

By: Bolton

H.B. No. 2740

Substitute the following for H.B. No. 2740:

By: Rose

C.S.H.B. No. 2740

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of youth camps.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 141.002, Health and Safety Code, is amended by adding Subdivisions (2-a), (4-a), and (4-b) to read as follows:

(2-a) "Hazardous activity" includes waterfront activities, archery, horseback riding, challenge courses, riflery, and other activities that require special technical skills, equipment, or safety regulations.

(4-a) "Recreational youth facility" means a facility or property, other than a child-care facility required to be licensed by the Department of Family and Protective Services or a youth camp, that:

(A) operates for at least 14 days a year, consecutively or nonconsecutively;

(B) operates during a portion of the day between 7 a.m. and 10 p.m. or provides residential services, including overnight accommodations for all or part of the program session;

(C) provides one or more recreational, athletic, religious, or educational activities, primarily in an outdoor environment; and

(D) accommodates at least five minors who attend or temporarily reside apart from their parents or legal guardians.

1 (4-b) "Waterfront activity" means a recreational or
2 instructional activity occurring in, on, or near a waterfront and
3 includes swimming, boating, waterskiing, scuba diving, rafting,
4 tubing, synchronized swimming, and sailing.

5 SECTION 2. Section 141.0035, Health and Safety Code, is
6 amended by adding Subsection (c) to read as follows:

7 (c) The executive commissioner of the Health and Human
8 Services Commission by rule may set license fees for recreational
9 youth facilities in an amount that is different from the amount set
10 for license fees for youth camps to reflect differences in the costs
11 of administering and enforcing this chapter for recreational youth
12 facilities. Before adopting a rule under this section, the
13 executive commissioner shall solicit comments and information from
14 the operators of recreational youth facilities and allow affected
15 recreational youth facility operators to meet with appropriate
16 commission staff who are involved in the rulemaking process.

17 SECTION 3. Chapter 141, Health and Safety Code, is amended
18 by adding Sections 141.0071, 141.0072, and 141.0081 to read as
19 follows:

20 Sec. 141.0071. GENERAL INVESTIGATIVE AUTHORITY. (a) The
21 department may conduct any inspection and order the production of
22 any information the department considers necessary to determine
23 whether a license under this chapter should be issued, delayed, or
24 denied, or whether a current license should be renewed, modified,
25 suspended, or revoked.

26 (b) The department may require additional written
27 information and assurances from an applicant or license holder at

1 any time after an application for a license is filed or before a
2 license expires.

3 Sec. 141.0072. INTERFERENCE WITH INVESTIGATION OR
4 INSPECTION; COURT ORDER. (a) A person may not interfere with an
5 investigation or inspection of a youth camp conducted by the
6 department under this chapter.

7 (b) During an investigation or inspection of a youth camp
8 under this chapter, the youth camp shall cooperate with the
9 department and allow the department to:

10 (1) access the records of the youth camp;

11 (2) access any part of the premises of the youth camp;

12 and

13 (3) interview any employee or other adult who is
14 present at the youth camp and who may have information relevant to
15 the investigation or inspection.

16 (c) If access to the records or premises of the youth camp
17 cannot be obtained, a district court in Travis County or in the
18 county in which the youth camp is located, for good cause shown and
19 without prior notice or a hearing, shall issue an order granting the
20 department access to the records or premises in order to conduct the
21 inspection, investigation, or interview.

22 (d) To assist the department in investigating whether a
23 person is operating a youth camp without a required license, a
24 district court in Travis County or in the county in which the
25 suspected youth camp is located may, for good cause shown and
26 without prior notice or a hearing, issue an order allowing the
27 department to enter the suspected youth camp at a time when the

1 department's evidence shows that the suspected youth camp may be
2 providing services subject to regulation under this chapter.

3 Sec. 141.0081. RECREATIONAL YOUTH FACILITIES;
4 APPLICABILITY OF CHAPTER AND RULES. (a) A provision in this
5 chapter that applies to a youth camp applies to a recreational youth
6 facility.

7 (b) The executive commissioner of the Health and Human
8 Services Commission may adopt rules under this chapter that
9 recognize and treat differently the types of services provided by a
10 recreational youth facility, including rules relating to health and
11 safety standards under Section 141.009.

12 (c) In developing rules applicable to recreational youth
13 facilities, the executive commissioner may consult with parents,
14 recreational youth facility operators, and appropriate public and
15 private officials and organizations.

16 SECTION 4. Section 141.009, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 141.009. STANDARDS. (a) The executive commissioner
19 of the Health and Human Services Commission ~~[board]~~ by rule shall
20 establish health and safety standards for youth camps and
21 recreational youth facilities.

22 (b) The standards may relate to:

23 (1) adequate and proper supervision at all times of
24 camp activities;

25 (2) qualifications for directors, supervisors, and
26 staff and sufficient numbers of those persons;

27 (3) proper safeguards for sanitation and public

1 health;

2 (4) adequate medical services for personal health and
3 first aid;

4 (5) proper procedures for food preparation, handling,
5 and mass feeding;

6 (6) healthful and sufficient water supply;

7 (7) proper waste disposal;

8 (8) proper water safety procedures for waterfront
9 activities, swimming pools, lakes, and waterways;

10 (9) safe boating equipment;

11 (10) proper maintenance and safe use of motor
12 vehicles, including rules ensuring the safe transportation of
13 children by employees of a youth camp;

14 (11) safe buildings and physical facilities;

15 (12) proper fire precautions;

16 (13) safe and proper recreational and other equipment;

17 (14) proper regard for density and use of the
18 premises; and

19 (15) records of criminal convictions of camp
20 personnel.

21 SECTION 5. Chapter 141, Health and Safety Code, is amended
22 by adding Section 141.0094 to read as follows:

23 Sec. 141.0094. LIABILITY INSURANCE. A youth camp that
24 allows campers to engage in a hazardous activity shall maintain
25 liability insurance coverage in the amount set by the executive
26 commissioner of the Health and Human Services Commission by rule
27 for each occurrence of injury. An insurance policy or contract

1 required by this section must cover an injury to a child that occurs
2 while the child is in the care of the youth camp, regardless of
3 whether the injury occurs:

4 (1) on the premises of the youth camp;

5 (2) off the premises of the youth camp;

6 (3) while in transit in a motor vehicle or boat; or

7 (4) while on an amusement ride or on a horse.

8 SECTION 6. (a) The executive commissioner of the Health and
9 Human Services Commission shall adopt rules to implement the
10 changes in law made by this Act as soon as practicable.

11 (b) The changes in law made by this Act apply to a license to
12 operate a youth camp or recreational youth facility initially
13 issued or renewed on or after the effective date of this Act. A
14 license to operate a youth camp issued or renewed before the
15 effective date of this Act is governed by the law in effect on the
16 date the license was issued or renewed, and the former law is
17 continued in effect for that purpose.

18 SECTION 7. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2009.