

HOUSE BILL NO. 6190

September 09, 2020, Introduced by Rep. Webber and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled
"Public health code,"
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:

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

2 (a) "Department" means the department of ~~environmental~~
3 ~~quality~~**environment, Great Lakes, and energy.**

4 ~~(b) "Local health department" means that term as defined under~~
5 ~~section 1105.~~

6 (b) **"Learn to swim facility" means a swimming pool facility**
7 **that is used primarily for a member-based swim instruction**
8 **business.**

9 (c) "Person" means ~~a person~~**that term** as defined in section
10 1106 or a governmental entity.

11 (d) "Public swimming pool" means an artificial body of water
12 **for a qualified premises that is** used collectively by a number of
13 individuals primarily for the purpose of swimming, wading,
14 recreation, or instruction and includes related equipment,
15 structures, areas, and enclosures intended for the use of
16 individuals using or operating the swimming pool such as equipment,
17 dressing, locker, shower, and toilet rooms. ~~Public swimming pools~~
18 ~~include those which are for parks, schools, motels, camps, resorts,~~
19 ~~apartments, clubs, hotels, mobile home parks, subdivisions,~~
20 ~~waterparks, and the like.~~ **A public swimming pool does not include a**
21 **pool or portable pool located on the same premises with a 1-, 2-,**
22 **3-, or 4-family dwelling and for the benefit of the occupants and**
23 **their guests, a natural bathing area such as a stream, lake, river,**
24 **or man-made lake or pond that uses water from natural sources and**
25 **has an inflow and outflow of natural water, an exhibitor's swimming**
26 **pool built as a model at the site of the seller and in which**



1 swimming by the public is not permitted, or a pool serving not more
 2 than 4 hotel, motel, apartment, condominium, or similar units. ~~is~~
 3 ~~not a public swimming pool.~~

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

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

11 (2) ~~Except as otherwise provided in subsection (3), the~~ **The**
 12 department shall promulgate rules to carry out sections 12521 to
 13 12534.

14 ~~(3) Until December 31, 2018, rules pertaining to lifeguarding~~
 15 ~~promulgated by the department under subsection (2) do not apply to~~
 16 ~~a pool that meets all of the following requirements:~~

17 ~~(a) It is located in a health and wellness center that is~~
 18 ~~owned or operated by a community hospital authority as authorized~~
 19 ~~under 1945 PA 47, MCL 331.1 to 331.11.~~

20 ~~(b) The total pool water surface area within the swimming pool~~
 21 ~~enclosure is not more than 2,400 square feet.~~

22 ~~(c) No diving board is provided.~~

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

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



1 **swim facilities.**

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

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

19 (2) Sections 12521 to 12534 or an action of the department
 20 ~~shall do~~ not relieve the applicant or owner of a public swimming
 21 pool **or learn to swim facility** from ~~the~~ responsibility ~~for~~ **of**
 22 securing a building permit or complying with applicable local
 23 codes, regulations, or ordinances not in conflict with sections
 24 12521 to 12534. Compliance with an approved plan does not authorize
 25 the owner constructing or operating a public swimming pool **or learn**
 26 **to swim facility** to create or maintain a nuisance or a hazard to
 27 health or safety.

28 (3) Plans and specifications submitted for the purpose of
 29 obtaining a construction permit ~~shall~~ **must** include a true

1 description of the entire swimming pool system and auxiliary
2 structures or parts thereof as proposed to be constructed and
3 operated.

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

16 (2) A construction permit ~~shall be~~ **is** valid for not more than
17 2 years after the date of issuance unless a written time extension
18 is granted by the department.

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

23 Sec. 12527. (1) A **person shall not operate a** public swimming
24 pool ~~shall not be operated or learn to swim facility~~ without
25 **obtaining** a license.

26 (2) A person engaged in the operation of a public swimming
27 pool **or learn to swim facility** shall obtain a license to operate
28 the **public** swimming pool **or learn to swim facility** from the
29 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) ~~A~~**The owner of a public swimming pool or learn to swim facility shall display the** license ~~shall be displayed by the owner~~ in a conspicuous place on the premises.

(4) A license ~~shall expire~~**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 ~~shall~~**must** be renewed ~~upon~~**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 ~~shall not be transferred~~**is not transferrable** to another person but ~~it~~**a license** may be replaced by another license ~~upon~~**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~~ **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 ~~the effective date of the amendatory act that added this subsection~~ **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



1 learn to swim facility on the effective date of the amendatory act
 2 that added this subsection is not required to pay an initial
 3 license fee as specified in this section.

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

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

20 Sec. 12529. The department may, in accordance with the
 21 administrative procedures act of 1969, revoke ~~the~~**a** license to
 22 **operate a public swimming pool or learn to swim facility** upon a
 23 finding that the **public swimming pool or learn to swim facility** is
 24 not being operated or maintained in accordance with sections 12521
 25 to 12534 or the rules. A person aggrieved by a decision of the
 26 department or its authorized representative to revoke the license
 27 may appeal to a court of competent jurisdiction as provided by the
 28 administrative procedures act of 1969. A license that has been
 29 revoked ~~shall~~**must** be reissued only when the department determines



1 the deficiencies are corrected.

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

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

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

26 Sec. 12532. (1) The department may approve payments for each
27 public swimming pool **and learn to swim facility** granted an initial
28 license and each renewal license to a designated local health
29 department when the fees are collected by ~~the~~**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 ~~shall be~~ **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 ~~the~~ **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.