

ASSEMBLY BILL

No. 1726

Introduced by Assembly Member Allen

February 16, 2012

An act to add Section 116064.3 to the Health and Safety Code, relating to swimming pools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1726, as introduced, Allen. Swimming pools: safety.

Existing law provides various construction and safety standards for public swimming pools, as defined. Existing law requires that every person or entity operating or maintaining a public swimming pool do so in a sanitary, healthful, and safe manner, and authorizes the State Department of Public Health to supervise the sanitation, healthfulness, and safety of public swimming pools. Existing law requires county health officers to enforce department regulations and authorizes a county health officer or any department inspector to enter the premises of a public swimming pool and make an examination and investigation to determine the sanitary condition of the swimming pool and to determine violations of building standards. Violation of these provisions is a misdemeanor.

This bill, effective January 1, 2014, would require an owner of a public swimming pool, as defined, to employ at least one qualified pool operator, as defined, and to maintain and conspicuously post a current certificate of each qualified pool operator employed by the swimming pool. This bill would require originals or copies of the certificate or documentation of each qualified pool operator employed by the site to be available onsite for inspection by a local enforcement agency.

This bill would require every pool operator of a public swimming pool to be a qualified pool operator, and to take a pool operator training course and examination, as specified, approved by a local enforcement agency. This bill would require a pool operator training course to be registered and approved by a local enforcement agency, and would allow the enforcement agency to charge a registration fee, as specified. By increasing the various duties of local officials, this bill would impose a state-mandated local program.

The bill would require that the public pool operator training course consist of at least 14 hours of instruction covering topics such as water disinfection, water chemistry, operation and maintenance of mechanical systems, health and safety, and facility operations, and include a written examination evaluating subject knowledge. This bill would require training and testing to be conducted by persons knowledgeable in pool operation, safety, and maintenance, and who are approved as qualified pool operators in accordance with this bill’s provisions. A violation of these provisions would be punishable as a misdemeanor. By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Public Pool Health and Safety Act of 2012.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) Swimming pools, wading pools, water attractions, and
- 5 interactive fountains are major sources of recreation in California.
- 6 (b) There are approximately 65,000 public pools in the state
- 7 that serve millions of residents and visitors.

1 (c) Every year thousands of swimmers become sick from
2 contaminated water, are injured from improperly maintained pools,
3 or drown because of inadequate or unenforced pool safety
4 measures.

5 (d) Lapses in operation and maintenance are critical contributors
6 to disease outbreaks and injuries. Current regulations do not cover
7 proper cleanup of fecal matter, vomit, or blood to prevent pool
8 contamination.

9 (e) Between 1998 and 2007, a 10-year timeframe, 186 chemical
10 accidents or spills because of improper handling occurred at public
11 pools in the state.

12 (f) California regulates public swimming pools via a series of
13 regulations, some of which have not been updated since 1986.

14 (g) California Regulations do not establish operator training
15 requirements, and do not address current health and safety
16 standards to deal with diseases, such as salmonella, E. coli, and
17 other pathogens, that cause illness and injuries at public pools.

18 (h) The Centers for Disease Control and Prevention (CDC),
19 along with the National Swimming Pool Foundation (NSPF),
20 National Environmental Health Association (NEHA), the California
21 Spa and Pool Industry Education Council (Cal-SPEC), state and
22 local health departments, industry, academia, and pool operators
23 have designed modules that address all these issues. These groups
24 joined with the CDC, to design the Model Aquatic Health Code
25 (MAHC) which addresses these gaps in the regulatory structure.

26 (i) Studies by CDC, NSPF, NEHA, Cal-SPEC, and other
27 organizations have demonstrated that, in addition to significantly
28 reducing the incidence of illness and injury, properly operated and
29 maintained public pools also have significantly fewer code
30 violations during routine inspections and save the owner and
31 operators time and money by reducing mandatory closures,
32 unscheduled maintenance and repairs, and user liability.

33 (j) It is the intent of the Legislature to adopt an aquatic health
34 code in California to protect the public from adverse health
35 conditions at public pools, that operation standards and
36 requirements are applied uniformly across the state, and that pool
37 owners and operators are afforded an opportunity to reduce their
38 exposure to user injury, illness, and liability.

39 SEC. 3. Section 116064.3 is added to the Health and Safety
40 Code, to read:

1 116064.3. (a) For the purposes of this section:

2 (1) “Bather” means a person using a pool and adjoining deck
3 areas for the purpose of water sports such as diving, swimming,
4 wading, or related activities.

5 (2) “Local enforcement agency” means the local health agency
6 of the county, city, or city and county. In jurisdictions where
7 multiple entities may be responsible for health and environmental
8 issues, the jurisdiction shall specify which entity will be the local
9 enforcement agency for purposes of this section.

10 (3) “Pool” means a constructed or prefabricated artificial basin,
11 chamber, or tank intended to be used primarily for bathers, and
12 not for cleaning of the body or for individual therapeutic use.

13 (4) “Private pool” means any constructed pool, permanent or
14 portable, which is intended for noncommercial use as a swimming
15 pool by not more than three owner families and their guests.

16 (5) “Public swimming pool” means either of the following:

17 (A) A public pool as described in Section 116025 of the Health
18 and Safety Code.

19 (B) A pool other than a private pool.

20 (6) “Qualified pool operator” means a person who has completed
21 a pool operator training course pursuant to subdivision (e).

22 (b) An owner of a public swimming pool shall do all of the
23 following:

24 (1) Employ at least one qualified pool operator. The owner shall
25 replace a vacancy in the qualified pool operator position within
26 90 days of the occurrence of the vacancy if the owner employs
27 only one qualified pool operator.

28 (2) Maintain and conspicuously post a current certificate of a
29 qualified pool operator employed at the public swimming pool for
30 the duration of the qualified pool operator’s employment.

31 (3) Have originals or copies of a qualified pool operator
32 certificate or documentation issued pursuant to paragraph (2) of
33 subdivision (e) for each qualified pool operator employed by the
34 site available onsite for inspection by the local enforcement agency.

35 (c) Every pool operator of a public swimming pool shall be a
36 qualified pool operator.

37 (d) (1) A pool operator training course shall be registered with,
38 and approved by, the local enforcement agency.

1 (2) The local enforcement agency may charge a registration fee
2 which shall not exceed the costs necessary to administer the
3 program.

4 (e) (1) The pool operator training course shall provide all of
5 the following:

6 (A) At least 14 hours of instruction, including, but not limited
7 to, information to provide the operator with a working knowledge
8 of the following elements:

9 (i) Water disinfection, including common disinfectants, contact
10 time (CT) values, bromine, chlorine, cyanuric acid, breakpoint or
11 superchlorination, hyperchlorination, combined chlorine, secondary
12 disinfection, and supplemental disinfection.

13 (ii) Water chemistry, including source water, water balance,
14 saturation index, water clarity, pH, total alkalinity, calcium
15 hardness, water temperature, and total dissolved solids.

16 (iii) Operation and maintenance of mechanical systems,
17 including monitoring, calibration, and maintenance of automatic
18 controllers, descriptions of common types of liquid, dry chemical,
19 and gas mechanical, calculations of circulation, main drains, gutters
20 and surface skimmers, mechanical system balance, circulation
21 pump and motor, valves, return inlets, filtration, filter backwashing,
22 and cleaning.

23 (iv) Health and safety, including recreational water illness
24 (RWI), RWI prevention, risk management, recordkeeping, chemical
25 safety, entrapment prevention, electrical safety, rescue equipment,
26 injury prevention, drowning prevention, barriers, signage and depth
27 markers, facility sanitation, and emergency response.

28 (v) Operations, including applicable regulations, aquatic facility
29 types, daily or routine operations, preventive maintenance,
30 weatherizing, aquatic facility renovation and design, heating, and
31 air circulation.

32 (B) Administration of a written examination evaluating the pool
33 operator's subject knowledge. The examination shall be approved
34 by the local enforcement agency, and given by the training course
35 provider.

36 (2) Upon successful completion of a pool operator training
37 course and examination, as determined by the course provider, a
38 pool operator shall receive documentation containing the following
39 information:

1 (A) Indication of successful completion of the pool operator
2 training course and examination.

3 (B) A description of the following procedures used to ensure
4 validity in evaluating subject knowledge:

5 (i) Identity security procedures.

6 (ii) Proctoring procedures.

7 (iii) Testing procedures.

8 (3) Training and testing shall be conducted by a person or
9 persons who are knowledgeable in pool operation, safety, and
10 maintenance and who are approved as a qualified pool operator in
11 accordance with the provisions of this section.

12 (f) The provisions of this section shall take effect January 1,
13 2014.

14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution for certain
16 costs that may be incurred by a local agency or school district
17 because, in that regard, this act creates a new crime or infraction,
18 eliminates a crime or infraction, or changes the penalty for a crime
19 or infraction, within the meaning of Section 17556 of the
20 Government Code, or changes the definition of a crime within the
21 meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 However, if the Commission on State Mandates determines that
24 this act contains other costs mandated by the state, reimbursement
25 to local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.