

Title 8 Industrial Relations
Division 1 Department of Industrial Relations
Chapter 6 Division of Labor Standards Enforcement

The proposed changes to the text of the regulations is indicated by bold underlined text to identify additions (e.g. **added language**) and bold strikeout to identify deletions (e.g., ~~**deleted language**~~) made upon the original proposed text, as amended under the first 15-day notice of modifications.

Add new Subchapter and sections 11770 through 11773, inclusive, as follows:

Subchapter 2.2 Child Performer Services Permits

Section 11770. Representation or Services to Child Performers

- (a) Except for persons specified in Labor Code Section 1706(b), any person seeking to represent or provide specified services (as defined in Labor Code 1706(g)(4)) to any artist (as defined in Labor Code Section 1706(g)(1)) who is a minor under the age of 18 years, must first submit an application and fee to the Labor Commissioner for a permit as required in Labor Code 1706(a)(1).
 - (b) A permit is required for each individual performing the regulated activity defined in Labor Code Section 1706(g)(4) who works directly with minor children or has supervision or disciplinary power over minor children other than only incidental and occasional contact pursuant to Labor Code Section 1706(b)(4), and who will provide for a fee (defined in Labor Code Section 1706(g)(2)), representation or specified services to a minor; and includes:
 - (1) Any individual acting as a sole proprietor or independent contractor.
 - (2) Any individual performing representation or specified services on behalf of or jointly with any person which includes non-individual business entities (company, firm, partnership, association, corporation, limited liability company, or other organization as defined in Labor Code Section 1706(g)(3) which receives a fee).
 - (3) Each employee of a business specified in (1) or (2). A business entity shall ensure that its employees or agents performing the regulated activity comply with the requirements of this subchapter. A business entity which is not an individual person can only perform activities which are subject to a permit through an individual who possesses a permit pursuant to this subchapter.
- For purposes of this section, “incidental and occasional contact” means physical presence within 10 feet of a minor artist who is unaccompanied by an adult which contact is of a short time, but not more than 10 minutes duration, and not more than two occurrences within any 7 day period.
- (c) A permit issued by the Labor Commissioner, valid for two (2) years, must be received by the applicant and posted pursuant to Labor Code Section 1706(e) prior to the permit holder rendering any representation or specified services to an artist who is a minor.

- (d) To obtain a permit, an applicant shall submit an on-line permit application pursuant to Section 11771 and pay applicable fees, as set forth in Section 11771.32. **The Labor Commissioner may accept in-person submission to a local DLSE office of the information and fee required under these sections.**

Note: Authority: Labor Code section 1706. Reference: Labor Code section 1706(a), (d), (e), (f), and (g).

Section 11771 Application for Permit

- (a) An applicant for **an initial permit, or a permit renewal under Section 11771.1,** must provide the following information certified as true and correct under penalty of perjury on an on-line permit application form prescribed by the Labor Commissioner located at http://www.dir.ca.gov/dlse/Child_performer_services_permit.htm:
- (1) Full name, including all other names or aliases or fictitious names used by applicant;
 - (2) Physical home address (not a Post Office Box or private mail station), including street number; city, state, zip code, and phone number;
 - (3) Social Security Number;
 - (4) California driver's license or identification number;
 - (5) Birthdate;
 - (6) Physical description of applicant, including height, weight, color of hair, color of eyes;
 - (7) Name of business for which applicant will perform services;
 - (8) Business address (not a Post Office Box or private mail station) and phone number, if different from home address;
 - (9) Phone numbers for home, business, and mobile phone;
 - (10) Description of specific types of services listed in Labor Code Section 1706(g)(4) which the applicant will provide to artists who are minors.
- (11) State whether or not the applicant has ever plead guilty, nolo contendere, or convicted of a sex crime, either a misdemeanor or felony.**
- (b) An applicant and permittee shall report in writing to the Labor Commissioner any change in information provided under subdivision (a) within 7 days of any change.
- (c) Fingerprints. The Labor Commissioner shall provide a form to the applicant with Child Performer Services Permit billing information which must be taken to a Department of Justice (DOJ) fingerprint services (Live Scan) location. An applicant shall provide to the live scan operator for submission to DOJ electronic fingerprints, the billing form provided by the Labor Commissioner, and any other information required by DOJ for purposes of obtaining criminal history information regarding state or federal arrests and convictions. The applicant shall provide on the application the name of the live scan operator information service (LSIS) number, applicant transaction identifier (ATI) number, and date the fingerprinting was completed.
- (d) **An applicant shall certify that he or she is aware of the provisions of Labor Code Section 1706 and the grounds for revocation, suspension and denial to issue or renew a permit as a provider of Child Performer Services under this subchapter.**

Note: Authority: Labor Code section 1706. Reference: Labor Code section 1706(a), (b)(4) and (c).

Section 11771.1 Permit Renewal Applications

- (a) A permit is valid for 2 years from the date it is issued by the Labor Commissioner. No later than 45 days prior to the expiration date specified on the permit, the Labor Commissioner will send electronic notification to the permit holder of the date that their permit is expiring. A renewal application and fee must be submitted to the Labor Commissioner 30 days prior to expiration of the permit. An applicant is not required to resubmit fingerprints in connection with a permit renewal application. If the renewal application and renewal fee are not submitted at least 15 days prior to expiration of the permit, the renewal application shall be denied and no permit shall be issued. A new application and initial application fee is required if the Labor Commissioner denies a permit renewal application.
- (b) ~~Contents of~~ **A renewal applicant shall indicate on** the on-line ~~renewal~~ application form prescribed by the Labor Commissioner, ~~shall include, but not be limited to:~~ **that he or she is applying to renew their existing permit identified by permit number.**
- ~~(1) Applicant information required in Section 11771.1(a)(1) through (6);~~
~~(2) Permit number issued by the Labor Commissioner; and~~
~~(3) Any changes to the information required in 11771.1(a)(7) through (10), inclusive, previously provided in the most recent application submitted by the permit holder.~~

Note: Authority: Labor Code section 1706. Reference: Labor Code section 1706(a) and (a)(3)(B).

Section 11771.2 Fees

- (a) **Initial Permits.** At the time of filing an **initial** permit application, the applicant shall pay to the Labor Commissioner a non-refundable application fee of ~~\$200~~ **\$198** which ~~is the~~ amount **is** determined to sufficiently reimburse the Labor Commissioner for costs in administering the permit program, **including fees which are paid by the Labor Commissioner to DOJ for purposes of obtaining state and federal criminal history reports and subsequent state arrest notification pursuant to Labor Code section 1706(c)(3).**
- (b) ~~The application fee amount to be paid by the applicant as stated in (a) also covers the cost of the fee paid by the Labor Commissioner to DOJ for the purposes of obtaining a state and federal criminal history report as well as the cost of subsequent state arrest notification requests by the Labor Commissioner pursuant to Labor Code Section 1706(e)(3). The DOJ fee collected by the Labor~~

~~Commissioner is in accordance with DOJ's current schedule of fees for these services which is subject to change by the DOJ.~~

Permit Renewals: At the time of filing an application for renewal of a permit, the applicant shall pay to the Labor Commissioner a non-refundable application fee of \$166 which amount is determined to sufficiently reimburse the Labor Commissioner for costs in administering the permit program, including the fee which is paid by the Labor Commissioner to DOJ for purposes of obtaining current federal criminal history report pursuant to Labor Code section 1706(c)(3).

Note: Authority: Labor Code section 1706. Reference: Labor Code section 1706(a)(2), and (c)(2), and (c)(3).

Section 11772 Issuance of Permit; Denial

- (a) After receiving the applicable filing fee and application, and within 15 days of receiving information provided by the Department of Justice (DOJ) pursuant to Labor Code 1706(c), the Labor Commissioner shall determine whether the applicant is required to register as a sex offender based on convictions for crimes specified in Penal Code Sections 290 to 290.006, inclusive.
- (b) If the applicant fails to obtain or otherwise provide fingerprints necessary for processing the application by the Labor Commissioner and search by DOJ within 10 days of submitting an application, a permit shall not be issued and the application shall be denied. Any fees paid with the application shall not be refunded to the applicant. If an applicant fails to respond to a defect in the application within 30 days of **the date the notice is issued** by the Labor Commissioner, the ~~initial or renewal application may be closed~~ **Labor Commissioner shall issue a second written defect notice**. If an applicant fails to respond to a second defect **notice** in the application within 30 days of **the date a second notice is issued**, the application will be closed.
- (c) If, after reviewing the DOJ report, the Labor Commissioner determines that the initial or renewal applicant is not required to register as a sex offender, the Labor Commissioner shall:
 - (1) Provide a copy of the report from DOJ to the applicant pursuant to Labor Code Section 1706(c)(4);
 - (2) Issue a permit on a format prescribed by the Labor Commissioner which shall be valid for two years and shall include the name and address of the permit holder, a permit number, effective date, and expiration date for the permit; and
 - (3) Add the permit holder's name, address (city and state), permit number, and permit expiration date to DLSE's website maintained for the purpose of making permit holder information available to the public pursuant to Labor Code Section 1706(d).
- (d) If the Labor Commissioner determines that an initial or renewal applicant is required to register as a sex offender based on a DOJ report, a permit shall not be issued and the Labor Commissioner shall:

- (1) Notify the applicant in writing of the Labor Commissioner's determination, provide a copy of the information received from DOJ pursuant to Labor Code 1706(c)(4), and provide DOJ contact information where an applicant can address any inaccurate information on the DOJ report;
- (2) Notify DOJ and the local district attorney's office or other prosecuting agency of the application for a permit and denial by the Labor Commissioner.

Note: Authority: Labor Code section 1706. Reference: Labor Code sections 1706(a)(3),(c)(4),(d), and (f); 1706.1; 1706.2; and 1706.5.

Section 11773 Suspension and Revocation of Permit

- (a) Suspension. If the Labor Commissioner receives information from DOJ under the subsequent arrest notification service pursuant to Labor Code 1706(c)(2)(C), or from a district attorney or other prosecuting agency that a permit holder has been arrested and charged with an offense related to any crimes which if convicted are subject to registration as a sex offender under Penal Code Sections 290 to 290.006, the Labor Commissioner shall promptly confirm the information and thereafter suspend a permit for an initial period not less than 60 days pending a determination of the crime in a criminal proceeding, or for a period stated in a specific directive issued by a court. The Labor Commissioner shall promptly provide permit information pertaining to the permit holder to the district attorney, other prosecuting agency, or a court upon request.
- (b) Revocation of Permit. In the event that a permit holder is convicted of an offense related to crimes which are subject to registration under Penal Code Sections 290 to 290.006, inclusive, the Labor Commissioner shall revoke the permit of a holder based on a certified record of conviction or nolo contendere applicable to such person.
- (c) Nothing in this subchapter limits the authority of any aggrieved person or a state, county, or city prosecuting agency from seeking, or a court from granting, injunctive or other judicial relief against a person from representing or providing specified services, as defined in Labor Code Section 1706(g)(4).

Note: Authority: Labor Code section 1706. Reference: Labor Code sections 1706.2, 1706.3, 1706.4, and 1706.5.
