

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1565 Session of 2023

INTRODUCED BY BRIGGS, KINSEY, FRANKEL, SANCHEZ, MADDEN, ROZZI
AND GREEN, JULY 11, 2023

REFERRED TO COMMITTEE ON HEALTH, JULY 11, 2023

AN ACT

1 Amending the act of June 23, 1931 (P.L.899, No.299), entitled
2 "An act regulating public bathing places, swimming pools,
3 public bath houses, public and private natatoriums, turkish
4 bath houses, all places hired for any form of bathing or
5 swimming, and all related appurtenances; fixing license fees;
6 providing, in matters of sanitation, cleanliness and safety,
7 for supervision by the Department of Health; and prescribing
8 penalties for violations," further providing for title of act
9 and for short title; providing for definitions, for water
10 supply, for certified lifeguards, for swimming pool
11 pesticides, for safety, for public notice, for hygiene, for
12 violations and penalties, for permits, for issuance of
13 permit, for fees, for powers and duties of department, for
14 validity, for construction, for permit revocation or
15 suspension, for public nuisance declaration, for violations
16 and for repeals; and making editorial changes.

17 The General Assembly of the Commonwealth of Pennsylvania

18 hereby enacts as follows:

19 Section 1. The title and sections 1, 2, 3, 4, 4.1 and 4.2 of
20 the act of June 23, 1931 (P.L.899, No.299), known as the Public
21 Bathing Law, are amended to read:

AN ACT

22 Regulating public bathing places, swimming pools, public bath
23 houses, [public and private natatoriums, turkish bath
24 houses,] all places hired for any form of bathing or
25

1 swimming, and all related appurtenances; fixing [license]
2 permit fees; [providing,] in matters of sanitation,
3 cleanliness and safety, providing for supervision by the
4 Department of Health; and prescribing penalties for
5 violations.

6 [Section 1. Be it enacted, &c., That this]

7 Section 1. Short title.

8 This act shall be known[,] and may be cited as the "Public
9 Bathing Law."

10 [Section 2. Definitions, as used in this act:

11 (1) A public bathing place shall mean any place open to the
12 public for amateur and professional swimming or recreative
13 bathing, whether or not a fee is charged for admission or for
14 the use of said place, or any part thereof. Except with respect
15 to the regulation of water supply and content, hygiene and
16 plumbing and electrical facilities, and safety equipment, a
17 public bathing place shall not include a swimming pool, lake or
18 pond owned, operated and maintained for the exclusive use and
19 enjoyment of residents of a condominium or cooperative or
20 members of a property-owners association or the personal guests
21 of such residents or members.

22 (2) A swimming pool shall mean a place in the open or
23 enclosed in any structure or building for the purpose of
24 admitting two or more persons to bathe or swim together.

25 (3) A natatorium shall mean a place in any building, or
26 parts of buildings, maintained and conducted by any person or
27 persons, club, corporation, association, or society or other
28 organization, where fees are charged to public or member patrons
29 for swimming, bathing, turkish, swedish or other forms of
30 bathing.

1 (4) Department shall mean the Department of Health of this
2 Commonwealth.

3 (5) A certified lifeguard shall mean an individual who has a
4 current certification in lifeguarding from a certifying
5 authority recognized by the department in a notice published in
6 the Pennsylvania Bulletin.

7 (6) A recreational swimming establishment shall mean a
8 facility that is designed, constructed and/or designated for use
9 by individuals for the primary purpose of swimming, where a fee
10 is charged for admission. This definition shall include, but is
11 not limited to, swimming pools, water rides, wave pools and
12 swimming beaches and other outdoor swimming facilities. The term
13 excludes those facilities owned by condominiums, other property
14 owner associations, rental arrangements which include three or
15 more families or social units, hotels or motels, campgrounds,
16 private clubs and private organizations which do not provide
17 access to the general public, swimming facilities used
18 exclusively for hydrotherapy and residential swimming facilities
19 used solely by the owner of a residence, his family and personal
20 guests.

21 Section 3. Classification.--Bathing places shall be
22 classified as follows:

23 (1) Natural lakes, ponds, pools, rivers and water streams.

24 (2) Outdoor ponds, pools, and streams which may be partly
25 artificial and partly natural.

26 (3) Outdoor or indoor bathing or swimming pools and places
27 which are entirely artificial in construction.

28 (4) Recreational swimming establishments.

29 Section 4. In all places used and intended to be used for
30 bathing and swimming by the public or any person or persons, the

1 water shall be maintained at all times clean and sanitary. For
2 the protection of the public, from time to time, the water used
3 shall be analyzed and tested and used in accord with the
4 chemical content and quality of water prescribed by the rules
5 and regulations of the department for the preservation of the
6 public health.

7 (a) The chemical content and quality of water in any places
8 for bathing and swimming, or their appurtenances, at no time
9 during the periods when such places for bathing and swimming are
10 open for patronage and use, shall be of a chemical content or
11 quality injurious to the health and bodies of the patrons and
12 users of said public bathing places and swimming pools and
13 contrary to the rules and regulations of the department.

14 Section 4.1. Certified Lifeguards.--]

15 Section 2. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Beach." A body of natural water, impounded or flowing, of a
20 size in relation to the bathing load that the quality and
21 quantity, confined or flowing, does not need to be mechanically
22 controlled for the purpose of purification or contained in an
23 impervious structure.

24 "Department." The Department of Health of the Commonwealth.

25 "Lifeguard." An individual who has a current lifeguard
26 certificate issued by a lifeguard certifying authority
27 recognized by the department and published in the Pennsylvania
28 Bulletin.

29 "Natatorium." A place in a building or parts of buildings,
30 maintained and conducted by a person, club, corporation,

1 association or society or other organization, where fees are
2 charged to public or member patrons for swimming or bathing,
3 including Turkish, Swedish or other forms of bathing.

4 "Public bathing place." An outdoor or indoor area used for
5 amateur, professional or recreative swimming or bathing, whether
6 or not a fee is charged for admission or for the use of the
7 area. The following apply:

8 (1) The term includes a recreational swimming
9 establishment, spa or spray pool.

10 (2) The term excludes the following unless otherwise
11 noted:

12 (i) A bathing area at a private single-family
13 residence which is used solely by the owner, family of
14 the owner or guests of the owner.

15 (ii) A swimming pool, lake or pond owned, operated
16 and maintained for the exclusive use and enjoyment of
17 residents of a condominium or cooperative or members of a
18 property owners' association or the personal guests of
19 the residents or members, except with respect to the
20 regulation of the water supply and content, hygiene and
21 pumping and electrical facilities and safety equipment.

22 "Recirculation system." The combination of mechanically
23 controlled drains, gutters or skimmers, inlets, piping, pumps,
24 controls, surge tanks or balance tanks to provide water
25 recirculation to and from an impervious structure and the
26 treatment systems.

27 "Recreational swimming establishment." A public bathing
28 place that charges an admission fee. The term excludes:

29 (1) Facilities owned by a property owners' association.

30 (2) Rental arrangements which include three or more

families or social units.

(3) Hotels and motels.

(4) Campgrounds.

(5) Private clubs or organizations which do not provide access to the general public.

(6) Swimming facilities used exclusively for hydrotherapy.

"Spa." A structure, chamber or tank, including a hot tub, spray pool or whirlpool, that is designed for recreational or therapeutic use and is not designed to be drained, cleaned or refilled after each individual use.

"Spray pool" or "splash pad." A unit containing spray features intended for recreational use that does not allow water to pool in the basin.

"Swimming pool." A place in the open or enclosed in any structure or building for the purpose of admitting two or more people to bathe or swim together.

"Unit." A separate and distinct public bathing place within a facility with one or more public bathing places, including a swimming pool, spray pool, splash pad, spa, beach or other water attraction.

Section 3. (Reserved).

Section 4. Water supply.

(a) Requirements.--A public bathing place that operates a recirculation system shall:

(1) Be equipped with an approved device to provide continuous disinfection to prevent the growth of pathogenic organisms.

(2) Maintain a recirculation and filtration system capable of maintaining chemical and physical standards. The

1 system shall:

2 (i) Have a bacteriological analysis on a consistent
3 and timely basis during the period of maximum use of the
4 public bathing place as provided by regulation and
5 appropriate for public health.

6 (ii) Monitor the water quality to ensure standards
7 are met. All monitoring results must be recorded on a
8 form provided by the department. A copy of the results
9 must be kept on file for three years by the facility
10 owner and any corrective action taken shall be documented
11 in the appropriate records.

12 (iii) Ensure that all water in a public bathing
13 place, swimming pool or spa is sufficiently clear so that
14 a six-inch colored disk is clearly visible from the
15 surface of the swimming pool or spa.

16 (b) Definition.--As used in this section, the term "public
17 bathing place" shall include a condominium.

18 Section 4.1. Certified lifeguards.

19 (a) Number.--An adequate number of certified lifeguards
20 shall be on duty at a recreational swimming establishment when
21 the recreational swimming establishment is open to the public.

22 (b) Requirements.--The department shall promulgate
23 regulations to determine the number of lifeguards required at a
24 recreational swimming establishment using objective criteria
25 that take into consideration industry standards. The department
26 shall consult with approved certifying authorities and
27 recreational swimming establishments to develop [regulations]
28 requirements relating to lifeguards.

29 [Section 4.2. Swimming Pool Pesticides.--]

30 Section 4.2. Swimming pool pesticides.

1 The use of general use pesticides in the care and maintenance
2 of a swimming pool at a private single-family residence by any
3 person is authorized without any certification restrictions
4 imposed by the act of March 1, 1974 (P.L.90, No.24), known as
5 the "Pennsylvania Pesticide Control Act of 1973," or any
6 regulations promulgated [thereunder] under the act.

7 Section 2. The act is amended by adding sections to read:
8 Section 4.3. Safety.

9 (a) Electrical safety.--An operator of a public bathing
10 place under this act shall maintain electrical equipment and
11 wiring as appropriate to ensure public health.

12 (b) Vector control.--An operator and owner of a public
13 bathing place under this act shall take adequate measures for
14 the control of arthropods and rodents.

15 (c) Barriers.--Construction, equipment, operation and
16 maintenance at a public bathing place shall reduce, to a
17 practical minimum, the danger of injury to persons from
18 drowning, falls, collisions, fires, nuisances or hazards of any
19 kind.

20 (d) Safety equipment.--An operator of a public bathing place
21 or other facility covered under this act shall ensure that
22 required safety equipment is stocked and available for public
23 use at all times.

24 (e) Definition.--As used in this section, the term "public
25 bathing place" shall include a condominium.

26 Section 4.4. Public notice.

27 (a) Notice.--A public bathing place shall be subject to
28 notice requirements as determined by the department. The notice
29 under this section shall be made available to the public upon
30 request and shall contain the following information:

1 (1) A copy of the most recent electrical inspection.

2 (2) A copy of the most recent bacteriological monitoring
3 results.

4 (3) A copy of the lifeguard certification, first aid
5 certification and cardiopulmonary resuscitation certification
6 for each lifeguard employed at the facility.

7 (4) A copy of all applicable safety data sheets.

8 (5) A copy of the public bathing place permit.

9 (b) Hot tubs and spas.--A hot tub and spa shall be posted
10 with the signage indicating information as appropriate to ensure
11 compliance with safe use of a hot tub and spa.

12 (c) Placement of signs.--A public bathing place shall post
13 signs at the entrance stating that all incidents involving
14 vomitus, fecal contamination or unsafe conditions must be
15 reported to management immediately.

16 (d) Hours of operation.--A public bathing place shall post a
17 sign at the entrance stating the hours of operation.

18 Section 4.5. Hygiene.

19 (a) Food safety.--If food service is provided at a public
20 bathing place, the food service facilities and operations shall
21 comply with the requirements under 3 Pa.C.S. Ch. 57 Subch. A
22 (relating to retail food facility safety).

23 (b) Sewage.--A sewerage system serving a public bathing
24 place shall be approved by the Department of Environmental
25 Protection. The approval shall be based upon satisfactory
26 compliance with 25 Pa. Code Ch. 73 (relating to standards for
27 onlot sewage treatment facilities) and the act of June 22, 1937
28 (P.L.1987, No.394), known as The Clean Streams Law.

29 Section 4.6. Violations and penalties.

30 The department may impose the following administrative or

1 civil penalties on a public bathing place in violation of this
2 act:

3 (1) The department may levy a civil penalty of up to
4 \$5,000 per day upon a person that owns or operates a public
5 bathing place in this Commonwealth in violation of the
6 provisions of this act.

7 (2) The department shall hold hearings and issue
8 adjudications in accordance with 2 Pa.C.S. (relating to
9 administrative law and procedure). The adjudications may be
10 appealed to Commonwealth Court under 42 Pa.C.S. § 763
11 (relating to direct appeals from government agencies).

12 Section 3. Sections 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of
13 the act are amended to read:

14 [Section 5. Permits.--]

15 Section 5. Permits.

16 (a) General rule.--It shall be unlawful for [any] a person
17 or persons, club, firm, corporation, partnership, institution,
18 association, municipality or county to construct, add to or
19 modify, or to operate, or continue to operate, any public bath
20 house, bathing swimming place or swimming pool, spa, beach,
21 natatorium, or any structure intended to be used for bathing or
22 swimming purposes, indoors or outdoors, without having first
23 obtained a permit so to do or being in possession of an
24 unrevoked permit.

25 (b) [Permits shall be obtained in the following manner: Any]
26 Application.--A person or persons, firm, corporation, co-
27 partnership, associations, institution, municipality or county,
28 or other body, desiring to construct, add to or modify, or to
29 operate and maintain any public bathing place, bath house,
30 bathing or swimming pool, natatorium, place or structure,

1 indoors or outdoors, intended to be used for hire for bathing or
2 swimming within [the] this Commonwealth, shall file with the
3 department, on [blanks prepared by it] a form prepared by the
4 department, an application for permission to operate [such] a
5 bathing place or swimming pool.

6 (b.1) Validity of permit.--A permit shall be valid for a
7 period of one year, effective from April 1 to March 31 of the
8 following year.

9 (c) Application.--Each application shall [be accompanied by
10 a fee of ten (\$10.00) dollars, and by] include:

11 (1) maps, drawings, specifications and descriptions of
12 the bathing place, pool, or structure[, its];

13 (2) the bathing place's, pool's or structure's
14 appurtenances and operations[, descriptions];

15 (3) a description of the source or sources of water
16 supply[,];

17 (4) the amount of chemical content and quality of water
18 available and intended to be used[,];

19 (5) the method and manner of water purifications,
20 treatment, disinfection, heating, regulating and cleaning[,
21 and];

22 (6) measures employed to insure installation of
23 necessary lavatories, dressing rooms, segregation of sexes,
24 and personal cleanliness of bathers[,];

25 (7) the method and manner of washing, disinfecting,
26 drying, and storing bathing apparel and towels[,]; and

27 (8) all other information and statistics that may be
28 required by the rules and regulations of the department.

29 (d) [Thereupon the department shall cause an investigation
30 to be made of] Investigation.--The department shall investigate

1 the proposed bathing place or existing place, pond or pool. If
2 [it shall be determined] the department determines that the
3 bathing or swimming place reasonably may be expected to become
4 unclean, unsanitary, a nuisance, or may constitute a menace to
5 public health, the department shall immediately refuse a permit
6 [therefor] in a written order or decision giving the reasons for
7 [such] the refusal, and notify the applicant of [said] the
8 refusal.

9 [Section 6.]

10 (e) Exception.--A permit shall not be required for a
11 facility inside a condominium, cooperative or property owners'
12 association, as long as the facility is solely for the use of
13 members or personal guests of the members. The facility must be
14 registered with the department, including location, owner
15 contact information and other information as requested by the
16 department for the purpose of inspection.

17 Section 6. Issuance of permit.

18 If the department [shall determine] determines that the
19 bathing or swimming place, for which a permit is applied, is or
20 may be maintained continually in a clean, sanitary and healthful
21 manner, and will not constitute or become a menace to the public
22 health, promote immorality, or be a public nuisance, [it] the
23 department shall notify the applicant for [such] the permit
24 under what conditions and restrictions, if any, the department
25 will issue a permit. [Thereupon, if the said applicant then
26 shall desire such permit, and shall agree] If the applicant
27 agrees to comply with the restrictions and conditions prescribed
28 by the department, the department shall issue the permit.

29 [Section 7. All fees accompanying the applications for
30 permits, together with any monies received for transcribing any

1 records for appeals, or any other purpose, shall be paid into
2 the State Treasury, through the Department of Revenue.

3 Section 8. Powers and Authority of the Department.--

4 (a) The department at all reasonable times shall have access
5 to, and are hereby empowered to enter upon, any and all parts of
6 the premises of any bathing and swimming place used and let for
7 hire to the public or individuals, and to make such examinations
8 and investigations as shall determine the sanitary conditions,
9 adequate number of certified lifeguards under section 4.1 and
10 all hazards and dangers from fires or anything else and whether
11 the provisions of this act and the rules and regulations of the
12 department are being complied with or are being violated.

13 (b) If it be determined upon such examination and
14 investigation that any bathing or swimming place is being
15 maintained contrary to the provisions of this act, such bathing
16 and swimming place forthwith shall be closed to all persons, and
17 the bathing or swimming pools be drained and kept dry until
18 provision is made to comply with this law and permission given
19 by the department to reopen the same. Prosecutions also shall be
20 brought and carried to final judgment by the department against
21 each and every person violating any of the provisions of this
22 act.

23 (c) The department shall, from time to time, make complete
24 and detailed records of all such investigations, inspections and
25 prosecutions.]

26 Section 7. Fees.

27 (a) Application fee.--A new application for a permit to
28 construct, add to, modify or to operate or maintain a public
29 bathing place shall be accompanied by a fee of \$100 for the
30 initial unit and \$50 for each additional unit.

1 (b) Annual renewal permit fee.--Beginning in the calendar
2 year following the payment of the application fee, or if a
3 permit from the department is received prior to 2024, a person
4 or persons, club, firm, corporation, partnership, institution,
5 association, municipality or county in possession of a permit
6 under this act shall pay an annual renewal permit fee to the
7 department prior to April 1 to renew the permit, and the fee
8 shall be based on the total water surface area of all permitted
9 units of the public bathing place as follows:

10 (1) The fee shall be \$100 if the total square feet of
11 permitted water surface is less than 600 square feet.

12 (2) The fee shall be \$125 if the total square feet of
13 permitted water surface is equal to or greater than 600 and
14 less than 1,000 square feet.

15 (3) The fee shall be \$150 if the total square feet of
16 permitted water surface is equal to or greater than 1,000
17 square feet and less than 10,000 square feet.

18 (4) The fee shall be \$300 if the total square feet of
19 permitted water surface is equal to or greater than 10,000
20 square feet.

21 (c) Replacement permit.--Each request to the department for
22 a permit replacement due to ownership change, name change or
23 lost permit shall be accompanied by a fee of \$25.

24 (d) Fees.--All fees collected by the department under this
25 section shall be paid to the department to administer the
26 program. Fees may be updated by rules and regulations of the
27 department.

28 Section 8. Powers and duties of department.

29 (a) Regulations.--The department shall promulgate
30 regulations necessary to implement the provisions of this act.

The department shall consider the most up-to-date guidance published in the Model Aquatic Health Code as developed by the Centers for Disease Control and Prevention.

(b) Access and closure.--The department shall have access to any part of the premises of a facility permitted under the provisions of this act. A public bathing place in violation of this act shall be closed to all persons until the public bathing place is brought into compliance and permitted by the department to reopen.

(c) Records.--The department shall make complete and detailed records of all investigations, inspections and prosecutions.

[Section 9.]

(d) Temporary regulations.--The following apply:

(1) In order to facilitate the prompt implementation of this chapter, the department shall promulgate temporary regulations that shall expire not later than two years following the publication of the temporary regulations. The temporary regulations shall not be subject to:

(i) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(ii) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(iii) Sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(2) The department's authority to adopt temporary regulations under paragraph (1) shall expire six months after the effective date of this section. Regulations adopted after

1 this period shall be promulgated as provided by law.

2 (3) The department shall transmit the temporary
3 regulations to the Legislative Reference Bureau for
4 publication in the next available issue of the Pennsylvania
5 Bulletin no later than six months after the effective date of
6 this section.

7 Section 9. Validity.

8 The provisions of this act shall not operate to invalidate
9 the provisions of any ordinance, rule or regulation lawfully
10 enacted to protect the public health or against dangers from
11 fire, water hazards or nuisances of any kind.

12 [Section 10. No township, borough, city, or county, for
13 operating and carrying on the business licensed and regulated by
14 this act, shall impose any license fee in addition to the fees
15 herein prescribed: Provided, however, That the owners or
16 managers of such bathing places or swimming pools shall be
17 privileged to apply to the proper authorities of the
18 municipality in which such bathing or swimming place is located
19 and pay for any police and other protection necessary to protect
20 the patrons of such place from personal and bodily injury.

21 Section 11. Any permit granted by the department, as provided
22 in this act, shall be revocable or subject to suspension at any
23 time if the department shall determine that the bathing or
24 swimming place or pool is or has been conducted in a manner
25 unsanitary, unclean, promoting immorality or is dangerous to the
26 public health.

27 Section 12.

28 Any]

29 Section 10. Construction.

30 A township, borough, city or county shall not impose a permit

fee in addition to the fees prescribed in this act. Nothing in this section shall be construed to prevent the facility operator of a public bathing place to apply for the provision of any police and other protection necessary to ensure public safety.

Section 11. Permit revocation or suspension.

A violation of the provisions of this act shall be grounds for permit revocation or suspension.

Section 12. Public nuisance declaration.

A bathing or swimming place constructed, operated or maintained contrary to the provisions of this act is [hereby] declared to be a public nuisance, and, after being closed and drained of all water promptly, shall be abated and enjoined as other nuisances are abated and enjoined by an action brought by the Attorney General in any common pleas court of the county when [such] the public nuisance is being maintained.

[Section 13. Any person, firm, or corporation, association or institution whether as principal or agent, employer or employee, who violates by any act of omission or commission, or in any manner is a party to or directly or indirectly aids or permits a violation of any of the provisions of this act, shall be guilty of a summary offense. Each day that the conditions or acts in violation of this act of Assembly shall remain or continue shall be deemed, on the part of the person or persons charged with the knowledge thereof, to be a separate and distinct offense against the provisions of this act. For each offense, upon conviction, such person or persons shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than five hundred (\$500.00) dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.]

Section 14.]

Section 13. Violations.

(a) Criminal violation.--A firm, corporation, association or institution whether as principal, agent or employer that violates by any act of omission or commission, or in any manner is a party to or directly or indirectly aids or permits a violation of any of the provisions of this act, shall be guilty of a summary offense of the fifth degree and be subject to jurisdiction and penalties as defined under 34 Pa.C.S. § 925 (relating to jurisdiction and penalties). Each day that the conditions or acts in violation of this act shall remain or continue is deemed a separate and distinct offense.

(b) Jurisdiction.--The Attorney General and county district attorney's offices shall have concurrent jurisdiction over offenses under this section.

Section 14. Repeals.

All acts or parts of acts contrary to or inconsistent with the provisions hereof are hereby repealed. But nothing contained in this act shall be construed to repeal the provisions of any law the enforcement of which is vested in the Department of Forests and Waters or the Water and Power Resources Board.

Section 4. This act shall take effect in 60 days.