



Ohio Legislative Service Commission

Bill Analysis

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H.B. 416

129th General Assembly
(As Introduced)

Reps. Blair, R. Adams, Beck, Boose, Grossman, Letson, Murray, Weddington, Yuko, Driehaus

BILL SUMMARY

- Establishes a separate licensing category for public swimming pools, public spas, and special use pools that are seasonal.
- Permits a licensor, which is generally a local board of health, to immediately suspend a swimming pool license if failure to comply with the swimming pool law results in an immediate danger to the public health or a critical violation as defined in rules.
- Creates an appeals process regarding immediate license suspensions.
- Permits a licensor to require certification through completion of a training course in pool operation in certain circumstances and authorizes a licensor to establish a fee for attending a course offered by the licensor.
- Requires a sanitarian or a sanitarian-in-training to conduct each inspection of a pool or spa required or permitted under the licensing program.
- Authorizes a licensor to impose a late application penalty, and requires a licensor to process applications 30 days after receiving them.
- Requires the Public Health Council to adopt rules regarding critical violations, the appeals process for license suspensions, and certification in pool operation.

CONTENT AND OPERATION

License for seasonal pools and spas

The bill establishes a license category for public swimming pools, public spas, and special use pools that are seasonal, which are currently licensed in the same manner

as non-seasonal pools and spas. A seasonal pool or spa is one that is operated for no more than six months of the 12-month licensing period for pools and spas.¹

If a person intends to operate or maintain a pool or spa that is seasonal, the bill requires the person to apply for a license at least 30 days before beginning operation for a season, rather than the existing requirement of applying in April of each year. As under current law, the application must be submitted to the licensor for pools and spas in that jurisdiction.² A licensor is either (1) the board of health of a city or general health district or (2) the Director of Health when the board has not been approved by the Director to serve as the licensor.³ Instead of being effective for the entire 12-month licensing period as provided in existing law, a seasonal license becomes effective on the date it is issued and remains effective until a date specified by the licensor, which must be no later than six months after the date of issuance.⁴

Other than the differences described above, seasonal pools and spas are subject to the requirements that apply to non-seasonal pools and spas, including other licensure requirements.⁵

License suspension

The bill permits the licensor to immediately suspend a swimming pool license if failure to comply with the swimming pool law results in an immediate danger to the public health or a critical violation as defined in rules to be adopted by the Public Health Council. The licensor does not have to give written notice or afford the license holder the opportunity to correct the violation prior to suspending the license. After suspending the license, the licensor must give written notice to the license holder of the procedure for appealing the suspension. The suspension remains in effect until lifted by the licensor.⁶

A licensor may authorize a health commissioner to suspend a license as described above. The health commissioner may lift the suspension without consulting

¹ R.C. 3749.01(K) and (L).

² R.C. 3749.04(B).

³ R.C. 3749.01 and 3749.07.

⁴ R.C. 3749.04(D).

⁵ R.C. 3749.01.

⁶ R.C. 3749.05(B)(1).

the licensor on determining that there is no longer an immediate danger to the public health or a critical violation.⁷

The license holder may appeal the suspension by giving written notice to the licensor and specifying in the notice whether a hearing is requested. Regardless of whether a hearing is held, if the suspension is appealed, the licensor must determine whether an immediate danger to the public health or a critical violation continues to exist in the following manner:

--If the licensor is a board of health, by majority vote of the members of the board present at a meeting at which there is a quorum;

--If the Director of Health is acting as the licensor, by decision of the Director.⁸

The appeal must be conducted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

If the licensor determines that an immediate danger to the public health or a critical violation continues to exist, the licensor must issue an order continuing the suspension. If the immediate danger or critical violation no longer exists, the licensor must lift the suspension.⁹

If the license holder requests a hearing, it must be held no later than three business days after the licensor receives the request. The hearing must be held prior to the licensor issuing an order continuing the suspension but may be held at the same meeting at which issuance of the order is considered.¹⁰

If an order continuing the suspension is issued, a license holder may appeal the order as follows:

--If the order was issued by a board of health, to the common pleas court of the county in which the licensor is located;

--If the order was issued by the Director of Health, to the Franklin County Court of Common Pleas.¹¹

⁷ R.C. 3749.05(B)(2).

⁸ R.C. 3749.05(C).

⁹ R.C. 3749.05(C)(2)(b).

¹⁰ R.C. 3749.05(C)(2)(c).

¹¹ R.C. 3749.05(D).

Training course in pool operation

A licensor may require certification through completion of a training course in pool operation for any of the following reasons:

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

(2) The licensor has documented a license holder's repeated noncompliance regarding critical violations as defined in rules to be adopted by the Public Health Council;

(3) A license holder's pool is new or has not been licensed within the past two years, unless the license holder provides documentation satisfactory to the licensor of successful completion of an equivalent certification program.¹²

A licensor may establish a fee for attendance at a course offered by the licensor in pool operation, if the course is approved by the Director of Health. This fee is in addition to the licensing and inspection fees that a licensor is permitted to establish under current law.¹³

Course approval and certification issuance

The bill requires the Director of Health to approve courses of study for certification in pool operation in accordance with rules to be adopted by the Public Health Council. The Director must certify an individual in pool operation if the individual successfully completes an approved course and meets any other requirements and pays the fee established by rules to be adopted by the Public Health Council.¹⁴

Inspections

The bill requires that a sanitarian or sanitarian-in-training conduct each inspection of a pool or spa for the pool licensing program. Current law requires an inspection before initial licensure and annually thereafter. Other inspections may be conducted as the licensor determines appropriate.¹⁵

¹² R.C. 3749.04(E).

¹³ R.C. 3749.04(F).

¹⁴ R.C. 3749.08.

¹⁵ R.C. 3749.06.

Application procedures

Late application penalty

If a licensor charges a fee for renewal of a license to operate a pool or spa, the bill requires the licensor to impose a late application penalty. An application is late if it is not filed or postmarked before May 1 in the year the license is to be renewed or, in the case of a seasonal pool or spa, before the first day of operation in the new licensing period. The penalty must be an amount equal to 25% of the renewal fee, and the licensor may not renew the license until the penalty is paid.¹⁶

Deadline for processing a license application

The bill requires a licensor to process and respond to an application for a pool or spa license 30 days after receiving it, rather than *within* 30 days as required by current law.¹⁷

Rulemaking

The bill requires the Public Health Council to adopt rules regarding all of the following:

(1) What constitutes a critical violation for purposes of determining when to immediately suspend a license and when to require certification through a training course in pool operation;

(2) Procedural requirements for the appeals process regarding immediate license suspensions;

(3) All of the following with respect to certification in pool operation:

(a) Standards that must be met for approval of courses for individuals seeking certification in pool operation, procedures for applying for and granting approval, and procedures for withdrawing approval if the standards for approval cease to be met;

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

(c) A fee for certification in pool operation.¹⁸

¹⁶ R.C. 3749.04(G).

¹⁷ R.C. 3749.04(C).

¹⁸ R.C. 3749.02(A).

Technical changes

The bill also makes several technical changes throughout the swimming pool law.¹⁹

HISTORY

ACTION	DATE
Introduced	01-17-12

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¹⁹ R.C. 3749.01, 3749.03, 3749.04, 3749.06, and 3749.07.

