



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 3057

2 AMENDMENT NO. _____. Amend Senate Bill 3057, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Swimming Facility Act is amended by
6 changing Sections 2, 3, 3.12, 4, 5, 6, 7, 8, 13, 14, 21, and 23
7 and by adding Sections 3.13, 15.1, 15.2, and 16.1 as follows:

8 (210 ILCS 125/2) (from Ch. 111 1/2, par. 1202)

9 Sec. 2. Legislative purpose. It is found that there exists,
10 and may in the future exist, within the State of Illinois
11 public swimming pools, spas, water slides, public bathing
12 beaches, and other swimming facilities ~~aquatic features~~ which
13 are substandard in one or more important features of safety,
14 cleanliness or sanitation. Such conditions adversely affect
15 the public health, safety and general welfare of persons.

16 Therefore, the purpose of this Act is to protect, promote

1 and preserve the public health, safety and general welfare by
2 providing for the establishment and enforcement of minimum
3 standards for safety, cleanliness and general sanitation for
4 all swimming pools, spas, water slides, public bathing beaches,
5 and other aquatic features now in existence or hereafter
6 constructed, developed, or altered and to provide for
7 inspection and licensing of all such facilities.

8 (Source: P.A. 92-18, eff. 6-28-01.)

9 (210 ILCS 125/3) (from Ch. 111 1/2, par. 1203)

10 Sec. 3. Definitions. As used in this Act, unless the
11 context otherwise requires, the terms specified in Sections
12 3.01 through 3.13 ~~3.12~~ have the meanings ascribed to them in
13 those Sections.

14 (Source: P.A. 92-18, eff. 6-28-01.)

15 (210 ILCS 125/3.12)

16 Sec. 3.12. Swimming facility. "Swimming Facility" means a
17 swimming pool, spa, public bathing beach, water slide, lazy
18 river, spray pool, or other ~~similar~~ aquatic feature that exists
19 for the purpose of providing recreation or therapeutic services
20 to the public. It does not include isolation or flotation
21 tanks.

22 (Source: P.A. 92-18, eff. 6-28-01.)

23 (210 ILCS 125/3.13 new)

1 Sec. 3.13. Spray-pool. "Spray pool" means an aquatic
2 recreational facility that is not a swimming pool and that has
3 structures or fittings for spraying, dumping, or shooting
4 water. The term does not include facilities having as a source
5 of water a public water supply that is regulated by the
6 Illinois Environmental Protection Agency or the Illinois
7 Department of Public Health and that has no capacity to recycle
8 water.

9 (210 ILCS 125/4) (from Ch. 111 1/2, par. 1204)

10 Sec. 4. License to operate. After May 1, 2002, it shall be
11 unlawful for any person to open, establish, maintain or operate
12 a swimming facility pool, water slide, or bathing beach within
13 this State without first obtaining a license therefor from the
14 Department. ~~After May 1, 2003, it shall be unlawful for any~~
15 ~~person to open, establish, maintain, or operate a spa within~~
16 ~~this State without first obtaining a license from the~~
17 ~~Department. Licenses for swimming facilities shall expire May~~
18 ~~1, next following the swimming season for which the license was~~
19 ~~issued, except that an original license for a swimming facility~~
20 ~~issued after February 1 and before May 1 shall expire on May 1~~
21 ~~of the following year. Licenses for indoor pools that expire~~
22 ~~December 1, 2001 shall be renewed for a \$75 fee for a license~~
23 ~~that will expire on May 1, 2003.~~ Applications for original
24 licenses shall be made on forms furnished by the Department.
25 Each application to the Department shall be signed by the

1 applicant and accompanied by an affidavit of the applicant as
2 to the truth of the application and, except in the case of an
3 application by an organization incorporated under the General
4 Not for Profit Corporation Act, as amended, by the payment of a
5 license application fee of \$50. License fees are not
6 refundable. Each application shall contain: the name and
7 address of the applicant, or names and addresses of the
8 partners if the applicant is a partnership, or the name and
9 addresses of the officers if the applicant is a corporation or
10 the names and addresses of all persons having an interest
11 therein if the applicant is a group of individuals,
12 association, or trust; and the location of the swimming
13 facility. A license shall be valid only in the possession of
14 the person to whom it is issued and shall not be the subject of
15 sale, assignment, or other transfer, voluntary, or
16 involuntary, nor shall the license be valid for any premises
17 other than those for which originally issued. Upon receipt of
18 an application for an original license the Department shall
19 inspect such swimming facility to insure compliance with this
20 Act.

21 (Source: P.A. 92-18, eff. 6-28-01.)

22 (210 ILCS 125/5) (from Ch. 111 1/2, par. 1205)

23 Sec. 5. Permit for construction or major alteration. No
24 swimming facility shall be constructed, developed, installed,
25 or altered in a major manner until plans, specifications, and

1 other information relative to such swimming facility and
2 appurtenant facilities as may be requested by the Department
3 are submitted to and reviewed by the Department and found to
4 comply with minimum sanitary and safety requirements and design
5 criteria, and until a permit for the construction or
6 development is issued by the Department. ~~Construction permits
7 for spas are not required until January 1, 2003.~~ Permits are
8 valid for a period of one year from date of issue. They may be
9 reissued upon application to the Department and payment of the
10 permit fee as provided in this Act.

11 The fee to be paid by an applicant, other than an
12 organization incorporated under the General Not for Profit
13 Corporation Act, as now or hereafter amended, for a permit for
14 construction, development, major alteration, or installation
15 of each swimming facility is \$50, which shall accompany such
16 application.

17 (Source: P.A. 92-18, eff. 6-28-01.)

18 (210 ILCS 125/6) (from Ch. 111 1/2, par. 1206)

19 Sec. 6. License renewal. Applications and fees for renewal
20 of the license shall be made in writing by the holder of the
21 license, on forms furnished by the Department and, except in
22 the case of an application by an organization incorporated
23 under the General Not for Profit Corporation Act, as now or
24 hereafter amended, shall be accompanied by a license
25 application fee of \$50, which shall not be refundable, and

1 shall contain any change in the information submitted since the
2 original license was issued or the latest renewal granted. In
3 addition to any other fees required under this Act, a late fee
4 of \$20 shall be charged when any renewal application is
5 received by the Department after the license has expired;
6 however, educational institutions and units of State or local
7 government shall not be required to pay late fees. If, after
8 inspection, the Department is satisfied that the swimming
9 facility is in substantial compliance with the provisions of
10 this Act and the rules and regulations issued thereunder, the
11 Department shall issue the renewal license.

12 (Source: P.A. 92-18, eff. 6-28-01.)

13 (210 ILCS 125/7) (from Ch. 111 1/2, par. 1207)

14 Sec. 7. Conditional license. If the Department finds that
15 the facilities of any swimming facility for which a license is
16 sought are not in compliance with the provisions of this Act
17 and the rules ~~and regulations~~ of the Department relating
18 thereto, but may operate without undue prejudice to the public,
19 the Department may issue a conditional license setting forth
20 the conditions on which the license is issued, the manner in
21 which the swimming facility fails to comply with the Act and
22 such rules ~~and regulations~~, and shall set forth the time, not
23 to exceed 3 years, within which the applicant must make any
24 changes or corrections necessary to fully comply with this Act
25 and the rules and regulations of the Department relating

1 thereto. No more than 3 such consecutive annual conditional
2 licenses may be issued.

3 (Source: P.A. 92-18, eff. 6-28-01.)

4 (210 ILCS 125/8) (from Ch. 111 1/2, par. 1208)

5 Sec. 8. Payment of fees; display of licenses. All fees and
6 penalties generated under the authority of this Act shall be
7 deposited into the Facility Licensing Fund and, subject to
8 appropriation, shall be used by the Department in the
9 administration of this Act. All fees and penalties shall be
10 submitted in the form of a check or money order, or by other
11 means authorized by the Department. All licenses provided for
12 in this Act shall be displayed in a conspicuous place for
13 public view, within or on such premises. In case of revocation
14 or suspension, the owner or operator or both shall cause the
15 license to be removed and to post the notice of revocation or
16 suspension issued by the Department.

17 (Source: P.A. 92-18, eff. 6-28-01.)

18 (210 ILCS 125/13) (from Ch. 111 1/2, par. 1213)

19 Sec. 13. Rules. The Department shall promulgate, publish,
20 adopt and amend such rules ~~and regulations~~ as may be necessary
21 for the proper enforcement of this Act, to protect the health
22 and safety of the public using such pools and beaches, spas,
23 and other appurtenances, and may, when necessary, utilize the
24 services of any other state agencies to assist in carrying out

1 the purposes of this Act. These rules ~~regulations~~ shall include
2 but are not limited to design criteria for swimming facility
3 areas and bather preparation facilities, standards relating to
4 sanitation, cleanliness, plumbing, water supply, sewage and
5 solid waste disposal, design and construction of all equipment,
6 buildings, rodent and insect control, communicable disease
7 control, safety and sanitation of appurtenant swimming
8 facilities. The rules ~~regulations~~ must include provisions for
9 the prevention of bather entrapment or entanglement at new and
10 existing swimming facilities. ~~The Department may adopt less~~
11 ~~stringent requirements for spas existing prior to January 1,~~
12 ~~2003 than for new spas, provided minimum safety features,~~
13 ~~including provisions to protect against bather entrapment, are~~
14 ~~provided.~~ Bather preparation facilities consisting of dressing
15 room space, toilets and showers shall be available for use of
16 patrons of swimming facilities, except as provided by
17 Department rules ~~regulations~~.

18 (Source: P.A. 92-18, eff. 6-28-01.)

19 (210 ILCS 125/14) (from Ch. 111 1/2, par. 1214)

20 Sec. 14.

21 Whenever the Department determines that there are
22 reasonable grounds to believe that there has been violation of
23 any provision of this Act or the rules ~~and regulations~~ issued
24 hereunder, the Department shall give notice of such alleged
25 violation to the person to whom the license was issued, as

1 herein provided. Such notice shall:

2 (a) be in writing;

3 (b) include a statement of the reasons for the issuance of
4 the notice;

5 (c) ~~(Blank) allow reasonable time as determined by the~~
6 ~~Department for the performance of any act it requires;~~

7 (d) be served upon the owner, operator or licensee as the
8 case may require; provided that such notice or order shall be
9 deemed to have been properly served upon such owner, operator
10 or licensee when a copy thereof has been sent by registered or
11 certified mail to his last known address as furnished to the
12 Department; or, when he has been served with such notice by any
13 other method authorized by the laws of this State;

14 (e) ~~(Blank) contain an outline of remedial action, which,~~
15 ~~if taken, will be required to effect compliance with the~~
16 ~~provisions of this Act and the rules and regulations issued~~
17 ~~hereunder.~~

18 (Source: P.A. 78-1149.)

19 (210 ILCS 125/15.1 new)

20 Sec. 15.1. Violations at facilities.

21 (a) If the Department finds violations at swimming
22 facilities requiring licensure under this Act, the Department
23 shall issue a written report or notice of the violations. In
24 accordance with subsections (b), (c), and (d), each violation
25 shall be categorized as either Type "A", Type "B", or Type "C".

1 (b) Type "A" Violation. The situation, condition, or
2 practice constituting a Type "A" violation shall be abated or
3 eliminated immediately, unless a fixed period of time, not
4 exceeding 10 days, as determined by the Department and
5 specified in the notice of violation or inspection report, is
6 required for correction. Type "A" violations shall include, but
7 not be limited to:

8 (1) Inoperable gauges or flowmeters.

9 (2) The failure to maintain appropriate water quality
10 within 20% of standard.

11 (3) The failure to maintain or provide operation
12 reports.

13 (4) The failure to provide and maintain necessary
14 safety equipment prescribed by rule.

15 (5) The failure to maintain cleanliness of the facility
16 (cracks, leaks, lint, dirt, and sediment).

17 (6) The improper use of starting platforms.

18 (7) The failure to maintain equipment in proper work
19 order (including, but not limited to, skimmers, pumps, and
20 chlorinators), such that the public is not endangered.

21 (8) The failure to post Patron Regulations and Bather
22 Load signs.

23 (c) Type "B" Violation. At the time of issuance of a notice
24 of a Type "B" violation, the Department shall request a plan of
25 correction that is subject to the Department's approval. The
26 facility shall have 10 days after receipt of a notice of

1 violation in which to prepare and submit a plan of correction.
2 The Department may extend this period up to 30 days where
3 correction involves substantial capital improvement. The plan
4 shall include a fixed time period, not to exceed 90 days,
5 within which violations are to be corrected. If the Department
6 rejects a plan of correction, it shall send notice of the
7 rejection and the reason for the rejection to the facility. The
8 facility shall have 10 days after receipt of the notice of
9 rejection in which to submit a modified plan. If the modified
10 plan is not timely submitted, or if the modified plan is
11 rejected, the facility shall follow an approved plan of
12 correction imposed by the Department. Type "B" violations shall
13 include, but not be limited to:

14 (1) Ongoing repeat Type "A" violations not corrected in
15 accordance with a notice or inspection report.

16 (2) The failure to submit a Drowning and Injury Report
17 within 24 hours.

18 (3) The failure to provide a lifeguard or a warning
19 sign as required by the rules.

20 (4) The failure to maintain water quality in accordance
21 with Section 820.320 of Title 77 of the Illinois
22 Administrative Code, and in excess of that allowed for in a
23 Type "A" violation.

24 (5) The failure to properly secure the pool area or the
25 equipment/storage area.

26 (6) The failure to maintain any operational reports.

1 (7) The failure to obey assigned bather load.

2 (8) The failure to properly display a
3 Department-issued license.

4 (d) Type "C" Violation. Type "C" violations include those
5 violations that may lead to serious injury or death of patrons,
6 employees, or the general public. Upon finding a Type "C"
7 violation at a facility, the Department shall immediately take
8 such actions as necessary to protect public health, including
9 ordering the immediate closure of the facility, ordering the
10 abatement of conditions deemed dangerous by the Department, or
11 ordering the cessation of any practice deemed dangerous or
12 improper by the Department. Type "C" violations shall include,
13 but not be limited to:

14 (1) The failure to obtain a license prior to operating.

15 (2) The failure to construct the pool in accordance
16 with the Department-issued permit to construct.

17 (3) The failure to secure a permit to alter the pool.

18 (4) The failure to close the pool in accordance with
19 the rules.

20 (5) The failure to obey any lawful order of the
21 Department.

22 (6) The failure to provide access to the facility by
23 the Department or any duly appointed agent thereof.

24 (7) The failure to post a Department-issued closure
25 order.

26 (8) Operating the facility in a manner that results in

1 imminent danger to the public.

2 (9) Submitting fraudulent documentation to the
3 Department or a duly appointed agent thereof.

4 (e) In determining whether a penalty is to be imposed and
5 in fixing the amount of the penalty to be imposed, if any, for
6 a violation, the Director shall consider the following factors:

7 (1) The gravity of the violation, including the
8 probability that death or serious physical harm to the
9 public will result or has resulted; the severity of the
10 actual or potential harm; and the extent to which the
11 provisions of the applicable statutes or regulations were
12 violated.

13 (2) The reasonable diligence exercised by the licensee
14 and efforts to correct violations.

15 (3) Any previous violations committed by the licensee.

16 (4) The financial benefit to the facility for
17 committing or continuing the violation.

18 Type "A" violations shall carry no penalty provided they
19 are corrected within the terms set forth by this Act and in
20 accordance with the rules established under this Act. Type "B"
21 violations may be assessed a penalty of \$25 per day for each
22 day the violation exists. Type "C" violations may be assessed a
23 penalty of \$100 per day for each day the violation exists, in
24 addition to any other penalties provided for by law.

1 Sec. 15.2. Violations and civil penalties. The Department
2 is empowered to assess civil penalties and sanctions for
3 violations of this Act and the rules promulgated under this
4 Act. Each day a violation exists shall constitute a separate
5 violation.

6 (210 ILCS 125/16.1 new)

7 Sec. 16.1. Denial, suspension, or revocation of a license.
8 The Director, after notice and opportunity for a hearing to a
9 party, may deny, suspend, or revoke a license or permit, or
10 assess a civil penalty, in any case in which he or she finds
11 that there has been a substantial failure to comply with the
12 provisions of this Act or rules established under it. Notice
13 shall be provided by certified mail, return receipt requested,
14 or served personally and by fixing a date, not less than 15
15 days from the date of such mailing or service, at which time
16 the applicant or license holder shall be given an opportunity
17 to serve a written request for hearing upon the Department. The
18 hearing shall be conducted by the Director or by an individual
19 designated in writing by the Director as the Hearing Officer.
20 On the basis of any such hearing, or upon default of the
21 applicant or license holder, the Director shall make a
22 determination specifying his or her findings and conclusions. A
23 copy of the determinations shall be sent by certified mail,
24 return receipt requested, or served personally upon the
25 applicant or license holder.

1 (210 ILCS 125/21) (from Ch. 111 1/2, par. 1221)

2 Sec. 21. Closure of facility. Whenever the Department finds
3 any violation of this Act or the rules promulgated under this
4 Act, if the violation presents an emergency or risk to public
5 health, the Department ~~the conditions hereinafter set forth it~~
6 shall, without prior notice or hearing, issue a ~~by~~ written
7 notice, immediately order the owner, operator, or licensee to
8 close the swimming facility and to prohibit any person from
9 using such facilities. Notwithstanding any other provisions in
10 this Act, such order shall be effective immediately.†

11 ~~(1) If conditions at a swimming facility and~~
12 ~~appurtenances, including bathhouse facilities, upon~~
13 ~~inspection and investigation by a representative of the~~
14 ~~Department, create an immediate danger to health or safety,~~
15 ~~including conditions that could lead to bather entrapment~~
16 ~~or entanglement; or~~

17 ~~(2) When the Department, upon review of results of~~
18 ~~bacteriological analyses of water samples collected from a~~
19 ~~swimming facility, finds that such water does not conform~~
20 ~~to the bacteriological standards promulgated by the~~
21 ~~Department for proper swimming water quality; or~~

22 ~~(3) When an environmental survey of an area shows~~
23 ~~evidence of sewage or other pollutational or toxic materials~~
24 ~~being discharged to waters tributary to a beach creating an~~
25 ~~immediate danger to health or safety; or~~

1 ~~(4) When the Department finds by observation or test~~
2 ~~for water clarity of the swimming facility water a higher~~
3 ~~turbidity level than permitted in the standards for~~
4 ~~physical quality as promulgated by the Department; or~~

5 ~~(5) When in such cases as it is required, the presence~~
6 ~~of a satisfactory disinfectant residual, prescribed by~~
7 ~~rule as promulgated by the Department, is absent.~~

8 The notice shall state the reasons prompting the closing of
9 the facilities and a copy of the notice must be posted
10 conspicuously at the pool or beach by the owner, operator or
11 licensee.

12 The State's Attorney and Sheriff of the county in which the
13 swimming facility is located shall enforce the closing order
14 after receiving notice thereof.

15 Any owner, operator or licensee affected by such an order
16 is entitled, upon written request to the Department, to a
17 hearing as provided in this Act.

18 When such violations ~~conditions~~ are abated ~~or when the~~
19 ~~results of analyses of water samples collected from the~~
20 ~~swimming facility,~~ in the opinion of the Department, ~~comply~~
21 ~~with the Department's bacteriological standards for acceptable~~
22 ~~water quality, or when the turbidity decreases to the~~
23 ~~permissible limit, or when the disinfectant residual reaches a~~
24 ~~satisfactory level as prescribed by rule,~~ the Department may
25 authorize reopening the swimming facility ~~pool or beach. When~~
26 ~~sources of sewage, pollution, or toxic materials discovered as~~

1 ~~a result of an environmental survey are eliminated, the~~
2 ~~Department may authorize reopening of such beach.~~

3 (Source: P.A. 92-18, eff. 6-28-01.)

4 (210 ILCS 125/23) (from Ch. 111 1/2, par. 1223)

5 Sec. 23. Applicability of Act. Nothing in this Act shall be
6 construed to exclude the State of Illinois and Departments and
7 educational institutions thereof and units of local government
8 except that the provisions in this Act for fees or late fees
9 for licenses and permits, and the provisions for fine and
10 imprisonment shall not apply to the State of Illinois, to
11 Departments and educational institutions thereof, or units of
12 local government. This Act shall not apply to beaches operated
13 by units of local government located on Lake Michigan.

14 (Source: P.A. 92-18, eff. 6-28-01.)

15 (210 ILCS 125/15 rep.)

16 (210 ILCS 125/16 rep.)

17 Section 10. The Swimming Facility Act is amended by
18 repealing Sections 15, and 16.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."