141.0095 and to perform any other functions requested by the department.

(b) The training advisory committee consists of not more than nine members selected by the commissioner of state health services as follows:

(1) at least two members who represent the general public; and
(2) other members, who include experienced camping professionals representing the camping communities of this state, representatives of youth camps selected by the department, and representatives of the Council on Sex Offender Treatment established under Chapter 110, Occupations Code.

(c) The training advisory committee shall meet at the call of the commissioner of state health services.

(d) The training advisory committee may elect a chair, vice chair, and secretary from among its members and may adopt rules for the conduct of its own activities.

(e) An advisory committee member may not receive compensation or reimbursement of expenses for serving on the advisory committee.

Added by Acts 2005, 79th Leg., ch. 860, ' 1, eff. Sept. 1, 2005.

' 141.010. ADVISORY COMMITTEE.

(a) The board shall appoint a committee to advise the board in the development of standards and procedures, make recommendations to the board regarding the content of the rules adopted to implement this Act, and perform any other functions requested by the board in the implementation and administration of the Act.

(b) The advisory committee may not exceed nine members, at least two of whom shall be members of the general public. The other members should be experienced camping professionals who represent the camping communities of the state. In making the appointments, the board shall attempt to reflect the geographic diversity of the state in proportion to the number of camps licensed by the department in each geographic area of the state.

(c) Advisory committee members serve for staggered six-year terms, with the terms of three members expiring on August 31 of each odd-numbered year.

(d) A vacancy on the advisory committee is filled by the board in the same manner as other appointments to the advisory committee.

(e) The advisory committee will meet annually and at the call of the commissioner.

(f) The advisory committee may elect a chairperson, vice-chairperson, and secretary from among its members and may adopt rules for the conduct of its own activities.

Added by Acts 1991, 72nd Leg., ch. 251, ' 4, eff. Sept. 1, 1991.

Amended by Acts 2003, 78th Leg., ch. 636, ' 3, eff. Sept. 1, 2003.

' 141.011. OPERATOR'S DUTY. A youth camp operator shall provide each camper with safe and healthful conditions, facilities, and equipment that are free from recognized hazards that cause or may tend to cause death, serious illness, or bodily harm.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.
Renumbered from ' 141.010 by Acts 1991, 72nd Leg., ch. 251, '
4, eff. Sept. 1, 1991.

' 141.012. LICENSE REVOCATION.

(a) If the department finds that a violation of this chapter or a rule adopted under this chapter has occurred or is occurring at a youth camp for which a license has been issued, the department shall give written notice to the licensee setting forth the nature of the violation and demanding that the violation cease.

(b) The department may initiate proceedings to revoke the license if the licensee refuses or fails to comply with the notice in the time and manner directed in the notice.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.
Renumbered from ' 141.011 by Acts 1991, 72nd Leg., ch. 251, '
4, eff. Sept. 1, 1991.

' 141.013. BOARD HEARINGS.

(a) The board may:

(1) call and conduct hearings;

(2) administer oaths;

(3) receive evidence;

(4) issue subpoenas for witnesses, papers, and documents related to the hearing; and

(5) make findings of fact and decisions concerning the administration of this chapter and rules adopted under this chapter.

(b) The board may delegate the authority to call and conduct hearings to employees of the department.

(c) Reasonable notice of the hearing shall be given to all involved parties.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.
Renumbered from ' 141.012 by Acts 1991, 72nd Leg., ch. 251, '
4, eff. Sept. 1, 1991.

' 141.014. JUDICIAL REVIEW. A person affected by a ruling, order, or other act of the department may appeal the action.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.
Renumbered from ' 141.013 by Acts 1991, 72nd Leg., ch. 251, '
4, eff. Sept. 1, 1991.

' 141.015. CIVIL PENALTY; INJUNCTION.

(a) A person who violates this chapter or a rule or order adopted under this chapter is subject to a civil penalty of not less than \$50 or more than \$1,000 for each act of violation.

(b) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule or order adopted under this chapter, the department may bring a civil action in a district court for:

(1) injunctive relief to restrain the person from continuing the violation or threat of violation;

(2) the assessment of a civil penalty; or

(3) both injunctive relief and a civil penalty.

(c) The district court, on a finding that the person is violating this chapter or a rule or order adopted under this chapter, shall grant the injunctive relief, assess a civil penalty, or both, as warranted by the facts.

(d) The department may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that a person:

(1) is violating or threatening to violate this chapter or a rule or order adopted under this chapter; or

(2) is taking any other action that creates an emergency condition that constitutes an imminent danger to the health, safety, or welfare of campers at a youth camp.

(e) An action for injunctive relief, recovery of a civil penalty, or both, may be brought in the county in which the defendant resides or in which the violation or threat of violation occurs.

(f) In an action for injunctive relief under this section, the court may grant any prohibitory or mandatory injunction warranted by the facts, including temporary restraining orders, temporary injunctions, and permanent injunctions. The court shall grant injunctive relief without a bond or other undertaking by the department.

(g) An appellate court shall give precedence to an action brought under this section over other cases of a different nature on the docket of the court.

(h) A civil penalty recovered in an action brought by the department under this chapter shall be deposited to the credit of the youth camp health and safety fund.

Acts 1989, 71st Leg., ch. 678, ' 1, eff. Sept. 1, 1989.

Renumbered from ' 141.014 by Acts 1991, 72nd Leg., ch. 251, ' 4, eff. Sept. 1, 1991.

' 141.016. ADMINISTRATIVE PENALTY.

(a) The commissioner may assess an administrative penalty if a person violates this Act or a rule or order adopted or license issued under this Act.

(b) In determining the amount of the penalty, the commissioner shall consider:

(1) the person's previous violations;

(2) the seriousness of the violation;

(3) any hazard to the health and safety of the public;

(4) the person's demonstrated good faith; and

(5) such other matters as justice may require.

(c) The penalty may not exceed \$1,000 a day for each violation.

(d) Each day a violation continues may be considered a separate

violation.

Added by Acts 1991, 72nd Leg., ch. 251, ' 5, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 1373, ' 4, eff. Sept. 1,
2001; Acts 2003, 78th Leg., ch. 636, ' 4, eff. Sept. 1, 2003.

' 141.017. ADMINISTRATIVE PENALTY ASSESSMENT PROCEDURE.

- (a) An administrative penalty may be assessed only after a person charged with a violation is given an opportunity for a hearing.
- (b) If a hearing is held, the commissioner shall make findings of fact and shall issue a written decision regarding the occurrence of the violation and the amount of the penalty that may be warranted.
- (c) If the person charged with the violation does not request a hearing, the commissioner may assess a penalty after determining that a violation has occurred and the amount of the penalty that may be warranted.
- (d) After making a determination under this section that a penalty is to be assessed against a person, the commissioner shall issue an order requiring that the person pay the penalty.
- (e) The commissioner may consolidate a hearing held under this section with another proceeding.

Added by Acts 1991, 72nd Leg., ch. 251, ' 5, eff. Sept. 1, 1991.

' 141.018. PAYMENT OF ADMINISTRATIVE PENALTY.

- (a) Not later than the 30th day after the date an order finding that a violation has occurred is issued, the commissioner shall inform the person against whom the order is issued of the amount of the penalty for the violation.
- (b) Not later than the 30th day after the date on which a decision or order charging a person with a penalty is final, the person shall:
 - (1) pay the penalty in full; or
 - (2) if the person seeks judicial review of the amount of the penalty, the fact of the violation, or both:
 - (A) send the amount of the penalty to the commissioner for placement in an escrow account; or
 - (B) post with the commissioner a bond for the amount of the penalty.
- (c) A bond posted under this section must be in a form approved by the commissioner and be effective until all judicial review of the order or decision is final.
- (d) A person who does not send money to the commissioner or post the bond within the period prescribed by Subsection (b) waives all rights to contest the violation or the amount of the penalty.

Added by Acts 1991, 72nd Leg., ch. 251, ' 5, eff. Sept. 1, 1991.

' 141.019. REFUND OF ADMINISTRATIVE PENALTY. Not later than the 30th day after the date of a judicial determination that an administrative

penalty against a person should be reduced or not assessed, the commissioner shall:

- (1) remit to the person the appropriate amount of any penalty payment plus accrued interest; or
- (2) execute a release of the bond if the person has posted a bond.

Added by Acts 1991, 72nd Leg., ch. 251, ' 5, eff. Sept. 1, 1991.

' 141.020. RECOVERY OF ADMINISTRATIVE PENALTY BY ATTORNEY GENERAL. The attorney general at the request of the commissioner may bring a civil action to recover an administrative penalty under this chapter.

Added by Acts 1991, 72nd Leg., ch. 251, ' 5, eff. Sept. 1, 1991.