

## HOUSE BILL NO. 148

INTRODUCED BY W. GRINDE

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE DEFINITION OF "PUBLIC SWIMMING POOL"; DEFINING TERMS; IMPOSING FEES FOR THE REVIEW OF PLANS RELATING TO THE CONSTRUCTION OR ALTERATION OF PUBLIC SWIMMING POOLS OR PUBLIC BATHING PLACES; CLARIFYING THE TERM "SEPARATE" WITH REGARD TO PUBLIC SWIMMING POOLS; INCREASING FEES FOR LICENSURE OF PUBLIC SWIMMING POOLS, PUBLIC BATHING PLACES, AND SPAS OR WADING POOLS; AUTHORIZING LOCAL BOARDS OF HEALTH TO ESTABLISH INSPECTION AND ENFORCEMENT ACTIVITIES OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES; AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DEPOSIT ALL FEES COLLECTED BY LOCAL BOARDS OF HEALTH IN A STATE SPECIAL REVENUE FUND; CLARIFYING LICENSE VALIDATION REQUIREMENTS; AND AMENDING SECTIONS 50-53-102, 50-53-103, 50-53-201, 50-53-202, 50-53-203, AND 50-53-206, MCA."

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

**Section 1.** Section 50-53-102, MCA, is amended to read:

**"50-53-102. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

(2) "Lazy river" means a constructed watercourse through which people travel by use of flotation devices.

~~(2)~~(3) "Local board of health" or "board" means a local board as defined in 50-2-101.

~~(3)~~(4) "Local health officer" or "officer" means a local health officer as defined in 50-2-101.

~~(4)~~(5) "Person" means a person, firm, partnership, corporation, or organization; or the state; or any political subdivision of the state.

~~(5)~~(6) "Public bathing place" means a body of water with bathhouses and related appurtenances operated for the public.

~~(6)~~(7) (a) "Public swimming pool" means an artificial pool ~~and bathhouses~~ and related appurtenances for swimming, bathing, ~~or~~ wading, or other aquatic therapy or recreation, including but not limited to natural hot water pools, ~~and spas, splash decks, water slides, lazy rivers, and wave pools.~~

(b) The term does not include:

~~(a)~~(i) swimming pools located on private property, including the private common area property of owner-occupied condominium developments, used for swimming or bathing only by the owner, members of the owner's family, or their invited guests; or

~~(b)~~(ii) medicinal hot water baths for individual use.

~~(7)~~(8) "Spa" means an artificial pool designed for recreational bathing or therapeutic use and that is not drained, cleaned, or refilled for individual use. A spa includes but is not limited to a therapeutic pool, hydrotherapy pool, whirlpool, hot tub, or Jacuzzi-type whirlpool bath.

(9) "Splash deck" means a constructed area over which water is sprayed but is not allowed to pool.

~~(8)~~(10) "Tourist home" means a private home or condominium that is not occupied by an owner or manager and that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis.

(11) "Wading pool" means a pool in which the water depth does not exceed 2 feet.

(12) "Wave pool" means a swimming pool designed for the purpose of producing wave action in the water."

**Section 2.** Section 50-53-103, MCA, is amended to read:

**"50-53-103. Department rules.** (1) The department shall adopt rules relating to the operation of public swimming pools and public bathing places, including rules:

(a) setting standards to ensure sanitation and safety in public swimming pools and public bathing places to protect public health and safety;

(b) imposing reasonable fees for review of plans relating to the design, construction, reconstruction, alteration, conversion, repair, and installation of equipment and for plan review when plan review is conducted by the department;

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

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

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

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

(2) Any rule relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings or installation of equipment in buildings is effective only when it has been adopted by the

department of labor and industry as part of the state building code and filed with the secretary of state pursuant to 50-60-204."

**Section 3.** Section 50-53-201, MCA, is amended to read:

**"50-53-201. License required -- validation.** (1) A person may not operate a public swimming pool or public bathing place without annually obtaining a license from the department.

(2) A ~~separate~~ license is required for each separate public swimming pool or public bathing place, ~~unless more than one public swimming pool is operated on the same premises by the same person, in which case a single license is required for all public swimming pools on the premises~~ A public swimming pool is separate if:

(a) its water does not commingle with water from any other public swimming pool; or

(b) it is serviced by a separate water filtration system.

(3) A license issued by the department is not valid unless signed in accordance with 50-53-206, if applicable, or in accordance with 50-53-207, in the case of an appeal."

**Section 4.** Section 50-53-202, MCA, is amended to read:

**"50-53-202. Application for and right to license.** (1) An application for both an original and renewal license to operate a public swimming pool or public bathing place must be made to the department, must contain the information required by the department, and must be accompanied by the fee provided for in 50-53-203.

(2) A license must be issued to an applicant who has satisfied the requirements for a license provided in part 1, this part, and department rules.

(3) Upon issuing a license, the department shall forward the license to the appropriate local health officer for validation as provided in 50-53-206, if applicable."

**Section 5.** Section 50-53-203, MCA, is amended to read:

**"50-53-203. License fee and late fee -- disposition.** (1) (a) Except as provided in subsection (1)(b), each application for an original or renewal license must be accompanied by a license fee of ~~\$75~~ \$200.

(b) ~~The fee for an original or renewal license for a public swimming pool or public bathing place operated in conjunction with a campground, trailer court, work camp, youth camp, hotel, motel, roominghouse, boardinghouse, retirement home, or tourist home is \$50~~ Each application for an original or renewal license for a spa or wading pool with a total water capacity not exceeding 4,000 gallons must be accompanied by a license fee of \$75.

(2) An operator of a public swimming pool or public bathing place who fails to renew a license by the expiration date provided in 50-53-204 and who operates the public swimming pool or public bathing place in the license year for which a renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 for each calendar month after the renewal due date in addition to the renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for any operation without a license.

(3) If the local board of health conducts its own inspections and enforcement activities for the public swimming pools and public bathing places within its jurisdiction:

~~(3)(a)~~ The the department shall deposit 85% of the fees collected under subsection (1) in the state special revenue fund to the credit of the local board inspection fund account created by 50-2-108. Money deposited in the local board inspection fund account is subject to appropriation by the legislature for the purposes of 50-53-218.

~~(4)(b)~~ The the department shall deposit 15% of the fees collected under subsection (1) and all the fees collected under subsection (2) in an account in the state special revenue fund to be appropriated by the legislature to the department for the enforcement of part 1 and this part.

(4) If the local board of health has delegated its inspection and enforcement activities for public swimming pools and public bathing places to the department, the department shall deposit all of the fees collected under subsections (1) and (2) in an account in the state special revenue fund to be appropriated by the legislature to the department for the enforcement of part 1 and this part."

**Section 6.** Section 50-53-206, MCA, is amended to read:

**"50-53-206. Validation of license required --~~validation by local officer.~~** (1) (a) If the local board of health conducts its own inspections and enforcement activities for the public swimming pools and public bathing places within its jurisdiction, ~~A~~ license issued by the department under part 1 and this part is not valid until it is signed by the local health officer of the jurisdiction in which the public swimming pool or public bathing place is located.

~~(2)(b)~~ The local health officer shall, within 15 days of receipt of the license, validate or refuse to validate the license. Failure of the officer to validate a license is a refusal for the purposes of 50-53-207.

(2) Validation is not required if the local board of health has delegated its inspection and enforcement activities for public swimming pools and public bathing places to the department."

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