

Act No. 99
Public Acts of 2022
Approved by the Governor
June 14, 2022
Filed with the Secretary of State
June 14, 2022
EFFECTIVE DATE: June 14, 2022

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. Wakeman and Cherry

ENROLLED HOUSE BILL No. 5983

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 and 12526 (MCL 333.12521 and 333.12526), section 12521 as amended by 2004 PA 408, and by adding section 12526a.

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) “Person” means that term as defined in section 1106 or a governmental entity.
- (c) Except as otherwise provided in subdivision (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, including, but not limited to, equipment, dressing, locker, shower, and toilet rooms.
- (d) 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. 12526. (1) The department shall examine the plans and specifications and, subject to section 12526a, 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 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. 12526a. (1) Subject to section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548, and the food law, 2000 PA 92, MCL 289.1101 to 289.8111, a person engaged in the operation of a public swimming pool shall not allow the preparation of food or beverages in the swimming pool enclosure, or consumption of food or beverages in the water of a public swimming pool, unless all of the following are met:

(a) The department has determined under section 12526 that the plans and specifications for the public swimming pool meet all of the following requirements:

(i) The materials used to construct the area within the swimming pool water that is used for serving, preparing, or consuming food or beverages are made of a material that is nonabsorbent, is easily cleanable, and can be regularly sanitized.

(ii) The area within the swimming pool water that is used for serving, preparing, or consuming food or beverages is constructed in a manner that has no sharp edges, has no open cracks, and has sealed joints.

(iii) Areas within the swimming pool water where there is ice, food, equipment, and any other item that is stored or used in the preparation of food or beverages are physically separated by a service counter or other structure or material in a manner that protects the ice, food, equipment, or other item from splash or spillage of swimming pool water.

(iv) The swimming pool water is equipped with heightened disinfection and filtration standards and maintains increased disinfectant residuals.

(v) The swimming pool water is monitored with an electronic chemical control monitoring system.

(b) The water temperature of the public swimming pool is maintained at 104 degrees Fahrenheit or less.

(c) The free disinfectant residual levels in the swimming pool water are tested poolside at least 4 times per day when the public swimming pool is open for use.

(d) Lifeguard service is provided in the swimming pool enclosure when the public swimming pool is open for use.

(e) An individual who holds a certification as a certified pool operator, or an equivalent certification as determined by the department, is readily available when the public swimming pool is open for use to test the swimming pool water and to operate the water treatment equipment of the public swimming pool.

(f) The public swimming pool does not contain a slide, diving board, starting block, spray feature, or similar addition in the area of the public swimming pool permitted for the sale and consumption of alcoholic liquor under section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548. However, the public swimming pool may have a waterfall, or another decorative feature, that is not intended for interaction or contact with an individual using the public swimming pool in the area of the public swimming pool permitted for the sale and consumption of alcoholic liquor under section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548.

(2) A person engaged in the operation of a public swimming pool that allows for the consumption of food or beverages in the public swimming pool under this section shall ensure that food and beverages are served in a container made of plastic or another nonbreakable material and that is designed to reduce the chances of spilling the food or beverage in the swimming pool water.

(3) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

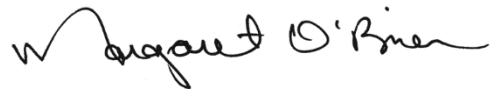
- (b) "Beverages" means alcoholic liquor and nonalcoholic beverages.
- (c) "Heightened disinfection and filtration standards" means all of the following:
 - (i) A regenerative media filter system or an equivalent filter system. If the swimming pool uses a sand-type filter or a cartridge-type filter, a filter system is considered equivalent under this subparagraph if it requires a reduction in the max flow rate per square foot of filter area.
 - (ii) An accelerated water turnover rate of once every 4 hours or less when the public swimming pool is open for use.
 - (iii) An ultraviolet light secondary disinfection system or an equivalent secondary disinfection system.
 - (iv) Increased inlets to prevent impaired circulation and to increase water circulation due to potential obstructions.
 - (v) Increased number of skimmers or surge weirs to ensure effective surface water skimming.
- (d) "Swimming pool enclosure" means the area containing 1 public swimming pool or, if the area contains 2 or more public swimming pools, the area containing all of the public swimming pools, which area is surrounded by an uninterrupted constructed feature or obstacle that meets all of the following requirements:
 - (i) It is used to surround and secure the area.
 - (ii) It is intended to deter or effectively prevent unpermitted, uncontrolled, and unfettered access to the area.
 - (iii) It is designed to resist climbing and to prevent passage through and under it.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5984 of the 101st Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 5984, referred to in enacting section 1, was filed with the Secretary of State June 14, 2022, and became 2022 PA 100, Imd. Eff. June 14, 2022.