

HOUSE BILL NO. HB0117

Public Pool and Spa Health and Safety Act.

Sponsored by: Representative(s) Paseneaux, McMurtrey and Meuli and Senator(s) Massie and Scott

A BILL

for

1 AN ACT relating to public health and safety; providing for
2 the inspection and safety of public pools and spas;
3 providing definitions; authorizing rulemaking authority for
4 the department of agriculture; creating licensure authority
5 for the department of agriculture; repealing conflicting
6 provisions and conforming related provisions; providing for
7 fees and penalties; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 35-28-101 through 35-28-111 are
12 created.

13

14 CHAPTER 28

15 PUBLIC POOL AND SPA HEALTH AND SAFETY

16

1 **35-28-101. Definitions.**

2

3 (a) As used in this act:

4

5 (i) "Bathhouse" means a structure that contains
6 dressing rooms, showers and toilet facilities for use with
7 an adjacent public pool;

8

9 (ii) "Department" means the Wyoming department
10 of agriculture;

11

12 (iii) "Director" means the director of the
13 Wyoming department of agriculture or his duly authorized
14 representative;

15

16 (iv) "Local health department" means a health
17 department established by a county, municipality or
18 district pursuant to W.S. 35-1-301 et seq.;

19

20 (v) "Person" means municipalities, recreation
21 districts, counties, state agencies, individuals,
22 corporations, partnerships, enterprises or associations;

23

1 (vi) "Pool" means an artificial structure
2 containing water used for swimming, bathing, diving,
3 surfing, wading or a similar use and is operated by an
4 owner, lessee, operator, licensee or concessionaire
5 regardless of whether a fee is charged for use;

6

7 (vii) "Public pool" means a pool that is open to
8 the public or a segment of the public;

9

10 (viii) "Regulatory authority" means the
11 authority which issued the license or adopted the rule or
12 regulation being enforced including the department of
13 agriculture or local health department;

14

15 (ix) "Spa" means a bathing facility such as, but
16 not limited to, a hot tub or whirlpool designed for
17 recreational or therapeutic use and not designed to be
18 drained, cleaned and refilled for each use. Spas are
19 designed to provide a means of agitation, which may
20 include, but is not limited to, hydrojet circulation, hot
21 water, cold water, mineral baths, air induction systems or
22 any combination thereof;

23

1 (x) "Swimming pool" means a body of water, other
2 than a natural swimming area, maintained exclusively for
3 swimming, recreative bathing or wading, and includes
4 appurtenances used in connection with the swimming pool;

5

6 (xi) "This act" means W.S. 35-28-101 through
7 35-28-111.

8

9 **35-28-102. Establishment of a safety program.**

10

11 (a) The director shall establish and maintain a
12 public pool and spa health and safety program. The director
13 shall carry out provisions of the public pool and spa
14 health and safety program and shall be assisted by the
15 director of the department of health. A local department of
16 health, if established according to law, may establish and
17 maintain its own local public pool and spa health and
18 safety program so long as the program meets the
19 requirements of this act and regulations adopted pursuant
20 to this act. The director or his designee shall:

21

22 (i) Gather health and safety information related
23 to public pools and spas and disseminate the information to

1 the public pool or spa industry and local departments of
2 health which have implemented a health and safety program;

3

4 (ii) On a voluntary basis, provide health and
5 safety training for the pool and spa industry in this
6 state, and work with other state, local and federal
7 agencies to coordinate public health and safety educational
8 efforts;

9

10 (iii) Regulate the health and safety of public
11 pools and spas and adopt rules necessary to carry out the
12 provisions of this act. In any area which does not have a
13 local public health and safety program established pursuant
14 to law, the department shall issue licenses, conduct
15 inspections and hold hearings to enforce any legal
16 provision or rule adopted under this act;

17

18 (iv) Maintain a statewide database of public
19 pool and spa license and inspection results;

20

21 (v) Work with federal, state and local agencies
22 to coordinate public health and safety efforts and
23 activities related to public pools and spas and coordinate

1 with all other agencies to maintain consistency in
2 inspection and enforcement activities;

3

4 (vi) Establish health and safety priorities
5 related to public pools and spas for this state;

6

7 (vii) Provide laboratory support if needed for
8 the analysis of water samples used to support inspection
9 activities and to monitor health and safety;

10

11 (viii) Provide support for local health and
12 safety programs related to public pool and spa programs as
13 authorized by the legislature;

14

15 (ix) Take appropriate action against any person
16 holding a public pool and spa license for the purpose of
17 protecting the public health and preventing the
18 transmission of infectious disease.

19

20 (b) The director of the department of health or his
21 designee shall:

22

23 (i) Investigate all possible water borne
24 illnesses and outbreaks and request assistance from the

1 department of agriculture and local health departments as
2 necessary;

3

4 (ii) Provide support for local health and safety
5 programs related to public pool and spa programs as
6 authorized by the legislature;

7

8 (iii) Provide laboratory support for water
9 inspection and accompanying monitoring activities for the
10 health and safety of a public swimming pool or spa.

11

12 (c) Duties of a local health department shall
13 include:

14

15 (i) Issuing licenses, conducting inspections,
16 holding hearings and taking enforcement actions as
17 necessary to carry out the provisions of the health and
18 safety program related to public pools and spas;

19

20 (ii) Coordinate activities with the department
21 of agriculture in order to provide for statewide
22 consistency; and

23

1 (iii) Reporting to the department of health any
2 water borne outbreak of illness and assist the department
3 of health in any outbreak investigations if requested.

4
5 (d) A local jurisdiction may provide laboratory
6 support for water inspection and accompanying monitoring
7 activities for the health and safety of a public swimming
8 pool or spa.

9

10 **35-28-103. Prohibited acts.**

11

12 No person shall violate this act or any regulation adopted
13 in accordance with the provisions of this act.

14

15 **35-28-104. Cease operations order; injunctive**
16 **proceedings.**

17

18 (a) If the director of the department of agriculture
19 or the director of the department of health has probable
20 cause to believe that an imminent hazard to the public
21 exists from a violation of this act, he may order any
22 person to immediately cease the practice believed to be a
23 violation of this act and shall provide the person an
24 opportunity for hearing pursuant to the Wyoming

1 Administrative Procedure Act within ten (10) days after
2 issuing the order.

3

4 (b) In addition to any other remedies, the director
5 may apply to the district court for injunctive relief from
6 any person who violates this act.

7

8 **35-28-105. Penalties.**

9

10 Any person who knowingly and intentionally violates any
11 provision of this act or regulation adopted pursuant to
12 this act is guilty of a misdemeanor punishable by
13 imprisonment for not more than six (6) months, a fine of
14 not more than seven hundred fifty dollars (\$750.00), or
15 both. For a subsequent conviction under this act, the
16 person may be punished by imprisonment for not more than
17 one (1) year, a fine of not more than one thousand five
18 hundred dollars (\$1,500.00), or both.

19

20 **35-28-106. Regulations.**

21

22 (a) The director may adopt regulations necessary for
23 the efficient enforcement of this act.

24

1 (b) The director may adopt regulations necessary to
2 ensure that appropriate sanitary conditions, public safety
3 and water quality standards are met by any person engaged
4 in operating a public pool or spa.

5

6 **35-28-107. Inspections, examinations.**

7

8 (a) For purposes of enforcement of this act, the
9 director may, upon presenting appropriate credentials to
10 the owner, operator or agent in charge:

11

12 (i) Enter at a reasonable time any public pool
13 or spa; and

14

15 (ii) Inspect at any reasonable time and within
16 reasonable limits and in a reasonable manner any public
17 pool or spa and all pertinent equipment, finished and
18 unfinished materials and obtain samples necessary for the
19 enforcement of this act. The frequency of inspections shall
20 be based on the relative risk to public health and safety,
21 with no such facility receiving less than one (1)
22 inspection per year.

23

1 (b) Upon completion of any inspection under this
2 section but before leaving the premises, the director shall
3 give to the owner, operator or agent in charge a report in
4 writing setting forth any conditions or practices observed
5 by him which in his judgment indicate that any public pool
6 or spa:

7

8 (i) Is not being maintained in whole or in part
9 in a clean and sanitary condition, in good repair and free
10 of safety hazards;

11

12 (ii) Through testing, contains water which does
13 not comply with the requirements set forth in the
14 regulations;

15

16 (iii) Is failing to meet generally accepted
17 health practices for pool and spa operation in compliance
18 with the laws and rules pertaining to public pools and
19 spas;

20

21 (iv) Is failing to keep and maintain records
22 pertaining to the operation and maintenance of the public
23 pool or spa as required by the regulations.

24

1 **35-28-108. Publicity.**

2

3 The director may also cause to be disseminated any
4 information as the director deems necessary in the interest
5 of public health and safety.

6

7 **35-28-109. License required.**

8

9 (a) Any person operating a public pool or spa shall
10 obtain a license from the department of agriculture or a
11 local health department. The license is not transferable,
12 shall be renewed on an annual basis and shall be
13 prominently displayed in the facility. No public pool or
14 spa shall operate without a valid license.

15

16 (b) Written application for a new license shall be
17 made on a form approved by the department of agriculture
18 and provided by the department of agriculture or the local
19 health department and shall be signed by the applicant. An
20 initial license fee of one hundred dollars (\$100.00) shall
21 accompany each application. All licenses shall expire June
22 30 of each year unless suspended, revoked or renewed.
23 Licenses shall be renewed each year upon application to the
24 department accompanied by a fee of fifty dollars (\$50.00).

1 Any public pool or spa which has a license on the effective
2 date of this section shall pay a fee of fifty dollars
3 (\$50.00) for the following year and shall not be liable to
4 pay the initial license fee of one hundred dollars
5 (\$100.00).

6

7 (c) Fees collected under this section shall be
8 distributed as follows:

9

10 (i) In any county, city or district without a
11 local health department established pursuant to W.S.
12 35-1-301 et seq., the department of agriculture shall
13 receive ninety percent (90%) of the fee collected and the
14 department of health shall receive ten percent (10%). The
15 revenues shall be deposited into a special account and
16 shall be used to defray the cost associated with the public
17 health and safety program related to public pools and spas;

18

19 (ii) In any county, city or district with a
20 local health department established pursuant to W.S.
21 35-1-301 et seq., the local health department shall receive
22 eighty-five percent (85%) of the amount of the fee
23 collected, the department of agriculture shall receive ten
24 percent (10%) and the department of health shall receive

1 five percent (5%). The revenues shall be deposited into a
2 special account and shall be used to defray the cost
3 associated with the public health and safety program
4 related to public pools and spas.

5

6 (d) Before approving an application, the department
7 of agriculture or the local health department shall
8 determine that the facility is in compliance with this act
9 and any regulations adopted pursuant to this act.

10

11 **35-28-110. Summary suspension of a license.**

12

13 (a) A regulatory authority may summarily suspend a
14 license to operate a public pool or spa if it determines
15 through inspection, water quality testing, records or other
16 authorized means, or after consultation with the state
17 health officer, that an imminent health hazard exists
18 including, but not limited to, fire, flood, extended
19 interruption of electrical or water service, sewage backup
20 or water borne illness or disease.

21

22 (b) The regulatory authority may summarily suspend a
23 license by providing written notice of the summary

1 suspension to the license holder or the person in charge
2 without prior warning, notice of a hearing or a hearing.

3

4 (c) The regulatory authority shall conduct an
5 inspection of the facility for which the license was
6 summarily suspended within forty-eight (48) hours after
7 receiving notice from the license holder stating that the
8 conditions cited in the summary suspension order no longer
9 exist.

10

11 (d) A summary suspension shall remain in effect until
12 the conditions cited in the notice of suspension no longer
13 exist and their elimination has been confirmed by the
14 regulatory authority through reinspection and other means
15 as appropriate. A suspended license shall be reinstated
16 immediately if the regulatory authority determines that the
17 imminent health hazard no longer exists. A notice of
18 reinstatement shall be provided to the license holder or
19 person in charge of the facility.

20

21 **35-28-111. License revocation.**

22

23 (a) A regulatory authority may initiate revocation
24 proceedings for a license by serving a complaint signed by

1 the director or the director of a local department of
2 health. The application shall be accompanied by an
3 affidavit of the director or director of the local
4 department of health stating:

5

6 (i) The condition for the summary suspension has
7 not been corrected;

8

9 (ii) There is a history of noncompliance with
10 this act or the regulations adopted under this act; or

11

12 (iii) There was a refusal to grant access to the
13 regulatory authority.

14

15 (b) If requested, the regulatory authority shall
16 provide notice and hold a hearing in accordance with the
17 provisions of the Wyoming Administrative Procedure Act,
18 W.S. 16-3-101 et seq.

19

20 (c) If, upon completion of the hearing and
21 consideration of the record, the department of agriculture
22 or local department of health finds that the conditions
23 present at the facility pose an imminent health hazard,
24 there is a history of noncompliance with this act or the

1 regulations adopted under this act or there was a refusal
2 to grant access to the regulatory authority the regulatory
3 authority shall issue an order of license revocation which
4 shall include findings of fact and conclusions of law, and
5 findings of actions necessary to cure the causes leading to
6 the revocation.

7

8 (d) The decision of the regulatory authority may be
9 appealed to the district court pursuant to the Wyoming
10 Administrative Procedure Act, W.S. 16-3-101 et seq.

11

12 **Section 2.** W.S. 35-1-240(a)(xv), 36-8-304, 36-8-308
13 and 36-8-315 are amended to read:

14

15 **35-1-240. Powers and duties.**

16

17 (a) The department of health, through the state
18 health officer, or under his direction and supervision,
19 through the other employees of the department, shall have
20 and exercise the following powers and duties:

21

22 (xv) To enforce such sanitary standards, as are
23 or may be established by law, for the operation and
24 maintenance of lodging houses, hotels, public conveyances

1 and stations, schools, factories, workshops, industrial and
2 labor camps, recreational resorts and camps, ~~swimming~~
3 ~~pools, public baths~~ and other buildings, centers and places
4 used for public gatherings;

5

6 **36-8-304. Public baths and public campgrounds.**

7

8 The department of state parks and cultural resources shall
9 retain one-fourth (1/4) of the water in the main or largest
10 principal spring on the state land on the eastern bank of
11 the Big Horn River with sufficient quantity of the land
12 adjacent thereto, upon which suitable bathhouses may be
13 constructed, which shall be open, with preference of use
14 given free to persons who are indigent and suffering from
15 ailments for which bathing in the waters of the Big Horn
16 Hot Springs will afford relief. The department may make
17 necessary rules and regulations governing free baths, ~~the~~
18 ~~manner and time of bathing, and may require medical~~
19 ~~examination of applicants for baths. The bathhouse shall~~
20 ~~remain open not less than ten (10) hours a day each weekday~~
21 ~~and not less than six (6) hours on Sundays and holidays~~ and
22 the manner and time of bathing. The rules shall meet the
23 minimum requirements of rules adopted by the department of
24 agriculture governing public pools and spas. The

1 department, in consultation with the commission, may set
2 apart a suitable location and portion of the lands for
3 public camping purposes but may contract for operation of
4 any campgrounds by competitive sealed bid. Should the
5 department, in consultation with the commission, operate
6 any campground within Hot Springs State Park, the charges
7 per night shall not be less than one-half (1/2) of the
8 average charges imposed by private campground operators
9 within a five (5) mile radius of the Hot Springs State
10 Park. The balance of the water and lands may be leased by
11 the department, in consultation with the commission, for a
12 term not less than five (5) years nor longer than ninety-
13 nine (99) years. The length of the term of each individual
14 lease shall be determined by the department, in
15 consultation with the commission, in accordance with the
16 value of the improvements proposed and actually placed upon
17 the leasehold. The department may by rule provide for
18 special use permits for limited purposes. The department
19 may make rules and regulations with respect to the erection
20 of buildings and improvements upon the individual
21 leaseholds and may prescribe the plans and specifications
22 of, and the materials to be used in the buildings to be
23 erected. The department, in consultation with the
24 commission, in any lease may provide for such plans and

1 buildings and such use thereof as will best carry out the
2 purposes of this chapter in retaining the lands and waters
3 thereon for the treatment and cure of diseases and the
4 pleasure of the general public. The department, in
5 consultation with the commission, may conduct through pipes
6 or otherwise any portion of the waters of the hot springs
7 reserved for free use under this section and to provide
8 baths and bathhouses for the use of the water at such
9 rental or rates as it prescribes.

10

11 **36-8-308. Inspection for health purposes.**

12

13 The department, in consultation with the commission, may
14 call upon the state department of health to inspect,
15 examine and report fully upon the condition of any and all
16 hotels, ~~bathhouses, sanitariums~~ and buildings, and all
17 places and localities within the limits of the Big Horn Hot
18 Springs state park and to enforce the health laws of the
19 state and the applicable rules and regulations of the
20 department. The department may call upon the state
21 department of agriculture to inspect, examine and report
22 fully upon the condition of any and all bathhouses within
23 the limits of the Big Horn Hot Springs state park and to

1 enforce the health laws of the state and the applicable
2 rules and regulations.

3

4 **36-8-315. Penalty for public health violations.**

5

6 Any person who ~~maintains a filthy, unwholesome or offensive~~
7 ~~house, hotel, bathhouse, sanitarium, dwelling, stable,~~
8 ~~privy or privy vault, drainpipe or sewer, which is a menace~~
9 ~~to the public health, or who~~ fails to comply with any
10 order, rule, ~~direction~~ or regulation of the department of
11 state parks and cultural resources, state department of
12 agriculture, or the state department of health is guilty of
13 a misdemeanor, and upon conviction shall be fined in any
14 sum not exceeding ~~one hundred dollars (\$100.00)~~ seven
15 hundred fifty dollars (\$750.00) or imprisoned in the county
16 jail for not more than six (6) months, or both.

17

18 **Section 3.** This act is effective July 1, 2002.

19

20

(END)