

By: Senator(s) Nunnelee

To: Public Health and  
Welfare

## SENATE BILL NO. 2952

1 AN ACT TO CREATE THE "MISSISSIPPI PUBLIC SWIMMING AND BATHING  
2 FACILITIES ACT OF 2007"; TO PROVIDE DEFINITIONS; TO PROVIDE THAT A  
3 PERMIT IS NECESSARY TO OPERATE PUBLIC SWIMMING POOLS OR BATHING  
4 FACILITIES; TO EMPOWER THE STATE BOARD OF HEALTH TO ADOPT  
5 REGULATIONS NECESSARY FOR THE ENFORCEMENT OF THIS ACT; TO PROVIDE  
6 FOR PERMIT APPLICATIONS AND FEES; TO AUTHORIZE ADMINISTRATIVE  
7 FINES FOR VIOLATIONS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1. Title.** This act shall be known and may be cited  
10 as the "Mississippi Public Swimming and Bathing Facilities Act of  
11 2007."

12 **SECTION 2. Definitions.** As used in this act:

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

14 (b) "Public swimming pool" or "public pool" means a  
15 watertight structure of concrete, masonry or other approved  
16 materials which is located either indoors or outdoors, which is  
17 operated with or without charge for the use of the general public  
18 for bathing or swimming by humans, and filled with a filtered and  
19 disinfected water supply, together with buildings, appurtenances  
20 and equipment used in connection therewith. A public swimming  
21 pool or public pool shall mean a conventional pool, spa-type pool,  
22 wading pool, special purpose pool or water recreation attraction,  
23 to which admission may be gained with or without payment of a fee  
24 and includes, but is not limited to, pools operated by or serving  
25 camps, churches, cities, counties, day care centers, group home  
26 facilities for eight (8) or more clients, health spas,  
27 institutions, parks, state agencies, schools, subdivisions, or the  
28 cooperative living-type projects of five (5) or more living units

29 such as apartments, boardinghouses, hotels, mobile home parks,  
30 motels, recreational vehicle parks and townhouses.

31 (c) "Private pool" means a facility used only by an  
32 individual, family or living unit members and their guests which  
33 does not serve any type of cooperative housing or joint tenancy of  
34 five (5) or more living units.

35 (d) "Portable pool" means a nonpermanent pool or spa  
36 intended for recreational bathing and related equipment systems of  
37 any kind which is designed or intended to be removable from  
38 location to location.

39 **SECTION 3. Department authorization.** The State Board of  
40 Health may adopt and enforce rules, which may include definitions  
41 of terms, to protect the health, safety or welfare of persons  
42 using public swimming pools and bathing places. The department  
43 shall review and revise such rules as necessary, but not less than  
44 biennially. Sanitation and safety standards shall include, but  
45 not be limited to, matters relating to structure; appurtenances;  
46 operation; source of water supply; bacteriological, chemical and  
47 physical quality of water in the pool or bathing area; method of  
48 water purification, treatment and disinfection; lifesaving  
49 apparatus; measures to ensure safety of bathers; and measures to  
50 ensure the personal cleanliness of bathers.

51 **SECTION 4. Permit necessary to operate public swimming pool**  
52 **or bathing place.** (1) It is unlawful for any person or public  
53 body to operate or continue to operate any public swimming pool or  
54 bathing place without a valid permit from the department, such  
55 permit to be obtained in the following manner:

56 (a) Any person or public body desiring to operate any  
57 public swimming pool or bathing place shall file an application  
58 for a permit with the department, on application forms provided by  
59 the department, and shall accompany such application with:

60 (i) Descriptions of the structure, its  
61 appurtenances, and its operation.

62 (ii) Description of the source or sources of water  
63 supply, and the amount and quality of water available and intended  
64 to be used.

65 (iii) Method and manner of water purification,  
66 treatment, disinfection and heating.

67 (iv) Safety equipment and standards to be used.

68 (v) Measures to ensure personal cleanliness of  
69 bathers.

70 (vi) Any other pertinent information deemed  
71 necessary by the department to fulfill the requirements of this  
72 act.

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

77 (c) If the department determines that the public  
78 swimming pool or bathing place does not meet the provisions  
79 outlined in this act or the rules adopted hereunder, the  
80 department shall deny the application for a permit. Such denial  
81 shall be in writing and shall list the circumstances for the  
82 denial. Upon correction of such circumstances, an applicant  
83 previously denied permission to operate a public swimming pool or  
84 bathing place may reapply for a permit.

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

87 (3) Operating permits shall not be transferable from one  
88 name or owner to another. When the ownership or name of an  
89 existing public swimming pool or bathing place is changed and such  
90 establishment is operating at the time of the change with a valid  
91 permit from the department, the new owner of the establishment  
92 shall apply to the department, upon forms provided by the  
93 department, for a reissuance of the existing permit.

94 (4) Each such operating permit shall be renewed annually and  
95 the permit must be posted in a conspicuous place.

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

103 **SECTION 5. Creation of fee schedules authorized.** (1) The  
104 department is authorized to establish a schedule of fees to be  
105 charged by the department for the review of applications for  
106 permits to operate public swimming pools and bathing places and  
107 for the review of variance applications for public swimming pools  
108 and bathing places. The department shall assess the minimum fees  
109 provided in this subsection until a fee schedule is promulgated by  
110 rule of the department. Fees collected by the department in  
111 accordance with this act other than those fees authorized in this  
112 section, however, the department shall prorate the initial fee for  
113 a permit on a half-year basis.

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

119 **SECTION 6. Exemptions and variances.** (1) Private pools and  
120 water therapy facilities connected with facilities connected with  
121 hospitals, medical doctors' offices and licensed therapy  
122 establishments shall be exempt from this section.

123 (2) A private pool used for instructional purposes in  
124 swimming shall not be regulated as a public pool.

125 (3) The department may grant variances from any rule adopted  
126 under this act pursuant to procedures adopted by department rule.

127           **SECTION 7. Right of entry.** For the purpose of this section,  
128 department personnel at any reasonable time may enter upon any and  
129 all parts of the premises of such public swimming pools and  
130 bathing places to make an examination and investigation to  
131 determine the sanitary and safety conditions of such places.

132           **SECTION 8. Denial, suspension or revocation of permit;**  
133 **administrative fines.** (1) The department may deny an application  
134 for a permit, suspend or revoke a permit issued to any person or  
135 public body, or impose an administrative fine upon the failure of  
136 such person or public body to comply with the provisions of this  
137 section or the rules adopted hereunder.

138           (2) The department may impose an administrative fine, which  
139 shall not exceed Three Hundred Fifty Dollars (\$350.00) for each  
140 violation, for the violation of this section or the rules adopted  
141 hereunder. Notice of intent to impose such fine shall be given by  
142 the department to the alleged violator. Each day that a violation  
143 continues may constitute a separate violation.

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

146           (a) The gravity of the violation and the extent to  
147 which the provisions of the applicable statute or rule were  
148 violated.

149           (b) Actions taken by the operator to correct  
150 violations.

151           (c) Any previous violations.

152           (4) All amounts collected pursuant to this section shall be  
153 deposited and used for payment of costs of administration of this  
154 section.

155           (5) Under conditions specified by rule, the department may  
156 close a public pool that is not in compliance with this section or  
157 the rules adopted hereunder.

158           **SECTION 9.** This act shall take effect and be in force from  
159 and after October 1, 2007.