

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 introduced, 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, from representing or providing specified services to artists who are minors, under 16 years of age, unless he or she submits to the Labor Commissioner an application for a Minor's Representation 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 as a sex offender, as specified, the commissioner shall issue a Minor's Representation 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 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 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 fingerprints, 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, as specified. The bill would prohibit a person who is identified as a sex offender subject to public disclosure on the Internet 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 PERMITS
5

6 1706. (a) (1) No person shall represent or provide specified
7 services to any artist who is a minor, under 16 years of age, without
8 first submitting an application to the Labor Commissioner for a
9 Minor's Representation Permit and receiving that permit.

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

16 (3) (A) The Labor Commissioner shall issue a Minor's
17 Representation Permit to the applicant after he or she has received
18 the application and filing fee and determined from information
19 provided by the Department of Justice that the person is not subject
20 to public notification on an Internet Web site in accordance with
21 Section 290.46 of the Penal Code.

22 (B) After receiving his or her first Minor's Representation
23 Permit, a person shall on a biennial basis renew his or her
24 application by resubmitting his or her name and a new filing fee
25 to the Labor Commissioner in the amount set forth by the Labor
26 Commissioner pursuant to paragraph (2). The Labor Commissioner
27 shall issue a renewed permit to the person after receiving his or
28 her application and filing fee. Subdivision (c) shall not apply with
29 respect to permit renewals.

30 (b) This chapter does not apply to the following:

31 (1) A person licensed as a talent agent as specified in Chapter
32 4 (commencing with Section 1700), or operating under the license
33 of a talent agent.

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

37 (3) A person whose contact with minor children is restricted to
38 locations where, either by law or regulation, the minor must be

1 accompanied at all times by a parent or guardian, and the parent
2 or guardian must be within sight or sound of the minor.

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

7 (c) (1) Each person required to submit an application to the
8 Labor Commissioner pursuant to paragraph (1) of subdivision (a)
9 shall also submit to the Labor Commissioner two sets of his or her
10 fingerprints.

11 (2) The Labor Commissioner shall forward the name of each
12 person submitting an application pursuant to paragraph (1) of
13 subdivision (a) and his or her fingerprints to the Department of
14 Justice.

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

22 (B) In addition to the filing fee paid by the applicant pursuant
23 to subdivision (a) to reimburse the Labor Commissioner for the
24 costs of the permit program, the Labor Commissioner may charge
25 a fee determined by the Department of Justice to be sufficient to
26 cover the costs incurred by the department in providing the services
27 described in subparagraph (A). The amount of the fee shall be
28 forwarded by the Labor Commissioner to the Department of Justice
29 with the applicant's name and fingerprints. This fee shall be
30 available to the Department of Justice for the purposes described
31 in this subparagraph upon appropriation by the Legislature.

32 (4) Upon receipt of information from the Department of Justice
33 provided pursuant to paragraph (3), the commissioner shall timely
34 cause a copy of the information to be sent to the person who has
35 submitted the application, and shall keep a copy of the information
36 and application on file. The person shall post this information
37 received from the commissioner in a conspicuous place in his or
38 her place of business.

39 (d) No person who is subject to public notification on an Internet
40 Web site in accordance with Section 290.46 of the Penal Code

1 may represent or provide specified services to any artist who is a
2 minor.

3 (e) For purposes of this section, the following terms have the
4 following meanings:

5 (1) “Artist” or “artists” means persons who seek to become or
6 are actors or actresses rendering services on the legitimate stage
7 or in the production of motion pictures, radio artists, musical artists,
8 musical organizations, directors of legitimate stage, motion picture,
9 and radio productions, musical directors, writers, cinematographers,
10 composers, lyricists, arrangers, models, extras, and other artists or
11 persons rendering professional services in motion picture,
12 theatrical, radio, television, and other entertainment enterprises.

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

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

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

24 (A) Photography, including still photography, digital
25 photography, and video and film services provided directly to the
26 artist.

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

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

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

36 (f) (1) The Labor Commissioner shall deposit all filing fees
37 described in subdivision (a) into the Minor’s Representation Permit
38 Fund, which is hereby created in the State Treasury. The funds
39 deposited in the Minor’s Representation Permit Fund shall be
40 available to the Labor Commissioner, upon appropriation by the

1 Legislature, to pay for the costs of administration of the Minor’s
2 Representation Permit program and to repay any loan from the
3 Labor Enforcement and Compliance Fund made pursuant to
4 paragraph (2).

5 (2) The Labor Commissioner is authorized on a one-time basis
6 to borrow up to two hundred fifty thousand dollars (\$250,000)
7 from the Labor Enforcement and Compliance Fund, as established
8 by subdivision (e) of Section 62.5, for deposit in the Minor’s
9 Representation Permit Fund to cover the one-time startup costs
10 related to the Minor’s Representation Permit program. The loan
11 shall be repaid to the Labor Enforcement and Compliance Fund
12 as soon as sufficient funds exist in the Minor’s Representation
13 Permit Fund to repay the loan without compromising the operations
14 of the 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.

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