

AMENDED IN ASSEMBLY APRIL 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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~~ *to ensure that the public swimming pool is operated by a* 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~~ *enforcing* 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~~ *enforcing* agency. This bill would require a pool operator training course to be registered and approved by a local ~~enforcement~~ *enforcing* agency, and would allow the ~~enforcement~~ *enforcing* 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.

1 (b) There are approximately 65,000 public pools in the state
2 that serve millions of residents and visitors.

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

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

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

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

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

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

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

36 (j) It is the intent of the Legislature to adopt an aquatic health
37 code in California to protect the public from adverse health
38 conditions at public pools, that operation standards and
39 requirements are applied uniformly across the state, and that pool

1 owners and operators are afforded an opportunity to reduce their
2 exposure to user injury, illness, and liability.

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

5 116064.3. (a) For the purposes of this section:

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

9 (2) ~~“Local-enforcement enforcing agency”~~ means the local
10 health agency of the county, city, or city and county. In
11 jurisdictions where multiple entities may be responsible for health
12 and environmental issues, the jurisdiction shall specify which entity
13 will be the local ~~enforcement-enforcing~~ agency for purposes of
14 this section.

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

18 (4) “Private pool” means any constructed pool, permanent or
19 portable, which is intended for noncommercial *and nonpublic* use
20 as a swimming pool ~~by not more than three owner families and~~
21 ~~their guests.~~

22 (5) “Public swimming pool” means ~~either a pool that complies~~
23 ~~with all of the following characteristics:~~

24 ~~(A) A public pool as described in Section 116025 of the Health~~
25 ~~and Safety Code.~~

26 ~~(B) A pool other than a private pool.~~

27 ~~(A) It is not a private pool.~~

28 ~~(B) It is operated by a public entity or that is a place of public~~
29 ~~accommodation to which the federal Americans with Disabilities~~
30 ~~Act applies.~~

31 ~~(C) It is not a pool that is located within a public lodging~~
32 ~~providing no more than 15 rooms for public accommodation.~~

33 (6) “Qualified pool operator” means a person who has
34 successfully completed a pool operator training course pursuant
35 to subdivision (e).

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

38 ~~(1) Employ at least one~~ *Ensure that the pool is operated by a*
39 *qualified pool operator.* The owner shall replace a vacancy in the
40 qualified pool operator position within 90 days of the occurrence

1 of the vacancy if the owner employs only one qualified pool
2 operator.

3 (2) Maintain and conspicuously post a current certificate of a
4 qualified pool operator employed at the public swimming pool for
5 the duration of the qualified pool operator's employment.

6 (3) Have originals or copies of a qualified pool operator
7 certificate or documentation issued pursuant to paragraph (2) of
8 subdivision (e) for each qualified pool operator employed by the
9 site available onsite for inspection by the local ~~enforcement~~
10 *enforcing* agency.

11 (c) Every pool operator of a public swimming pool shall be a
12 qualified pool operator.

13 (d) (1) A pool operator training course shall be registered with,
14 and approved by, the local ~~enforcement~~ *enforcing* agency.

15 (2) The local ~~enforcement~~ *enforcing* agency may charge a
16 registration fee which shall not exceed the costs necessary to
17 administer the program.

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

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

23 (i) ~~Water~~ *At least two hours covering water* disinfection,
24 including common disinfectants, contact time (CT) values,
25 bromine, chlorine, cyanuric acid, breakpoint or superchlorination,
26 hyperchlorination, combined chlorine, secondary disinfection, and
27 supplemental disinfection.

28 (ii) ~~Water~~ *At least two hours covering water* chemistry, including
29 source water, water balance, saturation index, water clarity, pH,
30 total alkalinity, calcium hardness, water temperature, and total
31 dissolved solids.

32 (iii) ~~Operation~~ *At least six hours covering operation* and
33 maintenance of mechanical systems, including monitoring,
34 calibration, and maintenance of automatic controllers, descriptions
35 of common types of liquid, dry chemical, and gas mechanical
36 *feeder systems*, calculations of circulation, main drains, gutters
37 and surface skimmers, mechanical system balance, circulation
38 pump and motor, valves, return inlets, filtration, filter backwashing,
39 and cleaning.

1 (iv) ~~Health~~—*At least two hours covering health and safety,*
2 *including recreational water illness (RWI), RWI prevention, risk*
3 *management, recordkeeping, chemical safety, entrapment*
4 *prevention, electrical safety, rescue equipment, injury prevention,*
5 *drowning prevention, barriers, signage and depth markers, facility*
6 *sanitation, and emergency response.*

7 (v) ~~Operations~~—*At least two hours covering operations including*
8 *applicable regulations, aquatic facility types, daily or routine*
9 *operations, preventive maintenance, weatherizing, aquatic facility*
10 *renovation and design, heating, and air circulation.*

11 (B) Administration of a written examination evaluating the pool
12 operator's subject knowledge. The examination shall be approved
13 by the local ~~enforcement enforcing~~ agency; and given by the
14 training course provider.

15 (C) *A description of the following procedures used to ensure*
16 *validity in evaluating subject knowledge:*

17 (i) *Identity security procedures.*

18 (ii) *Proctoring procedures.*

19 (iii) *Testing procedures.*

20 (2) Upon successful completion of a pool operator training
21 course and examination, as determined by the course provider, a
22 pool operator shall receive documentation ~~containing the following~~
23 ~~information:~~ *indicating the successful completion of the pool*
24 *operator training course and examination.*

25 ~~(A) Indication of successful completion of the pool operator~~
26 ~~training course and examination.~~

27 ~~(B) A description of the following procedures used to ensure~~
28 ~~validity in evaluating subject knowledge:~~

29 ~~(i) Identity security procedures.~~

30 ~~(ii) Proctoring procedures.~~

31 ~~(iii) Testing procedures.~~

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

36 (f) *A current and valid pool operator training certificate*
37 *approved by a local or state agency and consistent with the*
38 *provisions of this section shall be accepted by all other local and*
39 *state agencies.*

40 ~~(f) The~~

1 (g) (1) *Except as provided in paragraph (2), the provisions of*
2 this section shall take effect January 1, 2014.

3 (2) *The provisions of this section shall not apply to a city or*
4 *county that has an ordinance requiring public pool operator*
5 *training effective on or before January 1, 2012.*

6 SEC. 4. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution for certain
8 costs that may be incurred by a local agency or school district
9 because, in that regard, this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty for a crime
11 or infraction, within the meaning of Section 17556 of the
12 Government Code, or changes the definition of a crime within the
13 meaning of Section 6 of Article XIII B of the California
14 Constitution.

15 However, if the Commission on State Mandates determines that
16 this act contains other costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.