

As Introduced

**129th General Assembly
Regular Session
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H. B. No. 416

Representative Blair

**Cosponsors: Representatives Adams, R., Beck, Boose, Grossman, Letson,
Murray, Weddington, Yuko, Driehaus**

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A BILL

To amend sections 3749.01, 3749.02, 3749.03, 3749.04, 1
3749.05, 3749.06, and 3749.07 and to enact section 2
3749.08 of the Revised Code regarding public 3
pools, spas, and special use pools. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3749.01, 3749.02, 3749.03, 3749.04, 5
3749.05, 3749.06, and 3749.07 be amended and section 3749.08 of 6
the Revised Code be enacted to read as follows: 7

Sec. 3749.01. As used in sections 3749.01 to 3749.10 of the 8
Revised Code: 9

(A) "Board of health" means a ~~city~~ board of health of a city 10
or a general health district, or an authority having the duties of 11
a ~~city~~ board of health as authorized by section 3709.05 of the 12
Revised Code. 13

(B) "Health district" means any city or general health 14
district created pursuant to section 3709.01 of the Revised Code. 15

(C) "Person" means the state, any political subdivision, 16
special district, public or private corporation, individual, firm, 17

partnership, association, or any other entity. 18

(D) "Licensor" means a ~~city~~ board of health ~~or a general~~ 19
~~health district, an authority having the duties of a city board of~~ 20
~~health as authorized pursuant to section 3709.05 of the Revised~~ 21
Code, or the director of ~~the department of~~ health when acting 22
under section 3749.07 of the Revised Code. 23

(E) "Director" means the director of ~~the department of~~ health 24
or ~~his~~ an authorized representative of the director of health. 25

(F) "Private residential swimming pool" means any indoor or 26
outdoor structure, chamber, or tank containing a body of water for 27
swimming, diving, or bathing located at a dwelling housing no more 28
than three families and used exclusively by the residents and 29
their nonpaying guests. 30

(G) "Public swimming pool" means any indoor or outdoor 31
structure, chamber, or tank containing a body of water for 32
swimming, diving, or bathing that is intended to be used 33
collectively for swimming, diving, or bathing and is operated by 34
any person whether as the owner, lessee, operator, ~~licensee~~ 35
license holder, or concessionaire, regardless of whether or not a 36
fee is charged for use, but does not mean any public bathing area 37
or private residential swimming pool. "Public swimming pool" 38
includes a public swimming pool that is seasonal. 39

(H) "Public spa" means any public swimming pool that is 40
typically operated as a smaller, higher temperature pool for 41
recreational or nonmedical uses. "Public spa" includes a public 42
spa that is seasonal. 43

(I) "Special use pool" means a public swimming pool 44
containing flume slides, wave generating equipment, or other 45
special features that necessitate different design and safety 46
requirements. "Special use pool" includes a special use pool that 47
is seasonal. "Special use pool" does not include any water slide 48

or wave generating pool at a public amusement area which is 49
licensed and inspected by the department of agriculture pursuant 50
to sections 1711.50 to 1711.57 of the Revised Code. 51

(J) "Public bathing area" means an impounding reservoir, 52
basin, lake, pond, creek, river, or other similar natural body of 53
water. 54

(K) "Seasonal" means that a public swimming pool, public spa, 55
or special use pool is operated for not more than six months in a 56
licensing period. 57

(L) "Licensing period" means the first day of May to the last 58
day of April of the next succeeding year. 59

Sec. 3749.02. (A) The public health council shall, subject to 60
Chapter 119. of the Revised Code, adopt rules of general 61
application throughout the state governing all of the following: 62

(1) The issuance of licenses, approval of plans, layout, 63
construction, sanitation, safety, and operation of public swimming 64
pools, public spas, and special use pools. ~~Such rules, including~~ 65
all of the following: 66

(a) What constitutes a critical violation under division (E) 67
of section 3749.04 and division (B)(1) of section 3749.05 of the 68
Revised Code; 69

(b) Procedural requirements for the appeals process described 70
in divisions (B) to (D) of section 3749.05 of the Revised Code. 71

(2)(a) Standards that must be met for approval under section 72
3749.08 of the Revised Code of courses for individuals seeking 73
certification in pool operation, procedures for applying for and 74
granting approval, and procedures for withdrawing approval if the 75
standards for approval cease to be met; 76

(b) Requirements, in addition to successful completion of an 77
approved course, that an individual must meet to be certified in 78

pool operation; 79

(c) A fee for certification in pool operation. 80

(B) Rules adopted under division (A)(1) of this section shall 81
not be applied to the construction, erection, or manufacture of 82
any building to which section 3781.06 of the Revised Code is 83
applicable when the building or structure is either integral to or 84
appurtenant to a public swimming pool, a public spa, or a special 85
use pool. 86

Sec. 3749.03. (A) No person shall construct or install, or 87
renovate or otherwise substantially alter, a public swimming pool, 88
public spa, or ~~special-use~~ special use pool after September 10, 89
1987, until the plans for the pool or spa have been submitted to 90
and approved by the director of health. Within thirty days of 91
receipt of the plans, the director shall approve or disapprove 92
them. The plans and approval required under this division do not 93
apply to repairs or ordinary maintenance that does not 94
substantially affect the manner of water recirculation or basic 95
design of the public swimming pool, public spa, or ~~special-use~~ 96
special use pool. 97

Any person aggrieved by the director's disapproval of plans 98
under this division may, within thirty days following receipt of 99
the director's notice of disapproval, request a hearing on the 100
matter. The hearing shall be held in accordance with Chapter 119. 101
of the Revised Code and may be appealed in the manner provided in 102
that chapter. 103

(B) Prior to the issuance of a license to operate a newly 104
constructed or altered public swimming pool, public spa, or 105
~~special-use~~ special use pool, the director or a licenser 106
authorized by the director shall verify that the construction or 107
alterations are consistent with the plans submitted and approved 108
under division (A) of this section. The director or licenser 109

authorized by the director shall have ~~two~~ four working days from 110
the time notification is received that a public swimming pool, 111
public spa, or ~~special-use~~ special use pool is ready for an 112
inspection to verify the construction or alterations. 113

(C) The fees for the approval of plans are: 114

(1) Five per cent of the total cost of the equipment and 115
installation not to exceed two hundred seventy-five dollars for a 116
public swimming pool, public spa, or ~~special-use~~ special use pool, 117
or a combination thereof, that has less than two thousand square 118
feet of surface area; 119

(2) Five per cent of the total cost of the equipment and 120
installation not to exceed five hundred fifty dollars for a public 121
swimming pool, public spa, ~~special-use~~ special use pool, or a 122
combination thereof, that has two thousand or more square feet of 123
surface area. 124

After December 31, 1992, the public health council may, by 125
rule adopted in accordance with Chapter 119. of the Revised Code, 126
increase the fees established by this section. 127

(D) All plan approval fees shall be paid into the state 128
treasury to the credit of the general operations fund created by 129
section 3701.83 of the Revised Code. The fees shall be 130
administered by the director and shall be used solely for the 131
administration and enforcement of this chapter and the rules 132
adopted thereunder. 133

(E) Plan approvals issued under this section shall not 134
constitute an exemption from the land use and building 135
requirements of the political subdivision in which the public 136
swimming pool, public spa, or ~~special-use~~ special use pool is or 137
is to be located. 138

Sec. 3749.04. (A) No person shall operate or maintain a 139

public swimming pool, public spa, or ~~special-use~~ special use pool 140
without a license issued by the licensor having jurisdiction. 141

(B) ~~Every~~ (1) In the case of a person who intends to operate 142
or maintain an existing public swimming pool, public spa, or 143
~~special-use~~ special use pool that is not seasonal, the person 144
shall, during the month of April of each year, apply to the 145
licensor having jurisdiction for a license to operate the pool or 146
spa. ~~Any~~ 147

(2) In the case of a person who intends to operate or 148
maintain an existing public swimming pool, public spa, or special 149
use pool that is seasonal, the person shall, at least thirty days 150
prior to commencing operation for a season, apply to the licensor 151
having jurisdiction for a license to operate the pool or spa. 152

(3) Any person proposing to operate or maintain a new or 153
otherwise unlicensed public swimming pool, public spa, or 154
~~special-use~~ special use pool shall apply to the licensor having 155
jurisdiction at least thirty days prior to the intended start of 156
operation of the pool or spa. ~~Within thirty~~ 157

(C) Thirty days ~~of receipt of~~ after receiving an application 158
for licensure of a public swimming pool, public spa, or 159
~~special-use~~ pool, the licensor shall process the application and 160
either issue a license or otherwise respond to the applicant 161
regarding the application. 162

~~(C)~~(D)(1) Each license issued for a public pool, public spa, 163
or special use pool that is not seasonal shall be effective from 164
the date of issuance until the last day of ~~May~~ April of the 165
following year. 166

~~(D)~~(2) Each license issued for a public pool, public spa, or 167
special use pool that is seasonal shall be effective from the date 168
of issuance until a date specified by the licensor, which shall be 169
not later than six months after the date of issuance. A pool or 170

spa that is seasonal may be issued only one license for any 171
twelve-month period. 172

(E) The licensor may, for any of the following reasons, 173
require certification through completion of a training course in 174
pool operation: 175

(1) A license holder's pool has been implicated in a 176
recreational waterborne illness outbreak. 177

(2) The licensor has documented a license holder's repeated 178
noncompliance with rules adopted under section 3749.02 of the 179
Revised Code concerning critical violations. 180

(3) A license holder's pool is new or has not been licensed 181
within the past two years, unless the license holder provides 182
documentation satisfactory to the licensor of successful 183
completion of an equivalent certification program. 184

(F) Each licensor administering and enforcing sections 185
3749.01 to 3749.09 of the Revised Code and the rules adopted 186
thereunder may establish ~~licensing~~ license issuance fees, license 187
renewal fees, and inspection fees in accordance with section 188
3709.09 of the Revised Code, which shall not exceed the cost of 189
licensing and inspecting public swimming pools, public spas, and 190
~~special-use~~ special use pools. In addition to the licensing and 191
inspection fees, a licensor may establish a fee for attendance at 192
a course offered by the licensor in pool operation, if the course 193
is approved by the director of health under section 3749.08 of the 194
Revised Code. 195

~~(E)~~(G) A licensor that charges a fee for renewal of a license 196
to operate an existing pool or spa shall impose a penalty for 197
filing a late application. The penalty shall be applied if the 198
application is not filed or postmarked before the first day of May 199
of the year in which the license is to be renewed, except that if 200
the pool or spa is seasonal, the penalty shall be applied if the 201

application is not filed or postmarked before the first day of 202
operation in the new licensing period. The penalty shall be an 203
amount equal to twenty-five per cent of the renewal fee. The 204
licensor shall not renew the license until the penalty is paid. 205

(H) Except as provided in division ~~(F)~~(I) of this section and 206
in division (B) of section 3749.07 of the Revised Code, all 207
~~license licensing and inspection~~ fees collected by a licensor 208
shall be deposited into a swimming pool fund, which is hereby 209
created in each health district. The fees shall be used by the 210
licensor solely for the purpose of administering and enforcing 211
this chapter and the rules adopted under this chapter. 212

~~(F)~~ An annual (I) A license issuance or renewal fee 213
established under division ~~(D)~~(F) of this section shall include 214
any additional amount determined by rule of the public health 215
council, which the board of health shall collect and transmit to 216
the director of health pursuant to section 3709.092 of the Revised 217
Code. The amounts collected under this division shall be 218
administered by the director of health and shall be used solely 219
for the administration and enforcement of this chapter and the 220
rules adopted under this chapter. 221

Sec. 3749.05. (A) The licensor of the district in which a 222
public swimming pool, public spa, or special use pool is located 223
may, in accordance with Chapter 119. of the Revised Code, refuse 224
to grant a license or suspend or revoke any license issued to any 225
person for failure to comply with the requirements of Chapter 226
3749. of the Revised Code and the rules adopted thereunder. 227

(B)(1) In the case of a license to operate and maintain a 228
public swimming pool, the licensor may immediately suspend the 229
license if failure to comply with this chapter and rules adopted 230
under section 3749.02 of the Revised Code results in an immediate 231
danger to the public health or a critical violation as specified 232

<u>in the rules.</u>	233
<u>The licensor is not required to give written notice or afford</u>	234
<u>the license holder the opportunity to correct the violation prior</u>	235
<u>to suspending the license.</u>	236
<u>After suspending the license, the licensor shall give written</u>	237
<u>notice to the license holder of the procedure for appealing the</u>	238
<u>suspension.</u>	239
<u>The suspension remains in effect until lifted by the</u>	240
<u>licensor.</u>	241
<u>(2) A licensor may authorize a health commissioner to suspend</u>	242
<u>a license under division (B)(1) of this section. A health</u>	243
<u>commissioner who suspends a license under this authority may lift</u>	244
<u>it without consulting the licensor on determining that there is no</u>	245
<u>longer an immediate danger to the public health or a critical</u>	246
<u>violation.</u>	247
<u>(C)(1) The holder of a license suspended under division (B)</u>	248
<u>of this section may appeal the suspension by giving written notice</u>	249
<u>to the licensor and specifying in the notice whether a hearing is</u>	250
<u>requested.</u>	251
<u>(2)(a) Regardless of whether a hearing is held, if the</u>	252
<u>license holder appeals a suspension, the licensor shall determine</u>	253
<u>whether an immediate danger to the public health or a critical</u>	254
<u>violation continues to exist in the following manner:</u>	255
<u>(i) If the licensor is a board of health, by majority vote of</u>	256
<u>the members of the board present at a meeting at which there is a</u>	257
<u>quorum;</u>	258
<u>(ii) If the director of health is acting as the licensor, by</u>	259
<u>decision of the director.</u>	260
<u>The appeal shall be conducted in accordance with Chapter 119.</u>	261
<u>of the Revised Code.</u>	262

(b)(i) If the licensor determines that an immediate danger to the public health or a critical violation continues to exist, the licensor shall issue an order continuing the suspension. 263
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(ii) If the licensor determines that there is no longer an immediate danger to the public health or a critical violation, the licensor shall lift the suspension. 266
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(c) If a hearing is requested, it shall be held not later than three business days after the request is received by the licensor. The hearing shall be held prior to issuance of an order under division (C)(2)(b)(i) of this section but may be held at the meeting at which issuance of the order is considered. 269
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(D) A license holder may appeal an order issued under division (C)(2)(b)(i) of this section as follows: 274
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(1) If the order was issued by a board of health, to the common pleas court of the county in which the licensor is located; 276
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(2) If the order was issued by the director of health, to the Franklin county court of common pleas. 278
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Sec. 3749.06. Prior to the issuance of an initial license and annually thereafter, the licensor shall inspect each public swimming pool, public spa, or special use pool in ~~his~~ the licensor's jurisdiction to determine whether or not the pool or spa is in compliance with Chapter 3749. of the Revised Code and the rules adopted thereunder. A licensor may, as ~~he~~ the licensor determines appropriate, inspect a public swimming pool, public spa, or special use pool at any other time. The licensor shall make the initial inspection within five days from the date of receipt of notification that the pool or spa is ready for operation and shall maintain a record of each inspection that ~~he~~ the licensor conducts for a period of at least five years on forms prescribed by the director of health. 280
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Each inspection conducted under this section shall be 293
conducted by an individual who is registered under Chapter 4736. 294
of the Revised Code as a sanitarian or sanitarian-in-training. 295

Sec. 3749.07. (A) The director of health ~~shall~~ may annually 296
survey each health district that licenses public swimming pools, 297
public spas, and ~~special-use~~ special use pools to determine 298
whether or not the health district is in substantial compliance 299
with this chapter and the rules adopted thereunder. If the 300
director determines that a health district is in substantial 301
compliance, ~~he~~ the director shall place the district on an 302
approved health district licensing list. The director shall, as ~~he~~ 303
the director determines necessary, make additional surveys of 304
health districts and shall remove from the approved health 305
district licensing list any health district ~~he~~ the director 306
determines not to be in substantial compliance with this chapter 307
and the rules adopted thereunder. 308

(B) If the director determines that a health district is not 309
eligible to be placed on the approved health district licensing 310
list, ~~he~~ the director shall certify the same to the board of 311
health of the health district and shall perform the duties of a 312
health district in that area until the health district is eligible 313
for placement on the approved list. All fees payable to the health 314
district during the time that the director performs the duties of 315
the health district and all other such fees that have not been 316
expended or otherwise encumbered shall be deposited by the 317
director in the state treasury to the credit of the general 318
operations fund created by section 3701.83 of the Revised Code, to 319
be used by the director in ~~his~~ the director's capacity as a 320
licensor. The director shall keep a record of the fees so 321
deposited and, when the health district is placed on the approved 322
list, shall transfer any remaining balance of the fees to the 323
health district swimming pool fund created under division ~~(E)~~(F) 324

of section 3749.04 of the Revised Code. 325

Sec. 3749.08. In accordance with rules adopted under section 326
3749.02 of the Revised Code, the director of health shall approve 327
courses of study for certification in pool operation. 328

The director shall certify an individual in pool operation if 329
the individual successfully completes a course approved under this 330
section and meets any other requirements and pays the fee 331
established by rules adopted under section 3749.02 of the Revised 332
Code. 333

Section 2. That existing sections 3749.01, 3749.02, 3749.03, 334
3749.04, 3749.05, 3749.06, and 3749.07 of the Revised Code are 335
hereby repealed. 336