

HOUSE BILL NO. 395

INTRODUCED BY D. MOORE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AND DIRECTING ADMINISTRATIVE RULE
5 AMENDMENTS THAT PUBLIC SWIMMING POOLS AND SPAS CONSTRUCTED, RECONSTRUCTED,
6 EXPANDED, RENOVATED, OR REMODELED PRIOR TO JANUARY 1, 2014, ARE GRANDFATHERED UNDER
7 THE LEGAL REQUIREMENTS IN EFFECT AT THE TIME THE POOLS AND SPAS WERE CONSTRUCTED,
8 RECONSTRUCTED, EXPANDED, RENOVATED, OR REMODELED AND ARE NOT SUBJECT TO THE
9 SPECIFICATIONS PROVIDED IN ADMINISTRATIVE RULES ADOPTED AFTER THE POOLS AND SPAS
10 WERE CONSTRUCTED, RECONSTRUCTED, EXPANDED, RENOVATED, OR REMODELED BUT PRIOR TO
11 JANUARY 1, 2014; AMENDING SECTIONS 50-53-103 AND 50-53-108, MCA; AND PROVIDING AN
12 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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14 WHEREAS, there are administrative rules that apply to new public swimming pools and spas, to public
15 pools and spas that will be constructed in the future, and to certain public pools and spas that were constructed
16 according to the law in effect at the time of construction; and

17 WHEREAS, the rules, if applied to certain public pools and spas constructed in years past, require the
18 pools and spas to retrofit existing facilities that met legal requirements in effect at the time the pools and spas
19 were constructed; and

20 WHEREAS, it is physically, spatially, or economically unfeasible to retrofit some of the public pool and
21 spa facilities that met legal requirements in effect at the time the pools and spas were constructed.

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23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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25 **Section 1.** Section 50-53-103, MCA, is amended to read:
26 **"50-53-103. Department rules.** (1) The department shall adopt rules relating to the operation of public
27 swimming pools and public bathing places, including rules:
28 (a) setting standards to ensure sanitation and safety in public swimming pools and public bathing places
29 to protect public health and safety;
30 (b) imposing reasonable fees for review of plans relating to the design, construction, reconstruction,



1 alteration, conversion, repair, and installation of equipment and for plan review when plan review is conducted
2 by the department;

3 (c) relating to the licensing of operators of public swimming pools and public bathing places;

4 (d) providing procedures for the enforcement of the laws and rules relating to public swimming pools and
5 public bathing places;

6 (e) relating to cooperative agreements between the department and local boards of health; and

7 (f) setting performance standards for local boards of health, local health officers, and sanitarians to meet
8 as a condition to receipt of funds provided by the department pursuant to 50-53-218.

9 (2) ~~Any A rule adopted by the department~~ relating to the design, construction, reconstruction, alteration,
10 conversion, repair, inspection, or use of buildings or the installation of equipment in buildings;

11 (a) is effective only when after it has been adopted by the department of labor and industry as part of
12 the state building code and filed with the secretary of state pursuant to 50-60-204; and

13 (b) may not be applied retroactively to require changes to existing buildings or equipment or to
14 alterations, additions, or repairs that met the state building code in effect at the time the building was constructed,
15 the equipment was installed, or the alterations, additions, or repairs were made."

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17 **Section 2.** Section 50-53-108, MCA, is amended to read:

18 **"50-53-108. Unauthorized construction or operation a public nuisance -- grandfather clause. (1)**

19 The construction or operation of a public swimming pool or public bathing place contrary to the provisions of this
20 chapter or rules adopted by the department under the provisions of this chapter is a public nuisance and
21 dangerous to public health and safety.

22 (2) An indoor public swimming pool constructed, reconstructed, expanded, renovated, or remodeled prior
23 to January 1, 2014, is not subject to rules requiring changes to the design, construction, reconstruction, alteration,
24 conversion, or repair of a building or equipment installed in a building adopted by the department under the
25 provisions of this chapter after the construction, reconstruction, expansion, renovation, or remodel of the pool was
26 begun and before January 1, 2014."

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28 **NEW SECTION. Section 3. Department to amend rules.** The department of public health and human
29 services shall amend ARM Title 37, chapter 115, to clarify and ensure that an indoor public swimming pool
30 constructed, reconstructed, expanded, renovated, or remodeled prior to January 1, 2014, is grandfathered under

1 the law that applied at the time the construction, reconstruction, expansion, renovation, or remodel began. The
2 rules, as amended pursuant to this section, must clarify and ensure that an indoor public swimming pool
3 constructed, reconstructed, expanded, renovated, or remodeled prior to January 1, 2014, is exempt from any rule
4 adopted by the department that would otherwise require an upgrade to new design or construction standards
5 established in ARM Title 13, chapter 115, if the construction, reconstruction, expansion, renovation, or remodel
6 complied with the law, including design or construction standards, that applied at the time the construction,
7 reconstruction, expansion, renovation, or remodel began.

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9 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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11 NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the
12 meaning of 1-2-109, to public swimming pools, as defined in 50-53-102, that were constructed, reconstructed,
13 expanded, renovated, or remodeled prior to January 1, 2014.

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