MISSISSIPPI LEGISLATURE
REGULAR SESSION 2007

By: Representative Bondurant (By Request)

To: Public Health and Human Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 581

AN ACT TO CREATE THE "MISSISSIPPI PUBLIC SWIMMING POOL ACT OF 2007"; TO DEFINE CERTAIN TERMS; TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ADOPT AND ENFORCE RULES UNDER THIS ACT; TO PROVIDE THAT A PERMIT FROM THE DEPARTMENT IS REQUIRED TO OPERATE A PUBLIC SWIMMING POOL AFTER JULY 1, 2008; TO AUTHORIZE THE DEPARTMENT TO CHARGE FEES FOR THOSE PERMITS; TO PROVIDE FOR CERTAIN EXEMPTIONS FROM THIS ACT; TO AUTHORIZE THE DEPARTMENT TO IMPOSE ADMINISTRATIVE FINES FOR VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Mississippi Public Swimming Pool Act of 2007."

SECTION 2. As used in this act, the following terms shall be defined as follows:

(a) "Department" means the State Department of Health.

(b) "Public swimming pool" means a watertight structure of concrete, masonry or other approved materials that is located either indoors or outdoors, that is operated with or without charge for the use of the general public for swimming by humans, and that is filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection with the structure. The term "public swimming pool" means a conventional pool, spa-type pool, wading pool, special purpose pool or water recreation attraction, to which admission may be gained with or without payment of a fee, and includes, but is not limited to, pools operated by or serving camps, churches, municipalities, counties, day care centers, group home facilities for eight (8) or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five (5) or more living units such as...
apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks and townhouses.

(c) "Private pool" means a facility used only by an individual, family or living unit members and their guests that does not serve any type of cooperative housing or joint tenancy of five or more living units.

SECTION 3. (1) The State Department of Health shall adopt rules, which may include definitions of terms, to protect the health, safety or welfare of persons using public swimming pools. The rules shall take effect and be enforced by the department from and after July 1, 2008. The department shall review and revise those rules as necessary, but not less than biennially.

Sanitation and safety standards shall include, but not be limited to, matters relating to structure; appurtenances; operation; source of water supply; bacteriological, chemical and physical quality of water in the pool; method of water purification, treatment and disinfection; lifesaving apparatus; measures to ensure safety of bathers; and measures to ensure the personal cleanliness of bathers.

(2) After adoption of the rules under subsection (1), the department shall provide notice to persons and public bodies that will be subject to the provisions of this act and the rules adopted under this act, to inform them of the requirements of this act and those rules beginning on July 1, 2008.

SECTION 4. (1) It is unlawful for any person or public body to operate or continue to operate any public swimming pool without a valid permit from the department, which shall be obtained in the following manner:

(a) Any person or public body desiring to operate any public swimming pool shall file an application for a permit with the department, on application forms provided by the department, and shall accompany the application with:
(i) Descriptions of the structure, its appurtenances, and its operation;
(ii) Description of the source or sources of water supply, and the amount and quality of water available and intended to be used;
(iii) Method and manner of water purification, treatment, disinfection and heating;
(iv) Safety equipment and standards to be used;
(v) Measures to ensure personal cleanliness of swimmers and bathers; and
(vi) Any other pertinent information deemed necessary by the department to fulfill the requirements of this act.

(b) If the department determines that the public swimming pool is or may be reasonably expected to be operated in compliance with this act and the rules adopted under this act, the department shall grant the application for permit.

(c) If the department determines that the public swimming pool does not meet the provisions outlined in this act or the rules adopted under this act, the department shall deny the application for a permit. The denial shall be in writing and shall list the circumstances for the denial. Upon correction of those circumstances, an applicant previously denied permission to operate a public swimming pool may reapply for a permit.

(2) Operating permits shall not be required for coastal beaches.

(3) Operating permits shall not be transferable from one (1) name or owner to another. When the ownership or name of an existing public swimming pool is changed and the establishment is operating at the time of the change with a valid permit from the department, the new owner of the establishment shall apply to the department, upon forms provided by the department, for a reissuance of the existing permit.
(4) Each such operating permit shall be renewed annually and the permit must be posted in a conspicuous place.

(5) An owner or operator of a public swimming pool, including, but not limited to, a spa, wading or special purpose pool, to which admittance is obtained by membership fee shall post in a prominent location within the facility the most recent pool inspection report issued by the department pertaining to the health and safety conditions of the facility. The report shall be legible and readily accessible to members or potential members.

SECTION 5. (1) The department may establish a schedule of fees that the department shall charge for the review of applications for permits to operate public swimming pools and for the review of variance applications for public swimming pools. The department shall assess the minimum fees provided in this subsection until a fee schedule is promulgated by rule of the department. Fees collected by the department in accordance with this act shall be deposited for the payment of costs incurred in the administration of this section. The department may not charge any fees for services provided under this act other than those fees authorized in this section; however, the department shall prorate the initial fee for a permit on a half-year basis.

(2) The fee schedule shall be not less than One Hundred Dollars ($100.00) and not more than Two Hundred Dollars ($200.00) for an initial operating permit and not less than One Hundred Fifty Dollars ($150.00) and not more than Three Hundred Fifty Dollars ($350.00) for review of a variance application.

SECTION 6. (1) Private pools and water therapy facilities connected with facilities connected with hospitals, medical doctors’ offices and licensed physical therapy establishments shall be exempt from this act.

(2) A private pool used for instructional purposes in swimming shall not be regulated as a public swimming pool.
(3) The department may grant variances from any rule adopted under this act in accordance with procedures adopted by department rule.

SECTION 7. For the purpose of this section, department personnel at any reasonable time may enter upon any and all parts of the premises of public swimming pools to make an examination and investigation to determine the sanitary and safety conditions of those pools. If a death by drowning occurs at or in a public swimming pool, the department shall examine and inspect the pool as soon as possible after notification of the death.

SECTION 8. (1) The department may deny an application for a permit, suspend or revoke a permit issued to any person or public body, or impose an administrative fine upon the failure of the person or public body to comply with the provisions of this act or the rules adopted under this act.

(2) The department may impose an administrative fine, which shall not exceed Three Hundred Fifty Dollars ($350.00) for each violation, for the violation of this act or the rules adopted under this act. The department shall give notice of intent to impose that fine to the alleged violator. Each day that a violation continues may constitute a separate violation.

(3) In determining the amount of the fine to be imposed, if any, for a violation, the following factors shall be considered:

(a) The gravity of the violation and the extent to which the provisions of the applicable statute or rule were violated;

(b) Actions taken by the operator to correct violations; and

(c) Any previous violations.

(4) All amounts collected under this section shall be deposited and used for payment of costs of administration of this section.
(5) Under conditions specified by rule, the department may close a public swimming pool that is not in compliance with this act or the rules adopted under this act.

SECTION 9. This act shall take effect and be in force from and after July 1, 2007, except for Sections 4 through 8, which shall take effect and be in force from and after July 1, 2008.