

BILL ANALYSIS

C.S.H.B. 2740
By: Bolton
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Youth recreational facilities in Texas that provide outdoor, camp-like activities but are not traditional youth camps are unregulated. Such camps should be licensed and regulated without placing additional burdens on camps that are covered under the current law. C.S.H.B. 2740 follows the death of 11-year-old Brianna Plehn, who was killed at an unlicensed overnight equestrian camp in Spicewood. Brianna died when she was thrown from the bed of a pickup truck driven by the director of the Silver's Trails equestrian camp. The director flipped her truck at 12:45 a.m. after driving in circles in a parking lot with a group of children riding in the truck bed, including Brianna and Brianna's 8-year-old brother, who survived the accident.

Currently, traditional child-care facilities and long-term youth camps are regulated and require licensure. However, many weekend and short-term camp-like facilities that provide programs supervising children, including activity camps like Silver's Trails, are not regulated. Parents deserve to be assured that the state is regulating these youth recreational facilities while children are under their care.

C.S.H.B. 2740 authorizes the Department of State Health Services (DSHS) to conduct any inspection and order the production of any information that DSHS considers to be necessary to determine whether a license under the Texas Youth Camp Safety and Health Act should be issued, renewed, delayed, denied, modified, suspended, or revoked. The bill requires a safe transportation plan for a child who is in the facility's care and requires a facility that provides hazardous activities, including horseback riding, to carry liability insurance. The bill authorizes DSHS to inspect facilities believed to be conducting unlicensed camp activities and authorizes court orders granting DSHS access to records and facilities.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 2, 3, 4, 5, and 6 of this bill.

ANALYSIS

C.S.H.B. 2740 amends the Health and Safety Code to authorize the executive commissioner of the Health and Human Services Commission (HHSC) by rule to set license fees for recreational youth facilities in an amount that is different from the amount set for youth camps to reflect differences in the costs of administering and enforcing the Texas Youth Camp Safety and Health Act for recreational youth facilities. The bill requires the executive commissioner, before adopting a rule setting licensing fees, to solicit comments and information from the operators of recreational youth facilities and allow affected recreational youth facility operators to meet with appropriate commission staff who are involved in the rulemaking process.

C.S.H.B. 2740 authorizes the Department of State Health Services (DSHS) to conduct any inspection and order the production of any information that DSHS considers to be necessary to

determine whether a license under the Texas Youth Camp Safety and Health Act should be issued, delayed, denied, renewed, modified, suspended, or revoked. The bill authorizes DSHS to require additional written information and assurances from an applicant or license holder at any time after the filing of an application for a license or before the expiration of the license.

C.S.H.B. 2740 prohibits a person from interfering with an investigation or inspection of a youth camp conducted by DSHS. The bill requires a youth camp, during an investigation or inspection, to cooperate with DSHS and allow DSHS to access records of the youth camp, access any part of the premises of the youth camp, and interview any employee or other adult who is present at the youth camp and who may have information relevant to the investigation or inspection.

C.S.H.B. 2740 requires a district court in Travis County or in the county in which the youth camp is located, if access to the records or premises of the youth camp cannot be obtained, to issue an order granting DSHS access to the records or premises in order to conduct the inspection, investigation, or interview.

C.S.H.B. 2740 authorizes a district court in Travis County or in the county in which a youth camp suspected of being operated without a required license is located, in order to assist DSHS in investigating the youth camp, to issue, for good cause shown and without prior notice or hearing, an order allowing DSHS to enter the youth camp at a time when DSHS's evidence shows that the youth camp may be providing services subject to regulation.

C.S.H.B. 2740 establishes that provisions of the Texas Youth Camp Safety and Health Act that apply to a youth camp are applicable to a recreational youth facility. The bill authorizes the executive commissioner of HHSC to adopt rules under the Texas Youth Camp Safety and Health Act that recognize and treat differently the types of services provided by a recreational youth facility, including rules relating to health and safety standards. The bill authorizes the executive commissioner, in developing the rules applicable to recreational youth facilities, to consult with parents, recreational youth facility operators, and appropriate public and private officials and organizations.

C.S.H.B. 2740 requires the executive commissioner of the Health and Human Services Commission by rule to establish health and safety standards for youth camps and recreational youth facilities. The bill adds waterfront activities to the list of youth camp-related activities that may be addressed by the health and safety standard that the executive commissioner by rule is required to establish and specifies that the standards relating to the proper maintenance and safe use of motor vehicles include rules ensuring the safe transportation of children by employees of the youth camp.

C.S.H.B. 2740 requires a youth camp that allows campers to engage in a hazardous activity to maintain liability insurance coverage in the amount set by the executive commissioner of HHSC by rule for each occurrence of injury. The bill requires an insurance policy or contract to cover an injury to a child that occurs while the child is in the care of the youth camp, regardless of whether the injury occurs on the premises of the youth camp, off the premises of the youth camp, or while in transit in a motor vehicle or boat, or while on an amusement ride or on a horse. The bill defines "hazardous activity," "recreational youth facility," and "waterfront activity." The bill requires the executive commissioner to adopt rules to implement the bill's provisions as soon as practicable.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2740 adds provisions not included in the original authorizing the executive commissioner of the Health and Human Services Commission (HHSC) to set license fees for recreational youth facilities in an amount that is different from the amount set for license fees for youth camps to reflect differences in the costs of administering and enforcing the Texas Youth Camp Safety and Health Act for recreational facilities and requiring the executive commissioner to solicit comments and information from the operators of recreational youth facilities and allow affected recreation youth facility operators to meet with appropriate commission staff who are involved in the rulemaking process.

C.S.H.B. 2740 differs from the original by clarifying that the employees and persons present at a youth camp under investigation by the Department of State Health Services who are subject to being interviewed are adults, whereas the original had no such clarification. The substitute adds a provision not included in the original making provisions in the Texas Youth Camp Safety and Health Act that apply to a youth camp applicable to a recreational youth facility and authorizing the executive commissioner of HHSC to adopt rules that recognize and treat differently the types of services provided by a recreational youth facility, including rules relating to health and safety.

C.S.H.B. 2740 differs from the original by removing stakeholder involvement in the requirement for the executive commissioner of HHSC to establish health and safety standards for youth camps and by extending the executive commissioner's rulemaking authority in that regard to include establishing health and safety standards for recreational youth facilities.

C.S.H.B. 2740 differs from the original by requiring a youth camp that allows campers to engage in hazardous activity to maintain liability insurance in the amount set by rule by the executive commissioner of HHSC for each occurrence of injury, whereas the original requires such a youth camp to maintain insurance coverage in the amount of at least \$300,000 for each occurrence of injury.

C.S.H.B. 2740 differs from the original by omitting the definition of "short-term camp" and the amended definition of "youth camp" and adding the definition of "recreational youth facility." The bill differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.