

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. ~~Existing law also requires that applicants for the license provide their business history and financial information along with fingerprints and affidavits from personal references. Talent agencies are also required to post a bond with the commissioner before a license is issued. Licenses may not be granted to agencies that would endanger the health, safety, or welfare of the artists represented. Existing law also provides that the commissioner may revoke the license of any agency for failure to comply with these provisions or if the licensee has ceased to be of good moral character.~~

This bill would prohibit a person, ~~subject to specified exceptions~~ *except a person licensed as a talent agent and other specified persons*, from representing or providing specified services to artists who are minors, under ~~16~~ 18 years of age, unless he or she submits to the Labor Commissioner an application for a ~~Minor's Representation~~ *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 ~~subject to public notification on an Internet Web site required to register~~ as a sex offender, as specified, the commissioner shall issue a ~~Minor's Representation~~ *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 ~~Minor's Representation~~ *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, on a one-time basis, to borrow and repay up to \$250,000 from the Labor Enforcement and Compliance Fund to the ~~Minor's Representation~~ *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 submit to the commissioner ~~two sets of his or her fingerprints and related information required by the Department of Justice~~, as specified. The bill would require the commissioner to forward the name of each applicant and his or her fingerprint card to the Department of Justice. ~~The bill would require the department to provide the commissioner with information about any person matching that name and fingerprints for whom information may be available to the public on an Internet Web site by virtue of the person's status as a sex offender~~ *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~~

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 identified as a sex offender subject to public disclosure on the Internet 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. ~~MINOR'S REPRESENTATION~~ CHILD PERFORMER
5 SERVICES PERMITS
6

7 1706. (a) (1) No person shall represent or provide specified
8 services to any artist who is a minor, under ~~16~~ 18 years of age,
9 without first submitting an application to the Labor Commissioner
10 for a ~~Minor's Representation~~ Child Performer Services Permit and
11 receiving that permit.

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

20 (3) (A) The Labor Commissioner shall issue a ~~Minor's~~
21 ~~Representation~~ Child Performer Services Permit to the applicant

1 after he or she has received the application and filing fee and
2 determined from information provided by the Department of Justice
3 that the person is not subject to public notification on an Internet
4 Web site in accordance with Section 290.46 required to register
5 pursuant to Sections 290 to 290.006, inclusive, of the Penal Code.

6 (B) After receiving his or her first ~~Minor's Representation~~ *Child*
7 *Performer Services* Permit, a person shall on a biennial basis renew
8 his or her application by resubmitting his or her name and a new
9 filing fee to the Labor Commissioner in the amount set forth by
10 the Labor Commissioner pursuant to paragraph (2). The Labor
11 Commissioner shall issue a renewed permit to the person after
12 receiving his or her application and filing fee. ~~Subdivision (c) shall~~
13 ~~not apply with respect to permit renewals and determining from~~
14 ~~the subsequent arrest notification provided by the Department of~~
15 ~~Justice pursuant to subparagraph (D) of paragraph (2) of~~
16 ~~subdivision (c) that the person is not required to register pursuant~~
17 ~~to Sections 290 to 290.006, inclusive, of the Penal Code. A person~~
18 ~~shall not be required to resubmit his or her fingerprints in order~~
19 ~~to renew his or her permit.~~

20 (b) ~~This~~ *Except for subdivision (e) and Sections 1706.1 to*
21 *1706.5, inclusive, when applied to a violation of subdivision (e),*
22 *this chapter does not apply to the following:*

23 (1) A person licensed as a talent agent as specified in Chapter
24 4 (commencing with Section 1700), or operating under the license
25 of a talent agent.

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

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

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

37 (c) (1) Each person required to submit an application to the
38 Labor Commissioner pursuant to paragraph (1) of subdivision (a)
39 shall also submit to the Labor Commissioner ~~two sets of~~ his or her
40 fingerprints *and related information required by the Department*

1 of Justice of all permit applicants, for the purposes of obtaining
2 information as to the existence and content of a record of state or
3 federal arrests and convictions, including arrests for which the
4 Department of Justice establishes that the person is free on bail
5 or on his or her recognizance pending trial or appeal.

6 (2) (A) The Labor Commissioner shall ~~forward the name of~~
7 ~~each person submitting an application pursuant to paragraph (1)~~
8 ~~of subdivision (a) and his or her fingerprints to the Department of~~
9 ~~Justice electronically submit to the Department of Justice~~
10 ~~fingerprint images and the related information described in~~
11 ~~paragraph (1).~~

12 ~~(3) (A) Upon receiving the name and fingerprints of an~~
13 ~~applicant, the Department of Justice shall provide the Labor~~
14 ~~Commissioner with information on any person matching that name~~
15 ~~and fingerprints for whom information may be available to the~~
16 ~~public on an Internet Web site as provided in Section 290.46 of~~
17 ~~the Penal Code, to the extent the information may be disclosed~~
18 ~~pursuant to that section.~~

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

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

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

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

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

38 (B) In addition to the filing fee paid by the applicant pursuant
39 to subdivision (a) to reimburse the Labor Commissioner for the
40 costs of the permit program, the Labor Commissioner may charge

1 ~~the applicant a fee determined by the Department of Justice to be~~
 2 ~~sufficient to cover the costs incurred by the department in providing~~
 3 ~~the services described in~~ *sufficient to cover the costs of the fee*
 4 *imposed by the Department of Justice pursuant to* subparagraph
 5 (A). The amount of the fee *imposed pursuant to this subparagraph*
 6 shall be forwarded by the Labor Commissioner to the Department
 7 of Justice with the applicant's name ~~and~~, fingerprints, *and other*
 8 *information described in paragraph (1)*. This fee shall be available
 9 to the Department of Justice for the purposes described in ~~this~~
 10 subparagraph (A), upon appropriation by the Legislature.

11 (4) Upon receipt of information from the Department of Justice
 12 provided pursuant to ~~paragraph (3)~~ *subparagraphs (C) and (D) of*
 13 *paragraph (2)*, the commissioner shall timely cause a copy of the
 14 information to be sent to the person who has submitted the
 15 application, and shall keep a copy of the information and
 16 application on file. The person shall post this information received
 17 from the commissioner in a conspicuous place in his or her place
 18 of business.

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

23 ~~(d)~~
 24 (e) No person, *including a person described in subdivision (b)*,
 25 who is ~~subject to public notification on an Internet Web site in~~
 26 ~~accordance with Section 290.46~~ *required to register pursuant to*
 27 *Sections 290 to 290.006, inclusive*, of the Penal Code may represent
 28 or provide specified services to any artist who is a minor.

29 ~~(e)~~
 30 (f) For purposes of this section, the following terms have the
 31 following meanings:

32 (1) "Artist" or "artists" means persons who seek to become or
 33 are actors or actresses rendering services on the legitimate stage
 34 or in the production of motion pictures, radio artists, musical artists,
 35 musical organizations, directors of legitimate stage, motion picture,
 36 and radio productions, musical directors, writers, cinematographers,
 37 composers, lyricists, arrangers, models, extras, and other artists or
 38 persons rendering professional services in motion picture,
 39 theatrical, radio, television, *advertising, including print advertising*,
 40 and other entertainment enterprises.

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

7 (3) “Person” means any individual, company, society, firm,
8 partnership, association, corporation, limited liability company,
9 trust, or other organization.

10 (4) To “represent or provide specified services to” means to
11 provide for a fee one or more of the following services:

12 (A) Photography, including still photography, digital
13 photography, and video and film services provided directly to the
14 artist.

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

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

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

24 (E) *Instruction, evaluation, or teaching of acting, singing, dance,*
25 *voice, or similar instruction services.*

26 ~~(f) (1) The~~

27 (g) (1) ~~The~~ Labor Commissioner shall deposit all filing fees
28 described in subdivision (a) into the ~~Minor’s Representation~~ *Child*
29 *Performer Services* Permit Fund, which is hereby created in the
30 State Treasury. The funds deposited in the ~~Minor’s Representation~~
31 *Child Performer Services* Permit Fund shall be available to the
32 Labor Commissioner, upon appropriation by the Legislature, to
33 pay for the costs of administration of the ~~Minor’s Representation~~
34 *Child Performer Services* Permit program and to repay any loan
35 from the Labor Enforcement and Compliance Fund made pursuant
36 to paragraph (2).

37 (2) The Labor Commissioner is authorized on a one-time basis
38 to borrow up to two hundred fifty thousand dollars (\$250,000)
39 from the Labor Enforcement and Compliance Fund, as established
40 by subdivision (e) of Section 62.5, for deposit in the ~~Minor’s~~

1 ~~Representation~~ *Child Performer Services* Permit Fund to cover
2 the one-time startup costs related to the ~~Minor's Representation~~
3 *Child Performer Services* Permit program. The loan shall be repaid
4 to the Labor Enforcement and Compliance Fund as soon as
5 sufficient funds exist in the ~~Minor's Representation~~ *Child*
6 *Performer Services* Permit Fund to repay the loan without
7 compromising the operations of the permit program.

8 1706.1. A person who willfully violates any provision of this
9 chapter is guilty of a misdemeanor. Each violation is punishable
10 by a fine not exceeding ten thousand dollars (\$10,000), by
11 imprisonment in a county jail for not more than one year, or by
12 both that fine and imprisonment.

13 1706.2. The Attorney General, any district attorney, or any
14 city attorney may institute an action for a violation of this chapter,
15 including an action to restrain and enjoin a violation.

16 1706.3. A person who is injured by any violation of this chapter
17 may bring an action to recover damages or to restrain and enjoin
18 a violation, or both. The amount of damages that may be awarded
19 for a violation of this chapter is up to three times the damages
20 actually incurred. A final judgment may be satisfied from the bond
21 or deposit maintained by the Labor Commissioner, if any. A person
22 bringing an action under this chapter who prevails shall be awarded
23 reasonable attorney's fees and costs. The court may award punitive
24 damages in addition to any other amounts if it determines, by clear
25 and convincing evidence, that the violation of this chapter was
26 willful.

27 1706.4. The provisions of this chapter are not exclusive and
28 do not relieve any person subject to this chapter from the duty to
29 comply with all other laws.

30 1706.5. The remedies provided in this chapter are not exclusive
31 and are in addition to any other remedies or procedures provided
32 in any other law.

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

38 SEC. 3. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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