

HB3980



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3980

Introduced 1/18/2012, by Rep. Jason Barickman

SYNOPSIS AS INTRODUCED:

210 ILCS 125/15.1

Amends the Swimming Facility Act to provide that the Department of Public Health may not impose penalties on a swimming facility that is in violation of the federal Virginia Graeme Baker Pool and Spa Safety Act until October 1, 2012 if the swimming facility has applied on or before October 1, 2011 to become compliant with that Act. Effective immediately.

LRB097 13906 RPM 58781 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health facilities.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Swimming Facility Act is amended by changing
5 Section 15.1 as follows:

6 (210 ILCS 125/15.1)

7 Sec. 15.1. Violations at facilities.

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

13 (b) Type "A" Violation. The situation, condition, or
14 practice constituting a Type "A" violation shall be abated or
15 eliminated immediately, unless a fixed period of time, not
16 exceeding 10 days, as determined by the Department and
17 specified in the notice of violation or inspection report, is
18 required for correction. Type "A" violations shall include, but
19 not be limited to:

20 (1) Inoperable gauges or flowmeters.

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

23 (3) The failure to maintain or provide operation

1 reports.

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

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

6 (6) The improper use of starting platforms.

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

10 (8) The failure to post Patron Regulations and Bather
11 Load signs.

12 (c) Type "B" Violation. At the time of issuance of a notice
13 of a Type "B" violation, the Department shall request a plan of
14 correction that is subject to the Department's approval. The
15 facility shall have 10 days after receipt of a notice of
16 violation in which to prepare and submit a plan of correction.
17 The Department may extend this period up to 30 days where
18 correction involves substantial capital improvement. The plan
19 shall include a fixed time period, not to exceed 90 days,
20 within which violations are to be corrected. If the Department
21 rejects a plan of correction, it shall send notice of the
22 rejection and the reason for the rejection to the facility. The
23 facility shall have 10 days after receipt of the notice of
24 rejection in which to submit a modified plan. If the modified
25 plan is not timely submitted, or if the modified plan is
26 rejected, the facility shall follow an approved plan of

1 correction imposed by the Department. Type "B" violations shall
2 include, but not be limited to:

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

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

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

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

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

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

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

17 (8) The failure to properly display a
18 Department-issued license.

19 (d) Type "C" Violation. Type "C" violations include those
20 violations that may lead to serious injury or death of patrons,
21 employees, or the general public. Upon finding a Type "C"
22 violation at a facility, the Department shall immediately take
23 such actions as necessary to protect public health, including
24 ordering the immediate closure of the facility, ordering the
25 abatement of conditions deemed dangerous by the Department, or
26 ordering the cessation of any practice deemed dangerous or

1 improper by the Department. Type "C" violations shall include,
2 but not be limited to:

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

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

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

7 (4) The failure to close the pool in accordance with
8 the rules.

9 (5) The failure to obey any lawful order of the
10 Department.

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

13 (7) The failure to post a Department-issued closure
14 order.

15 (8) Operating the facility in a manner that results in
16 imminent danger to the public.

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

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

22 (1) The gravity of the violation, including the
23 probability that death or serious physical harm to the
24 public will result or has resulted; the severity of the
25 actual or potential harm; and the extent to which the
26 provisions of the applicable statutes or regulations were

1 violated.

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

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

5 (4) The financial benefit to the facility for
6 committing or continuing the violation.

7 Type "A" violations shall carry no penalty provided they
8 are corrected within the terms set forth by this Act and in
9 accordance with the rules established under this Act. Type "B"
10 violations may be assessed a penalty of \$25 per day for each
11 day the violation exists. Type "C" violations may be assessed a
12 penalty of \$100 per day for each day the violation exists, in
13 addition to any other penalties provided for by law.

14 (f) The Department may not impose penalties on a swimming
15 facility that is in violation of the federal Virginia Graeme
16 Baker Pool and Spa Safety Act until October 1, 2012 if the
17 swimming facility has applied on or before October 1, 2011 to
18 become compliant with that Act.

19 (Source: P.A. 96-1081, eff. 7-16-10.)

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