

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Labor Standards Enforcement
Child Performer Services Permits**

SUPPLEMENT TO INITIAL STATEMENT OF REASONS

DLSE supplements the Initial Statement of Reasons with the following to further address and demonstrate the specific purpose and reasonable necessity (Government Code 11346.2(b)(1)) for each proposed regulation, including further amendments to sections, as specified.

Section 11770 (online permit application)

Subsection (d) establishes the online permit application process that requires initial and permit renewal applicants to apply online through DLSE's website. The section is further amended to provide that the Labor Commissioner may also accept in-person submission of the information required under the section at a local DLSE office (18 offices statewide). This amendment is necessary to provide full public access to the permit program for those seeking to perform the regulated activity and by continuing to require submission of all information and fee required under the referenced sections.

Section 11771 (initial and renewal applications)

Subsection (a) establishes the requirements for obtaining a permit, including the items and information that an applicant must provide which is certified as true and correct under penalty of perjury. The certification under penalty of perjury is necessary to ensure that accurate information is provided by an applicant who will be working with minors who are the subject of protection and that an appropriate punishment exists for not providing accurate information. The subsection is amended to expressly provide that the requirements apply to both an initial and renewal applications and is necessary to reflect the on-line application process that incorporates both types of applications. Renewal applicants under Section 11771.1(b), as amended, are further directed to indicate on the application form that they seek to renew their permit (see discussion for amendments to subsection (b) of Section 11771.1 below). The subsection also adds (a)(11) to require that an applicant state whether or not he or she has ever plead guilty, nolo contendere, or been convicted of a sex crime and is necessary to provide an initial screen as to whether the applicant may be unqualified to hold a permit which is confirmed or refuted by the results of a criminal history report.

Subsection (d) is added to include language in the on-line application that the applicant is specifically aware of Labor Code section 1706 and the grounds for revocation, suspension and denial to issue or renew a permit under this subchapter and is necessary to ensure an applicant is aware of the requirements for both obtaining and maintaining a permit.

Section 11771.1 (renewal application form)

Subsection (b) provides more specific requirements applicable to renewal applications and references required information consistent with the general requirement for obtaining a permit in section 11771(a). The subsection is amended to require the applicant to identify a renewal application (by selecting appropriate button in on-line application form) and is necessary to inform DLSE that an applicant is seeking renewal of an issued permit identified by permit number. The subsection is also amended to remove the references to information required, as this is not necessary due to the proposed amendment to Section 11771(a) which makes both initial and renewal applications subject to the same form and content requirements (subject to the additional requirement in this subsection requiring the applicant to indicate he or she is applying for renewal of their permit). The amendment removes previous ambiguity over whether a separate on-line form is required for renewal applicants.

Section 11771.2 (fees)

The section provides the fee amounts required to be submitted with a permit application and the section is amended to establish separate fees for initial and renewal applications due to variation in costs charged to the Labor Commissioner by the Department of Justice (DOJ) for performing state criminal history reports and federal criminal history reports for the two types of applications.

First, the fee for an initial and renewal application must be reduced by two dollars (\$2) based on the fee charged by DOJ for performing federal criminal history reports which is \$17 (and not \$19 as stated in the Adjusted Cost Summary for Registration Fee document previously accompanying the 15-day notice of modifications posted June 5, 2017 on DLSE's website). The amendment is necessary to adjust the amount that will be charged to applicants as a component of the fee pursuant to Labor Code section 1706(c)(3) with the actual cost for the federal criminal history report for both initial and renewal applications. For initial applicants the previously determined \$200 total fee is reduced to **\$198**. The total fee for renewal applications is also amended to reflect this reduction and is further reduced based on the following described amendment.

Secondly, the section is further amended to replace subsection (b) with language establishing a different fee amount for a renewal application. The amendment is necessary to account for the lack of a need to resubmit fingerprints (perform another "finger roll" via Livescan) in order to screen renewal applicants for subsequent state convictions for offenses requiring an applicant to register as a sex offender. The Labor Commissioner has determined that DOJ's subsequent arrest notification service is sufficient for obtaining *state* information regarding subsequent arrests and dispositions of arrests, including subsequent convictions occurring after the initial criminal history report. Since the subsequent state arrest notification is sufficient for purposes of future screening for state offenses (after an initial criminal history report) for existing permit holders, there is no need to obtain a subsequent *state* criminal history report (\$32) for

renewal applications. This amendment is necessary to avoid unnecessary DOJ fees charged to the Labor Commissioner (passed on to applicants pursuant to Labor Code section 1706(c)(3)) for state criminal history reports (\$32) for renewal applicants. Accordingly, the fee for permit renewal is reduced to **\$166** based on reductions from the previously proposed \$200 fee which *removes* \$32 cost for the state criminal history report, and further, reduces the fee by \$2 for the actual cost for obtaining a federal criminal history report as described in the paragraph above. The fee charged by DOJ to the Labor Commissioner for *federal* criminal history reports (\$17) is included in the renewal fee because the *federal* subsequent arrest notification program is in development and has not been implemented by DOJ. This status requires that the Labor Commissioner obtain a report of federal criminal history (\$17) for each renewal application. These costs (fees charged to DLSE by DOJ) to obtain the required criminal history reports are included in the fee breakdown document accompanying the 15-day notice of further revisions and this Supplement to the Initial Statement of Reasons.

These two amendments to the section are necessary to correct the fees charged to the Labor Commissioner by DOJ that applicants must pay pursuant to Labor Code section 1706(c)(3). The amendments provide a clearer basis for establishing different fee amount based on both the type of application (initial and renewal) and type of criminal report required for criminal history screening by setting different fee amounts in separate subsections applicable to an initial or renewal application, respectively.

Section 11772(b) (notice of defect in an application)

Subsection (b) provides for issuance of a notice of defect where there is a defect in the application. The subsection is further amended to clarify that the date from which a response to a first and second defect notice must be received by the Labor Commissioner is 30 days from the date of *issuance* of a notice. This clarification is necessary to avoid potentially different interpretations of the date the 30-day period begins to run, i.e., 30 days from the issuance of the notice or 30 days from the applicant's receipt of the notice.