

1 **REGULATION OF PRIVATE INSTRUCTION**

2 **SWIMMING POOLS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gregory H. Hughes**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Utah Health Code to provide for regulation of a private instruction
11 pool.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines the term, "private instruction pool";
- 15 ▶ grants authority to the Department of Health to make rules for a private instruction
16 pool that are necessary to protect public health and safety;
- 17 ▶ prohibits a local health department from imposing or enforcing any rule or
18 regulation relating to a private instruction pool that is not made by the department;
- 19 ▶ requires that rules made by the department under the provisions of this bill shall:
- 20 • be the least restrictive rules necessary to protect public health and
21 safety; and
- 22 • provide flexibility to allow an owner of a private instruction pool to
23 implement adequate alternative measures to comply with a rule; and
- 24 ▶ describes the authority granted to, and the restrictions placed on, the department in
25 making rules under the provisions of this bill.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **26-15-14**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **26-15-14** is enacted to read:

36 **26-15-14. Regulation of health and safety for a private instruction pool.**

37 (1) As used in this section, "private instruction pool" means a swimming pool located
38 at a private residence that:

39 (a) is primarily for private use;

40 (b) except as provided in Subsection (1)(c), is not used by any person in exchange for a
41 fee; and

42 (c) is used to conduct swimming lessons, in exchange for a fee, less than 90 days per
43 calendar year.

44 (2) Subject to Subsection (3), the department may make rules for a private instruction
45 pool that are necessary to protect public health and safety.

46 (3) (a) A private instruction pool is not a public swimming pool.

47 (b) The department may only make rules, and may only enforce rules, relating to a
48 private instruction pool, that are consistent with the provisions of this section.

49 (c) A local health department may not impose or enforce any rule or regulation relating
50 to a private instruction pool that is not made by the department, by rule, in accordance with the
51 provisions of this section.

52 (d) In making rules that are applicable to a private instruction pool, the department
53 shall:

54 (i) enact the least restrictive rules necessary to protect public health and safety; and

55 (ii) provide flexibility to allow an owner of a private instruction pool to implement
56 alternative measures that substantially comply with the intent of a rule and do not pose a threat
57 to public health or safety.

58 (4) Rules made under this section:

59 (a) may require that a private instruction pool be heated to a temperature range that is
60 necessary to protect public health and safety;

61 (b) may not require that a private instruction pool be heated by a particular method;

62 (c) may prohibit a private instruction pool from being heated in a manner that is
63 unsafe;

64 (d) may not require that a person shower before or after using a private
65 instruction pool;

66 (e) may not regulate the depth of a private instruction pool, or any portion of a private
67 instruction pool, except for the portion of the private instruction pool that is to be used for
68 diving or that is equipped with starting platforms;

69 (f) may not require more than one set of steps and one ladder to be installed in a private
70 instruction pool;

71 (g) may require that a private instruction pool be marked to indicate pool depths at
72 regular intervals and to indicate a division between the swimming and non-swimming areas of
73 the private instruction pool;

74 (h) may require an adequate filter system in a private instruction pool;

75 (i) may not require that a private instruction pool be equipped with more than one filter
76 system;

77 (j) may require the owner of a private instruction pool to maintain adequate and safe:

78 (i) water purity;

79 (ii) chemical levels; and

80 (iii) pH levels;

81 (k) may set minimum standards to ensure the safe use and storage of chemicals and
82 equipment used for a private instruction pool;

83 (l) may not require bathroom facilities beyond a single bathroom in the owner's private
84 residence that is designated by the owner for use by a person who uses the private instruction
85 pool;

86 (m) may require minimum standards of safety and cleanliness for a bathroom,
87 described in Subsection (4)(l);

88 (n) may not require that an owner of a private instruction pool provide a key, access
89 code, or other open access to the residence or other structures owned by the owner of the

90 private instruction pool;

91 (o) may require that the owner of a private instruction pool permit an agent of the
92 department or a local health department to:

93 (i) test the water in a private instruction pool to ensure compliance with Subsection
94 (4)(j); or

95 (ii) otherwise inspect the private instruction pool, a building in which a private
96 instruction pool is located, if any, or a bathroom described in Subsection (4)(l):

97 (A) with or without notice, at any time within the period of time that begins one hour
98 before, and ends one hour after, the private instruction pool is used for a swimming instruction
99 session; or

100 (B) at any other reasonable time after giving reasonable notice;

101 (p) may require that the owner of a private instruction pool inform the department or a
102 local health department of the owner's swimming instruction schedule;

103 (q) may require that swimming instructors at a private instruction pool:

104 (i) have adequate training as a swimming instructor; and

105 (ii) are trained in the administration of CPR; and

106 (r) may require reasonable instructor to student ratios at a private instruction pool.

Legislative Review Note
as of 2-19-09 3:35 PM

Office of Legislative Research and General Counsel