

By: Representative Bondurant (By Request)

To: Public Health and Human
ServicesCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 581

1 AN ACT TO CREATE THE "MISSISSIPPI PUBLIC SWIMMING POOL ACT OF
2 2007"; TO DEFINE CERTAIN TERMS; TO DIRECT THE STATE DEPARTMENT OF
3 HEALTH TO ADOPT AND ENFORCE RULES UNDER THIS ACT; TO PROVIDE THAT
4 A PERMIT FROM THE DEPARTMENT IS REQUIRED TO OPERATE A PUBLIC
5 SWIMMING POOL AFTER JULY 1, 2008; TO AUTHORIZE THE DEPARTMENT TO
6 CHARGE FEES FOR THOSE PERMITS; TO PROVIDE FOR CERTAIN EXEMPTIONS
7 FROM THIS ACT; TO AUTHORIZE THE DEPARTMENT TO IMPOSE
8 ADMINISTRATIVE FINES FOR VIOLATIONS OF THIS ACT; AND FOR RELATED
9 PURPOSES.

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

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

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

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

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

31 apartments, boardinghouses, hotels, mobile home parks, motels,
32 recreational vehicle parks and townhouses.

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

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

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

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

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

59 (a) Any person or public body desiring to operate any
60 public swimming pool shall file an application for a permit with
61 the department, on application forms provided by the department,
62 and shall accompany the application with:

63 (i) Descriptions of the structure, its
64 appurtenances, and its operation;

65 (ii) Description of the source or sources of water
66 supply, and the amount and quality of water available and intended
67 to be used;

68 (iii) Method and manner of water purification,
69 treatment, disinfection and heating;

70 (iv) Safety equipment and standards to be used;

71 (v) Measures to ensure personal cleanliness of
72 swimmers and bathers; and

73 (vi) Any other pertinent information deemed
74 necessary by the department to fulfill the requirements of this
75 act.

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

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

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

89 (3) Operating permits shall not be transferable from one (1)
90 name or owner to another. When the ownership or name of an
91 existing public swimming pool is changed and the establishment is
92 operating at the time of the change with a valid permit from the
93 department, the new owner of the establishment shall apply to the
94 department, upon forms provided by the department, for a
95 reissuance of the existing permit.

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

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

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

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

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

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

128 (3) The department may grant variances from any rule adopted
129 under this act in accordance with procedures adopted by department
130 rule.

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

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

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

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

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

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

156 (c) Any previous violations.

157 (4) All amounts collected under this section shall be
158 deposited and used for payment of costs of administration of this
159 section.

160 (5) Under conditions specified by rule, the department may
161 close a public swimming pool that is not in compliance with this
162 act or the rules adopted under this act.

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