

BILL ANALYSIS

Senate Research Center

H.B. 2740

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Health & Human Services

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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, traditional child-care facilities and long-term youth camps are covered by licensing statutes. However, many weekend and short-term camp facilities that provide programs supervising children are not regulated. Parents should be able to feel comfortable that the state is regulating these youth recreational facilities while children are under their care.

Texas lacks regulation of youth recreational facilities that provide outdoor, camp-like activities but are not traditional youth camps. Such camps should be licensed and regulated without placing additional burdens on camps that are covered under the current law.

H.B. 2740 relates to the licensing and regulation of youth camps.

[Note: While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 141.0035, Health and Safety Code), SECTION 3 (Section 141.0081, Health and Safety Code), SECTION 5 (Section 141.0094, Health and Safety Code), and SECTION 6 of this bill.

Rulemaking authority previously granted to the Texas Board of Health is transferred to the executive commissioner of the Health and Human Services Commission and modified in SECTION 4 (Section 141.009, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 141.002, Health and Safety Code, by adding Subdivisions (2-a), (4-a), and (4-b), to define "hazardous activity," "recreational youth facility," and "waterfront activity."

SECTION 2. Amends Section 141.0035, Health and Safety Code, by adding Subsection (c), as follows:

(c) Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule 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 this chapter for recreational youth facilities. Requires the executive commissioner, before adopting a rule under this section, 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.

SECTION 3. Amends Chapter 141, Health and Safety Code, by adding Sections 141.0071, 141.0072, and 141.0081, as follows:

Sec. 141.0071. GENERAL INVESTIGATIVE AUTHORITY. (a) Authorizes the Texas Department of Health (TDH) to conduct any inspection and order the production of any

information TDH considers necessary to determine whether a license under this chapter should be issued, delayed, or denied, or whether a current license should be renewed, modified, suspended, or revoked.

- (b) Authorizes TDH to require additional written information and assurances from an applicant or license holder at any time after an application for a license is filed or before a license expires.

Sec. 141.0072. INTERFERENCE WITH INVESTIGATION OR INSPECTION; COURT ORDER. (a) Prohibits a person from interfering with an investigation or inspection of a youth camp conducted by TDH under this chapter.

- (b) Requires the youth camp, during an investigation or inspection of a youth camp under this chapter, to cooperate with TDH and allow TDH to access the 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) Requires a district court in Travis County or in the county in which the youth camp is located, for good cause shown and without prior notice or a hearing, if access to the records or premises of the youth camp cannot be obtained, to issue an order granting TDH access to the records or premises in order to conduct the inspection, investigation, or interview.

- (d) Authorizes a district court in Travis County or in the county in which the suspected youth camp is located, to assist TDH in investigating whether a person is operating a youth camp without a required license, for good cause shown and without prior notice or a hearing, to issue an order allowing TDH to enter the suspected youth camp at a time when TDH's evidence shows that the suspected youth camp may be providing services subject to regulation under this chapter.

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

- (b) Authorizes the executive commissioner to adopt rules under this chapter that recognize and treat differently the types of services provided by a recreational youth facility, including rules relating to health and safety standards under Section 141.009 (Standards).

- (c) Authorizes the executive commissioner, in developing rules applicable to recreational youth facilities, to consult with parents, recreational youth facility operators, and appropriate public and private officials and organizations.

SECTION 4. Amends Section 141.009, Health and Safety Code, as follows:

Sec. 141.009. STANDARDS. (a) Requires the executive commissioner, rather than the Texas Board of Health, by rule to establish health and safety standards for youth camps and recreational youth facilities.

- (b) Authorize that the standards relate to adequate and proper supervision at all times of camp activities, qualifications for directors, supervisors, and staff and sufficient numbers of those persons, proper safeguards for sanitation and public health, adequate medical services for personal health and first aid, proper procedures for food preparation, handling, and mass feeding, healthful and sufficient water supply, proper waste disposal, proper water safety procedures for waterfront activities, swimming pools, lakes, and waterways, safe boating equipment, proper maintenance and safe use of motor vehicles, including rules ensuring the safe transportation of children by employees of a youth camp, safe buildings and physical facilities, proper fire precautions, safe and proper

recreational and other equipment, proper regard for density and use of the premises, and records of criminal convictions of camp personnel.

SECTION 5. Amends Chapter 141, Health and Safety Code, by adding Section 141.0094, as follows:

Sec. 141.0094. LIABILITY INSURANCE. Requires that a youth camp that allows campers to engage in a hazardous activity maintain liability insurance coverage in the amount set by the executive commissioner by rule for each occurrence of injury. Requires that an insurance policy or contract required by this section 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, while in transit in a motor vehicle or boat, or while on an amusement ride or on a horse.

SECTION 6. (a) Requires the executive commissioner to adopt rules to implement the changes in law made by this Act as soon as practicable.

(b) Makes application of this Act prospective.

SECTION 7. Effective date: upon passage or September 1, 2009.