

Legislative Analysis



LEARN TO SWIM FACILITIES

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House Bill 6190 as enrolled
Sponsor: Rep. Michael Webber
1st House Committee: Regulatory Reform
2nd House Committee: Ways and Means
Senate Committee: Regulatory Reform
Complete to 1-20-21

Analysis available at
<http://www.legislature.mi.gov>

(Pocket vetoed 1-5-21)

SUMMARY:

House Bill 6190 would amend Part 125 (Campgrounds, Swimming Areas, and Swimmers' Itch) of the Public Health Code to create the category of *learn to swim facilities* for purposes of the provisions of that part that apply to *public swimming pools*. Learn to swim facilities are currently, and would continue to be, licensed and regulated under this part of the code. The bill would distinguish these types of facilities from other public swimming pools by defining them separately and specifically including them in Part 125 using that terminology.

Learn to swim facility would mean a swimming pool facility that is used primarily for a member-based swim instruction business.

Public swimming pool means an artificial body of water that is used collectively by a number of individuals primarily for swimming, wading, recreation, or instruction. The term includes related equipment, structures, areas, and enclosures intended to be used by individuals using or operating the swimming pool, such as equipment, dressing, locker, shower, and toilet rooms.

Public swimming pools include pools for parks, schools, motels, camps, resorts, apartments, clubs, hotels, mobile home parks, subdivisions, waterparks, and the like.

Public swimming pools do not include a pool or portable pool on the same premises as a one- to four-family dwelling and for the occupants' benefit; a natural bathing area such as a stream, lake, river, or artificial lake or pond that uses water from natural sources and has an inflow and outflow of natural water; an exhibitor's swimming pool built as a model and in which swimming by the public is not allowed; or a pool that serves four or fewer hotel, motel, apartment, condominium, or similar units.

The Public Health Code generally requires the Department of Environment, Great Lakes, and Energy (EGLE)¹ to review the design, construction, and operation of public swimming pools to protect the public health, to prevent the spread of disease, and to prevent accidents

¹ See https://www.michigan.gov/egle/0,9429,7-135-3313_71151_71481_51087_3732---,00.html

or premature deaths. To further this oversight responsibility, the code authorizes EGLE to do, among other things, the following:

- Review and approve plans and specifications for building or modifying a public swimming pool.
- Issue a permit required for construction or modification of a public swimming pool and collect a permit fee.
- Issue a license required to operate a public swimming pool and collect a license fee.
- Make periodic inspections of public swimming pools.
- Revoke a license to operate a public swimming pool for failure to comply with the code or departmental rules.²
- Close a public swimming pool to protect the public health and safety.
- Seek an injunction against a person who is building, modifying, or operating a public swimming pool without a permit or license or in a manner contrary to law.
- Provide for periodic reports about public swimming pools.

The bill would include learn to swim facilities as a type of facility subject to all of these provisions that apply to public swimming pools. The bill would also provide that rules that now apply to learn to swim facilities would continue to apply to them unless they were rescinded or specifically amended to exclude learn to swim facilities.

A person with a valid, current permit to operate a learn to swim facility when the bill took effect would not have to pay the initial license fee that the code would otherwise require.

MCL 333.12521 et seq.

BRIEF DISCUSSION:

Drowning is the leading accidental cause of death of children ages one to four, and nearly 1,000 children died in the United States of accidental drowning in 2017. The tragic drowning in 2018 of the young daughter of Bode Miller, the Olympic gold medal skiing champion, brought attention to the need for even young children to be taught water safety and swimming.

This year, the COVID-19 pandemic and the resulting restriction of activities and closure of many businesses highlighted a weakness in law that some feel put the state's youngest residents and visitors at risk. As described in committee testimony, state law regulating public swimming pools predates the rise of swim schools, which are regulated under that law although their physical premises and business model are very different from the hotel and other public pools with which they are classified. As a result of this classification, when public pools were closed under executive orders intended to reduce the spread of the COVID-19 virus, swim schools were closed as well. This left parents with no place to take their children for proper water safety instruction.

² https://www.michigan.gov/documents/deq/deq-dwrpd-eh-swmp1-SR_Rules_PRINT_COPY_2-8-01_270447_7.pdf

The bill would address this issue by distinguishing in law between swim schools and other types of public pools. Learn to swim facilities are currently, and would continue to be, licensed and regulated under Part 125 of the code, but rather than being included in that part under the umbrella term “public swimming pool,” they would be regulated alongside public pools and have their own separate definition and status in the law. Proponents of the bill argue that, if it were necessary in the future to close public pools, this distinction would allow swim schools to remain open and continue to provide the water safety training necessary to keep children safe in and around bodies of water.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

Pocket veto 1-5-21:

If the governor does not sign a bill within 14 days after getting it and the legislature has adjourned to end the legislative session, the bill does not take effect and is said to have been “pocket vetoed.” The term dates from the nineteenth century and is based on the metaphor of putting a bill in one’s pocket instead of either signing it into law or returning it unsigned as a regular veto. Unlike a regular veto, a pocket veto does not oblige the governor to provide the legislature with his or her objections to the bill.

House Bill 6190 was pocket vetoed on January 5, 2021, when it was still unsigned 14 days after being presented to the governor on December 22, 2020. The legislature adjourned *sine die* (without day) to end the legislative session on December 23.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.