

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Rep. Webber

## **ENROLLED HOUSE BILL No. 6190**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 12521, 12522, 12523, 12524, 12525, 12526, 12527, 12527a, 12528, 12529, 12530, 12531, 12531a, 12532, 12533, and 12534 (MCL 333.12521, 333.12522, 333.12523, 333.12524, 333.12525, 333.12526, 333.12527, 333.12527a, 333.12528, 333.12529, 333.12530, 333.12531, 333.12531a, 333.12532, 333.12533, and 333.12534), sections 12521, 12527, 12527a, 12528, 12529, and 12532 as amended by 2004 PA 408, section 12522 as amended by 2014 PA 430, section 12525 as amended by 1980 PA 522, section 12531a as added by 1989 PA 153, and section 12533 as amended by 1989 PA 153.

*The People of the State of Michigan enact:*

Sec. 12521. As used in sections 12521 to 12534:

(a) “Department” means the department of environment, Great Lakes, and energy.

(b) “Learn to swim facility” means a swimming pool facility that is used primarily for a member-based swim instruction business.

(c) "Person" means that term as defined in section 1106 or a governmental entity.

(d) "Public swimming pool" means an artificial body of water for a qualified premises that is used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms. A public swimming pool does not include a pool or portable pool located on the same premises with a 1-, 2-, 3-, or 4-family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made 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 at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 hotel, motel, apartment, condominium, or similar units.

(e) "Qualified premises" includes, but is not limited to, a park, school, motel, camp, resort, apartment, club, hotel, mobile home park, subdivision, and waterpark.

Sec. 12522. (1) The department shall review the design, construction, and operation of public swimming pools and learn to swim facilities to protect the public health, prevent the spread of disease, and prevent accidents or premature deaths.

(2) The department shall promulgate rules to carry out sections 12521 to 12534. Rules that apply to public swimming pools continue to apply to learn to swim facilities unless the department rescinds the rules or the rules are amended so as not to apply to learn to swim facilities.

Sec. 12523. The department has supervisory and visitorial power and control as limited in sections 12521 to 12534 over persons engaged in the construction and operation of public swimming pools and learn to swim facilities.

Sec. 12524. (1) The department, its agents or representatives, or representatives of a designated local health department shall make periodic inspections of public swimming pools and learn to swim facilities.

(2) The department, its agents or representatives, or representatives of a designated local health department may enter upon the premises of a public swimming pool or learn to swim facility and may enter upon other property of a person at all reasonable times for the purpose of inspecting the public swimming pool and learn to swim facility and carrying out the authority vested in the department under sections 12521 to 12534.

Sec. 12525. (1) A person intending to construct a public swimming pool or learn to swim facility, or intending to modify an existing public swimming pool or learn to swim facility, shall submit plans and specifications for the proposed installation accompanied by a fee specified in section 12527a to the department for review and approval and shall secure a permit for the construction. A person shall not start or engage in the construction of a public swimming pool or learn to swim facility or modify an existing public swimming pool or learn to swim facility until the permit for the construction is issued by the department.

(2) Sections 12521 to 12534 or an action of the department do not relieve the applicant or owner of a public swimming pool or learn to swim facility from the responsibility of securing a building permit or complying with applicable local codes, regulations, or ordinances not in conflict with sections 12521 to 12534. Compliance with an approved plan does not authorize the owner constructing or operating a public swimming pool or learn to swim facility to create or maintain a nuisance or a hazard to health or safety.

(3) Plans and specifications submitted for the purpose of obtaining a construction permit must include a true description of the entire swimming pool system and auxiliary structures or parts thereof as proposed to be constructed and operated.

Sec. 12526. (1) The department shall examine the plans and specifications submitted under section 12525 and determine whether the swimming pool facilities, if constructed in accordance with the plans and specifications, are or would be sufficient and adequate to protect the public health and safety. If the plans and specifications are approved, the department shall issue a permit for construction. If the plans and specifications are not approved, the department shall notify the applicant or the applicant's representative of the deficiencies. The applicant may have the plans and specifications amended to remedy the deficiencies and resubmit the documents, without additional fee, for further consideration.

(2) A construction permit is valid for not more than 2 years after the date of issuance unless a written time extension is granted by the department.

(3) Each public swimming pool and learn to swim facility must be constructed or modified in accordance with the approved plans and specifications unless written approval of a change is granted by the department.

Sec. 12527. (1) A person shall not operate a public swimming pool or learn to swim facility without obtaining a license.

(2) A person engaged in the operation of a public swimming pool or learn to swim facility shall obtain a license to operate the public swimming pool or learn to swim facility from the department, its agent or representative, or a representative of a designated local health department and shall pay an initial or renewal fee as specified in section 12527a.

(3) The owner of a public swimming pool or learn to swim facility shall display the license in a conspicuous place on the premises.

(4) A license expires on December 31 of every third year if the annual renewal fee is paid or as stipulated on the license, whichever is sooner.

(5) A license must be renewed on the receipt of a proper application, an annual renewal fee as specified in section 12527a, and evidence that the public swimming pool or learn to swim facility is being operated and maintained in accordance with sections 12521 to 12534 and the applicable rules and regulations.

(6) A license is not transferrable to another person but a license may be replaced by another license on the receipt of a proper application and the fee specified in section 12527a.

Sec. 12527a. (1) The fees related to public swimming pool and learn to swim facility regulation under this part are as follows:

(a)	Construction permit fee for a swimming pool with a surface area as follows:	
(i)	500 square feet or less.....	\$ 550.00
(ii)	501 to 1,500 square feet.....	\$ 700.00
(iii)	1,501 to 2,400 square feet.....	\$ 800.00
(iv)	2,401 to 4,000 square feet.....	\$ 1,300.00
(v)	More than 4,000 square feet.....	\$ 1,800.00
(b)	Construction permit fee for modification of an existing swimming pool.....	\$ 275.00
(c)	Initial license fee for a swimming pool with a surface area as follows:	
(i)	500 square feet or less.....	\$ 550.00
(ii)	501 to 1,000 square feet.....	\$ 600.00
(iii)	1,001 to 1,500 square feet.....	\$ 625.00
(iv)	1,501 to 2,000 square feet.....	\$ 650.00
(v)	2,001 to 2,500 square feet.....	\$ 700.00
(vi)	2,501 to 3,500 square feet.....	\$ 800.00
(vii)	3,501 to 4,500 square feet.....	\$ 900.00
(viii)	More than 4,500 square feet.....	\$ 1,000.00
(d)	Initial license fee for a modified swimming pool.....	\$ 275.00
(e)	Annual renewal license fee, to December 31.....	\$ 55.00
(f)	Late annual renewal license fee, after December 31 through April 30.....	\$ 100.00
(g)	Lapsed annual renewal license fee, after April 30.....	\$ 150.00
(h)	Replacement license fee for transfer to another person.....	\$ 50.00

(2) The department may adjust the amounts prescribed in subsection (1) every 3 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index and rounded to the nearest dollar.

(3) A person that has a valid, current permit to operate a public swimming pool on November 29, 2004 is not required to pay an initial license fee as specified in this section.

(4) A person that has a valid, current permit to operate a learn to swim facility on the effective date of the amendatory act that added this subsection is not required to pay an initial license fee as specified in this section.

(5) As used in this section, "Detroit Consumer Price Index" means the most comprehensive index of consumer prices available for the Detroit area from the Bureau of Labor Statistics of the United States Department of Labor.

Sec. 12528. If upon investigation, the department, its agent or representative, or a representative of a designated local health department finds that a public swimming pool or learn to swim facility was not constructed or modified in accordance with the approved plans and specifications, the department, its agent or representative, or a representative of a designated local health department shall give written notice to the applicant that the license will not be issued, citing the deficiencies or noncomplying items that constitute the reasons for not issuing the license and a date by which the licensee shall comply. An applicant who fails to correct the deficiencies or noncomplying items within the time specified must be denied a license.

Sec. 12529. The department may, in accordance with the administrative procedures act of 1969, revoke a license to operate a public swimming pool or learn to swim facility upon a finding that the public swimming pool or learn to swim facility is not being operated or maintained in accordance with sections 12521 to 12534 or the rules. A person aggrieved by a decision of the department or its authorized representative to revoke the license may appeal to a court of competent jurisdiction as provided by the administrative procedures act of 1969. A license that has been revoked must be reissued only when the department determines the deficiencies are corrected.

Sec. 12530. The department shall provide for a system of periodic reports covering the operation of a public swimming pool and learn to swim facility so that the department may readily determine compliance with sections 12521 to 12534 and the rules.

Sec. 12531. If the department, its agent or representative, or a representative of a designated local health department considers that conditions warrant prompt closing of a public swimming pool or learn to swim facility until sections 12521 to 12534 and the rules are complied with for the protection of the public health and safety, the department or designated local health department may order the owner or operator of the public swimming pool or learn to swim facility to prohibit an individual from using it until corrections are made to protect adequately the public health and safety.

Sec. 12531a. A person shall not prohibit the use of a coast guard approved life jacket in a public swimming pool or learn to swim facility by an individual who has in his or her possession a statement signed by a licensed physician stating that the individual has a physical disability or condition that necessitates the use of a life jacket. An individual assumes the risk of any injury to himself or herself caused by the use of a life jacket as provided in this section that is not otherwise caused by the negligence of the operator of the public swimming pool or learn to swim facility.

Sec. 12532. (1) The department may approve payments for each public swimming pool and learn to swim facility granted an initial license and each renewal license to a designated local health department when the fees are collected by this state from the designated local health department's respective area, as follows:

(a) Initial license fee.....	\$	100.00
(b) Annual renewal license fee.....	\$	30.00
(c) Late annual renewal license fee.....	\$	45.00
(d) Lapsed annual renewal license fee.....	\$	70.00

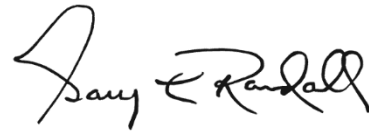
(2) The state treasurer shall make the payments upon receipt of approval from the department.

(3) A designated local health department may collect additional fees as provided under section 2444 from the owner of a public swimming pool or learn to swim facility for services provided under sections 12521 to 12534.

Sec. 12533. A person who violates sections 12521 to 12531a or a rule promulgated under those sections is guilty of a misdemeanor. Each day upon which a violation occurs is a separate violation. The attorney general or local prosecuting attorney is responsible for prosecuting a person who violates sections 12521 to 12531a.

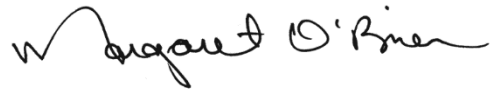
Sec. 12534. Notwithstanding the existence and pursuit of any other remedy, the department, its agent or representative, or a representative of a designated local health department may maintain an action in the name

of this state for injunction or other process against a person to restrain or prevent the construction or modification of a public swimming pool or learn to swim facility without a construction permit, or the operation of a public swimming pool or learn to swim facility without an operation permit, or in a manner contrary to law.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved \_\_\_\_\_

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Governor