

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 674

6 By: Jolley of the Senate

7 and

8 Peters of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to child care facilities background
11 investigations; amending 10 O.S. 2001, Sections 402,
12 as amended by Section 2, Chapter 230, O.S.L. 2009,
13 404.1, as last amended by Section 5, Chapter 230,
14 O.S.L. 2009, 405, as last amended by Section 1,
15 Chapter 338, O.S.L. 2009, Section 9, Chapter 296,
16 O.S.L. 2008, and 408 (10 O.S. Supp. 2010, Sections
17 402, 404.1, 405 and 405.3), which relate to the
18 Oklahoma Child Care Facilities Licensing Act;
19 modifying definitions; renaming certain registry;
20 modifying language; providing for certain background
21 investigations in specified circumstances; making
22 certain exceptions; directing the Commission for
23 Human Services to promulgate certain rules; updating
24 statutory references; deleting language permitting
the release of certain information; deleting language
providing for certain confidentiality; modifying
procedure for sanctioning certain entities on
specified registry; modifying procedures for certain
appeal; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 2001, Section 402, as
amended by Section 2, Chapter 230, O.S.L. 2009 (10 O.S. Supp. 2010,
Section 402), is amended to read as follows:

1 Section 402. As used in the Oklahoma Child Care Facilities
2 Licensing Act:

3 1. "Adult" means an individual eighteen (18) years of age or
4 older;

5 2. "Child" or "minor" means any person who has not attained the
6 age of eighteen (18) years;

7 ~~2.~~ 3. "Child care center" means a facility which provides care
8 and supervision for children and which operates for more than thirty
9 (30) hours per week;

10 ~~3.~~ 4. "Child care facility" means any public or private child
11 care residential facility, child-placing agency, foster family home,
12 child care center, part-day child care program, school-age program,
13 summer day camp, family child care home, or large family child care
14 home providing either full-time or part-time care for children away
15 from their own homes;

16 ~~4.~~ 5. "Child-placing agency" means an agency that arranges for
17 or places a child in a foster family home, adoptive home, or
18 independent living program;

19 ~~5.~~ 6. "Foster family home" means the private residence of a
20 family which provides foster care services to a child, and includes
21 a specialized foster home, a therapeutic foster family home, or a
22 kinship care home;

23 ~~6.~~ 7. "Foster parent eligibility assessment" includes a
24 criminal background investigation, including, but not limited to, a

1 national criminal history records search based upon the submission
2 of fingerprints, a home assessment, and any other assessment
3 required by the Department of Human Services, the ~~Department of~~
4 ~~Juvenile Justice~~ Office of Juvenile Affairs, or any child-placing
5 agency pursuant to the provisions of the Oklahoma Foster Care and
6 Out-of-Home Placement Act. A foster parent eligibility assessment
7 shall be similar to the procedures used by the Department of Public
8 Safety for determining suitability of an individual for employment
9 as a highway patrol officer;

10 ~~7.~~ 8. "Commission" means the Commission for Human Services, the
11 policymaking and general supervisory body of the Department;

12 ~~8.~~ 9. "Department" means the Department of Human Services;

13 ~~9.~~ 10. "Division" means the section within the Department that
14 is assigned responsibilities pursuant to the provisions of the
15 Oklahoma Child Care Facilities Licensing Act;

16 ~~10.~~ 11. "Family child care home" means a family home which
17 provides care and supervision for seven or fewer children for part
18 of the twenty-four-hour day. The term "family child care home"
19 shall not include informal arrangements which parents make
20 independently with neighbors, friends, and others, or with
21 caretakers in the child's own home;

22 ~~11.~~ 12. "Full-time care" means continuous care given to a child
23 beyond a minimum period of twenty-four (24) hours;

24

1 ~~12.~~ 13. "Large family child care home" means a residential
2 family home which provides care and supervision for eight to twelve
3 children for part of the twenty-four-hour day;

4 ~~13.~~ 14. "Part-day child care program" means a facility that
5 provides care and supervision for children and that operates for
6 more than fifteen (15) and up to thirty (30) hours per week; ~~and~~

7 ~~14.~~ 15. "Residential child care facility" means a twenty-four-
8 hour residential facility where children live together with or are
9 supervised by adults who are not their parents or relatives; and

10 16. "Unsupervised access to children" means an individual who
11 is left alone with children without an individual who has completed
12 a background investigation pursuant to the Oklahoma Child Care
13 Facilities Licensing Act.

14 SECTION 2. AMENDATORY 10 O.S. 2001, Section 404.1, as
15 last amended by Section 5, Chapter 230, O.S.L. 2009 (10 O.S. Supp.
16 2010, Section 404.1), is amended to read as follows:

17 Section 404.1.

18 A. 1. a. Except as otherwise provided by subsection ~~B~~ C of this
19 section, prior to the issuance of a license, the
20 Department of Human Services shall require a criminal
21 history records search, conducted by the Oklahoma
22 State Bureau of Investigation, and a records search of
23 the Oklahoma ~~child care worker registry~~ Child Care
24 Restricted Registry established in Section 405.3 of

1 this title for any person making application to
2 establish or operate a child care facility.

3 b. Prior to the issuance of a permit or license, the
4 Department shall conduct a records search of the
5 Oklahoma State Courts Network for any person making
6 application to establish or operate a child care
7 facility.

8 c. Prior to the issuance of a permit or license, the
9 Department shall conduct a records search of the
10 Oklahoma State Courts Network for all employees and
11 persons eighteen (18) years of age or older residing
12 in a child care center, family child care home, large
13 family child care home, part-day program, school-age
14 program, or summer day camp.

15 2. a. Prior to the employment of any person in a child care
16 facility, the facility shall submit to the Department
17 of Human Services division responsible for child care
18 licensing:

19 (1) a criminal history records search conducted by
20 the Oklahoma State Bureau of Investigation,

21 (2) documentation of a records search of the Oklahoma
22 ~~child care worker registry~~ Child Care Restricted
23 Registry, and
24

1 (3) a request for the Department to conduct a records
2 search of the records of the Oklahoma State
3 Courts Network.

4 b. Hospitals contracting with the Oklahoma Health Care
5 Authority and complying with the records searches
6 required by this section shall be exempt from the
7 requirement to submit such documentation to the
8 Department. Documentation of records searches shall
9 be maintained at the hospital and shall be available
10 for review by the division of the Department
11 responsible for child care licensing.

12 c. Prior to allowing any person eighteen (18) years of
13 age or older to reside in a child care center, family
14 child care home, large family child care home, part-
15 day program, school-age program, or summer day camp
16 program, the facility shall submit to the Department
17 of Human Services division responsible for child care
18 licensing the following:

19 (1) a criminal history records search conducted by
20 the Oklahoma State Bureau of Investigation,

21 (2) documentation of a records search of the Oklahoma
22 ~~child care worker registry~~ Child Care Restricted
23 Registry, and
24

1 (3) a request for the Department to conduct a records
2 search of the Oklahoma State Courts Network.

3 3. Once a facility has submitted an original document from the
4 Oklahoma State Bureau of Investigation to the Department, a copy of
5 that exact document shall be sufficient to satisfy any further
6 request for that document. The ~~Department~~ Commission for Human
7 Services may promulgate rules regarding the electronic submission of
8 required documents.

9 4. If the following ~~persons~~ individuals have lived in Oklahoma
10 for less than three (3) years, a criminal history records search
11 shall also be obtained from the authorized agency in the previous
12 states of residence for:

- 13 a. applicants for a license to operate a child care
14 facility,
- 15 b. employees of a child care facility, and
- 16 c. ~~persons~~ individuals age eighteen (18) years or older
17 residing in a child care center, family child care
18 home, large family child care home, part-day program,
19 school-age program, or summer day-camp program.

20 5. The ~~Department of Juvenile Justice~~ Office of Juvenile
21 Affairs may directly request national criminal history records
22 searches as defined by Section 150.9 of Title 74 of the Oklahoma
23 Statutes from the Oklahoma State Bureau of Investigation for the
24 purpose of obtaining the national criminal history of any employee

1 or applicant who has resided in Oklahoma for less than three (3)
2 years for which a search is required.

3 B. On and after November 1, 2013:

4 1. Prior to the issuance of a permit or license, individuals
5 making application to establish or operate a child care facility
6 shall have:

7 a. an Oklahoma State Courts Network search conducted by
8 the Department,

9 b. a Child Care Restricted Registry search conducted by
10 the facility, and

11 c. a national criminal history records search pursuant to
12 paragraph 10 of this subsection;

13 2. Prior to employment of personnel:

14 a. an Oklahoma State Court Network search, conducted by
15 the Department, shall be requested by the facility,

16 b. a Child Care Restricted Registry search shall be
17 conducted by the facility, and

18 c. a national criminal history records search pursuant to
19 paragraph 10 of this subsection shall be submitted to
20 the Department;

21 3. Prior to allowing unsupervised access to children by
22 personnel or individuals, including contract personnel and
23 volunteers:

24

1 a. Oklahoma State Courts Network search results,
2 conducted by the Department, shall be received by the
3 facility,

4 b. a Child Care Restricted Registry search shall be
5 conducted by the facility, and

6 c. national criminal history records search results shall
7 be received by the facility;

8 4. Prior to the issuance of a permit or license and prior to
9 the residence of adults who subsequently move into a facility,
10 adults living in the facility shall have:

11 a. an Oklahoma State Court Network search conducted by
12 the Department and the facility shall be in receipt of
13 the search results,

14 b. a Child Care Restricted Registry search conducted by
15 the facility, and

16 c. a national criminal history records search pursuant to
17 paragraph 10 of this subsection,

18 5. Children who reside in the facility and turn eighteen (18)
19 years of age shall have:

20 a. an Oklahoma State Court Network search conducted by
21 the Department,

22 b. a Child Care Restricted Registry search conducted by
23 the facility, and

1 c. a national criminal history records search pursuant to
2 paragraph 10 of this subsection;

3 6. Prior to review of and access to fingerprint results,
4 owners, directors, and other personnel who have review of and access
5 to fingerprint results shall have a national criminal history
6 records search conducted pursuant to paragraph 10 of this
7 subsection;

8 7. Provisions specified in paragraphs 4 and 5 of this
9 subsection shall not apply to residents who are receiving services
10 from a residential child care facility;

11 8. A national criminal history records search pursuant to
12 paragraph 10 of this subsection shall not be required for parent
13 volunteers who transport children on an irregular basis when a
14 release for each event is signed by the parents noting their
15 understanding that the parent volunteer does not have a completed
16 national criminal history records search. This exemption shall not
17 preclude the Department from requesting a national fingerprint or an
18 Oklahoma State Bureau of Investigation name-based criminal history
19 records search or investigating criminal, abusive, or harmful
20 behavior of such individuals, if warranted;

21 9. A national criminal history records search pursuant to
22 paragraph 10 of this subsection shall be required on or before
23 November 1, 2016 for existing personnel, individuals with
24 unsupervised access to children, and adults living in the facility;

1 10. The Department shall require a national criminal history
2 records search based upon submission of fingerprints that shall:

3 a. be conducted by the Oklahoma State Bureau of
4 Investigation and the Federal Bureau of Investigation
5 pursuant to Section 150.9 of Title 74 of the Oklahoma
6 Statutes and the federal National Child Protection Act
7 and the federal Volunteers for Children Act with the
8 Department as the authorized agency,

9 b. be submitted and have results received between the
10 Department and the Oklahoma State Bureau of
11 Investigation through secure electronic transmissions,

12 c. include Oklahoma State Bureau of Investigation rap
13 bac, requiring the Oklahoma State Bureau of
14 Investigation to immediately notify the Department
15 upon receipt of subsequent criminal history activity,
16 and

17 d. be paid by the individual or the facility; and

18 11. The Commission for Human Services shall promulgate rules
19 that may authorize an exception to the fingerprinting requirements
20 for individuals who have a severe physical condition which precludes
21 such individuals from being fingerprinted.

22 C. 1. a. On and after September 1, 1998:

23 (1) any child-placing agency contracting with a
24 person for foster family home services or in any

1 manner for services for the care and supervision
2 of children shall also, prior to executing a
3 contract, complete:

4 (a) a foster parent eligibility assessment for
5 the foster care provider except as otherwise
6 provided by divisions (2) and (4) of this
7 subparagraph, and

8 (b) a national criminal history records search
9 based upon submission of fingerprints for
10 any adult residing in the foster family home
11 through the Department of Human Services
12 pursuant to the provisions of the Oklahoma
13 Foster Care and Out-of-Home Placement Act,
14 except as otherwise provided by divisions
15 (2) and (4) of this subparagraph,

16 (2) the child-placing agency may place a child
17 pending completion of the national criminal
18 history records search if the foster care
19 provider and every adult residing in the foster
20 family home has resided in this state for at
21 least five (5) years immediately preceding such
22 placement,

23 (3) a national criminal history records search based
24 upon submission of fingerprints to the Oklahoma

1 State Bureau of Investigation shall also be
2 completed for any adult who subsequently moves
3 into the foster family home,

4 (4) provided, however, the Director of Human Services
5 or the Director of the ~~Department of Juvenile~~
6 Justice Office of Juvenile Affairs, or a
7 designee, may authorize an exception to the
8 fingerprinting requirement for a person residing
9 in the home who has a severe physical condition
10 which precludes such person's being
11 fingerprinted, and

12 (5) any child care facility contracting with any
13 person for foster family home services shall
14 request the Office of Juvenile Affairs to conduct
15 a juvenile justice information system review,
16 pursuant to the provisions of Sections ~~7302-9.6~~
17 2-7-905 and ~~7302-3.8~~ 2-7-308 of ~~this title~~ Title
18 10A of the Oklahoma Statutes, for any child over
19 the age of thirteen (13) years residing in the
20 foster family home, other than a foster child, or
21 who subsequently moves into the foster family
22 home. As a condition of contract, the child care
23 facility shall obtain the consent of the parent
24 or legal guardian of the child for such review.

1 b. The provisions of this paragraph shall not apply to
2 foster care providers having a contract or contracting
3 with a child-placing agency, the Department of Human
4 Services or the ~~Department of Juvenile Justice~~ Office
5 of Juvenile Affairs prior to September 1, 1998. Such
6 existing foster care providers shall comply with the
7 provisions of this section, until otherwise provided
8 by rules of the Commission for Human Services or by
9 law.

10 2. a. (1) On and after September 1, 1998, except as
11 otherwise provided in divisions (2) and (4) of
12 this subparagraph, prior to contracting with a
13 foster family home for placement of any child who
14 is in the custody of the Department of Human
15 Services or the ~~Department of Juvenile Justice~~
16 Office of Juvenile Affairs, each Department shall
17 complete a foster parent eligibility assessment,
18 pursuant to the provisions of the Oklahoma Child
19 Care Facilities Licensing Act, for such foster
20 family applicant. In addition, except as
21 otherwise provided by divisions (2) and (4) of
22 this subparagraph, the Department shall complete
23 a national criminal history records search based
24

1 upon submission of fingerprints for any adult
2 residing in such foster family home.

3 (2) The Department of Human Services and ~~Department~~
4 ~~of Juvenile Justice~~ Office of Juvenile Affairs
5 may place a child pending completion of the
6 national criminal history records search if the
7 foster care provider and every adult residing in
8 the foster family home has resided in this state
9 for at least (5) years immediately preceding such
10 placement.

11 (3) A national criminal history records search based
12 upon submission of fingerprints conducted by the
13 Oklahoma State Bureau of Investigation shall also
14 be completed for any adult who subsequently moves
15 into the foster family home.

16 (4) The Director of Human Services or the Director of
17 the ~~Department of Juvenile Justice~~ Office of
18 Juvenile Affairs or designee may authorize an
19 exception to the fingerprinting requirement for
20 any person residing in the home who has a severe
21 physical condition which precludes such person's
22 being fingerprinted.

23 b. The provisions of this paragraph shall not apply to
24 foster care providers having a contract or contracting

1 with a child-placing agency, the Department of Human
2 Services or the ~~Department of Juvenile Justice~~ Office
3 of Juvenile Affairs prior to September 1, 1998. Such
4 existing foster care providers shall comply with the
5 provisions of this section, until otherwise provided
6 by rules of the Commission for Human Services or by
7 law.

8 3. Each Department shall provide for a juvenile justice
9 information system review pursuant to Section 7302-3.8 of this title
10 for any child over the age of thirteen (13) years residing in a
11 foster family home, other than the foster child, or who subsequently
12 moves into the foster family home.

13 ~~C.~~ D. The Commission for Human Services or the Board of
14 Juvenile Affairs shall promulgate rules to identify circumstances
15 when a criminal history records search or foster parent eligibility
16 assessment for an applicant or contractor, or any person over the
17 age of thirteen (13) years residing in a private residence in which
18 a child care facility is located, shall be expanded beyond the
19 records search conducted by the Oklahoma State Bureau of
20 Investigation or as otherwise provided pursuant to this section.

21 ~~D.~~ E. 1. The following ~~persons~~ individuals shall not be
22 required to obtain a criminal history records search or a national
23 criminal history records search based upon submission of
24 fingerprints pursuant to this section:

- 1 a. a parent volunteer who transports children on an
2 irregular basis, and
3 b. a child residing in a child care center, family child
4 care home, or large family child care home who became
5 an adult during continuous residence at the licensed
6 or approved facility.

7 2. These exemptions shall not preclude the Department from
8 requesting a criminal history records search or requesting a
9 national criminal history records search based upon submission of
10 fingerprints or investigating criminal, abusive or harmful behavior
11 of such ~~persons~~ individuals, if warranted.

12 ~~E.~~ F. Except as otherwise provided by the Oklahoma Children's
13 Code and subsection ~~G~~ H of this section, a conviction for a crime
14 shall not be an absolute bar to employment, but shall be considered
15 in relation to specific employment duties and responsibilities.

16 ~~F.~~ G. ~~1.~~ Information received pursuant to this section by an
17 owner or administrator of a child care facility shall be maintained
18 in a confidential manner pursuant to applicable state ~~or~~ and federal
19 ~~law~~ laws.

20 ~~2. The information, along with any other information relevant~~
21 ~~to the ability of the individual to perform tasks that require~~
22 ~~direct contact with children, may be released to another child care~~
23 ~~facility in response to a request from the child care facility that~~

1 ~~is considering employing or contracting with the individual unless~~
2 ~~deemed confidential by state or federal law.~~

3 ~~3. Requirements for confidentiality and record keeping with~~
4 ~~regard to the information shall be the same for the child care~~
5 ~~facility receiving the information in response to a request as those~~
6 ~~provided for in paragraph 1 of this subsection for the child care~~
7 ~~facility releasing such information.~~

8 G. H. 1. A criminal history records search conducted by the
9 Oklahoma State Bureau of Investigation and a national criminal
10 history records search based upon submission of fingerprints shall
11 include a search of Department of Corrections' files maintained
12 pursuant to the Sex Offenders Registration Act.

13 2. a. It shall be unlawful for ~~any person~~ individuals who ~~is~~
14 are required to register pursuant to the Sex Offenders
15 Registration Act to work with or provide services to
16 children or to reside in a child care facility and for
17 any employer who offers or provides services to
18 children to knowingly and willfully employ or contract
19 with, or allow continued employment of or contracting
20 with ~~any person~~ individuals who ~~is~~ are required to
21 register pursuant to the Sex Offenders Registration
22 Act. ~~Any person~~ Individuals required to register
23 pursuant to the Sex Offenders Registration Act who
24 ~~violates~~ violate any provision of ~~this act~~ Section 401

1 et seq. of this title shall, upon conviction, be
2 guilty of a felony punishable by incarceration in a
3 correctional facility for a period of not more than
4 five (5) years and a fine of not more than Five
5 Thousand Dollars (\$5,000.00) or both such fine and
6 imprisonment.

7 b. Upon a determination by the Department of any
8 violation of the provisions of this section, the
9 violator shall be subject to and the Department may
10 pursue:

- 11 (1) an emergency order,
- 12 (2) license revocation or denial,
- 13 (3) injunctive proceedings,
- 14 (4) an administrative penalty not to exceed Ten
15 Thousand Dollars (\$10,000.00), and
- 16 (5) referral for criminal proceedings.

17 c. In addition to the penalties specified by this
18 section, the violator may be liable for civil damages.

19 SECTION 3. AMENDATORY 10 O.S. 2001, Section 405, as last
20 amended by Section 1, Chapter 338, O.S.L. 2009 (10 O.S. Supp. 2010,
21 Section 405), is amended to read as follows:

22 Section 405. A. No child care facility may be operated or
23 maintained in this state, unless licensed or temporarily authorized
24 by the Department of Human Services, except for the shelters

1 certified by the Oklahoma Commission on Children and Youth pursuant
2 to Section 601.3 of this title; provided, that the Department shall
3 not be required to be licensed, but shall be bound by the standards
4 it prescribes. No new child care facility may be established
5 without the prior approval of the Department, which shall be granted
6 only after the Department is satisfied that the facility will meet
7 minimum standards for a license to operate.

8 B. The Department shall not grant approval for a permit, or a
9 license for a new child care facility to receive and care for
10 children until:

11 1. All background investigation requirements ~~for searches of~~
12 ~~criminal history records and the child care worker registry~~ are met
13 pursuant to ~~subsection A of~~ Section 404.1 of this title; and

14 2. All required training including, but not limited to,
15 cardiopulmonary resuscitation (CPR), first aid, health and safety
16 training, and minimum education requirements pursuant to licensing
17 requirements have been completed for any person left alone with
18 children.

19 C. The incorporation or domestication of a corporation
20 organized for the purpose of operating a child care facility shall
21 not exempt such corporation from compliance with the provisions of
22 ~~this act~~ Section 401 et seq. of this title.

23 D. An application for a license shall be made on forms provided
24 by the Department and in the manner prescribed. Temporary

1 authorization may be granted to allow the Department to investigate
2 the activities and standards of care of the applicant. The
3 Department may issue a license once it is satisfied that the
4 applicant meets the requirements as provided in ~~this act~~ Section 401
5 et seq. of this title. All licenses shall be in force unless
6 revoked as authorized by Section 407 of this title.

7 SECTION 4. AMENDATORY Section 9, Chapter 296, O.S.L.
8 2008 (10 O.S. Supp. 2010, Section 405.3), is amended to read as
9 follows:

10 Section 405.3. A. On or before July 1, 2010, the Commission
11 for Human Services shall promulgate rules to establish and maintain
12 ~~a child care worker registry~~ the Child Care Restricted Registry,
13 accessible to the public through an ~~on-line~~ online database, to
14 address:

15 1. A procedure for recording ~~persons in~~ individuals on the
16 restricted registry resulting from:

- 17 a. a finding of abuse or neglect, as defined in Section
18 ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes,
19 by ~~a person~~ an individual when the abuse or neglect
20 occurred to children while in the care of a child care
21 facility,
22 b. a revocation or denial of a child care facility
23 license, and
24

1 c. a specified criminal history of an individual, as
2 defined by rules promulgated by the Oklahoma
3 Commission for Human Services;

4 2. A procedure to provide notice and an opportunity for review
5 prior to recording ~~a person in~~ an individual on the restricted
6 registry;

7 3. Disclosure requirements for information ~~in~~ on the restricted
8 registry; and

9 4. A procedure to ~~restrict~~ prohibit licensure, ownership, or
10 employment, and residence in a licensed child care facility of ~~any~~
11 ~~person~~ individuals recorded ~~in~~ on the child care worker registry
12 restricted registry.

13 B. The ~~child care worker registry~~ Child Care Restricted
14 Registry shall include, but not be limited to:

15 1. The full name of the individual;

16 2. Information necessary to identify the individual; and

17 3. The date the individual was recorded ~~in~~ on the restricted
18 registry.

19 SECTION 5. AMENDATORY 10 O.S. 2001, Section 408, is
20 amended to read as follows:

21 Section 408. A. Any licensee or applicant aggrieved by the
22 decision of the Department of Human Services under Sections 405 or
23 407 of this title may, within ten (10) days after the revocation or
24 denial of the license, appeal to the district court of the county in

1 which the child care facility is maintained and operated by filing
2 with the clerk of the court a verified petition. Notice of such
3 appeal shall be served on the Director of the Department within five
4 (5) days of the date of its filing.

5 B. The ~~Department~~ licensee or applicant shall, within ~~ten (10)~~
6 twenty (20) days of the ~~service of such notice~~ filing of the appeal,
7 file with the clerk of such court a transcript of the proceedings
8 ~~had before it~~ held pursuant to Section 407 of this title. The
9 district court shall thereupon be vested with jurisdiction to review
10 the proceedings of the Department; provided that, if the Department
11 prevails, the judgment of the district court shall be that the
12 decision of the Department be affirmed, and if the licensee or
13 applicant prevails, the judgment of the court shall be that the
14 revocation be set aside or the license issued or renewed, as the
15 case may be. Pending the hearing of the appeal, the action of the
16 Department revoking or denying the license or the granting thereof
17 shall be stayed; provided, after the filing of an appeal, the
18 district court, upon application by the Department and after an
19 appropriate hearing, may grant a restraining order to enforce the
20 decision of the Department.

21 SECTION 6. This act shall become effective November 1, 2011.

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