

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 2105

H.P. 1491

House of Representatives, December 31, 2007

**An Act To Change the Timing of the Health Care Occupations
Report and To Add and Clarify Definitions Relating to Swimming
Pools and Spas**

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DRISCOLL of Westbrook.
Cosponsored by Representative: PERRY of Calais.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §256-A, first ¶**, as amended by PL 2007, c. 240, Pt. RR, §2, is
3 further amended to read:

4 Beginning in 2006, the Department of Labor, in conjunction with the Office of Health
5 Data and Program Management's Division of Data, Research and Vital Statistics, shall
6 compile and annually update a health care occupations report to be completed and
7 presented to the health workforce forum established in section 257 by September 15th.
8 Beginning in 2009, the health care occupations report must be completed and presented to
9 the health workforce forum established in section 257 by September 15th and presented
10 every 4th year thereafter. The report must be posted on a publicly accessible site on the
11 Internet maintained by the Department of Labor and provide the following information:

12 **Sec. 2. 22 MRSA §257**, as amended by PL 2005, c. 327, §3, is further amended to
13 read:

14 **§257. Health workforce forum**

15 The department shall convene at least once annually a health workforce forum to
16 review the latest report developed under section ~~256~~ 256-A and discuss current health
17 care workforce issues. The forum must include representatives of health professionals,
18 licensing boards, employers, health education programs and the Department of Labor.

19 The department shall use the information gathered through the forum to develop its
20 health policy and planning decisions authorized under this Title and to make appropriate
21 policy recommendations based on its analysis of the health care workforce. The
22 department shall post ~~its annual~~ the report and recommendations on a publicly accessible
23 site on the Internet maintained by the department by December 31st ~~of each year,~~
24 beginning in ~~2006~~ 2009.

25 **Sec. 3. 22 MRSA §2661**, as enacted by PL 1985, c. 150, is amended to read:

26 **§2661. Purpose**

27 The purpose of this chapter is to provide minimum requirements and standards for the
28 protection of the public health, safety and welfare of persons using public ~~swimming~~
29 pools or spas.

30 **Sec. 4. 22 MRSA §2662**, as enacted by PL 1985, c. 150 and amended by PL 2003,
31 c. 689, Pt. B, §6, is further amended to read:

32 **§2662. Definitions**

33 As used in this chapter, unless the context otherwise indicates, the following terms
34 have the following meanings.

35 **1. Communicable disease.** "Communicable disease" is a disease capable of being
36 transmitted from one person to another.

1 **2. Department.** "Department" means the Department of Health and Human
2 Services.

3 **2-A. Medical facility pool or medical facility spa.** "Medical facility pool" or
4 "medical facility spa" means a pool or spa under the direct supervision and control of
5 licensed medical personnel.

6 **2-B. Pool.** "Pool" means a basin, chamber or tank constructed of smooth,
7 impervious and easily cleaned materials, located either indoors or outdoors, in-ground,
8 aboveground or on-ground, provided with a controlled water supply and containing an
9 artificial body of water used for swimming, recreational bathing or wading. "Pool"
10 includes any related equipment, structures, areas and enclosures that are intended for the
11 use of persons using or operating the pool, including equipment, dressing lockers,
12 showers and toilet rooms.

13 **3. Pool depth.** "Pool depth" means the distance between the floor of the pool and
14 the maximum operating water level.

15 **4. Residential spa.** "Private Residential spa" means any constructed spa,
16 permanently installed or portable, which that is used in connection with a single or
17 multifamily residence, used by tenants of apartment buildings, owners of condominiums
18 or members of property owners associations and available only to the these residents and
19 their private guests.

20 **5. Residential swimming pool.** "Private Residential swimming pool" means any
21 constructed pool which that is used as a for swimming pool in connection with a single or
22 multifamily residence, used by tenants of apartment buildings, owners of condominiums
23 and members of property owners associations and available only to the these residents
24 and their private guests. A pool on the premises of a family child care provider who is
25 certified or required to be certified under section 8301-A is a residential pool.

26 **6. Public spa.** "Public spa" means any constructed spa other than a ~~private~~
27 residential spa or medical facility spa.

28 **7. Public pool.** "Public swimming pool" means any constructed or prefabricated
29 pool other than a private swimming residential pool or medical facility pool that is
30 intended to be used for swimming, recreational bathing or wading and is operated by an
31 owner, lessee, tenant or concessionaire or by a person licensed by the department,
32 regardless of whether a fee is charged for use. A pool on the premises of a child care
33 facility that is licensed or required to be licensed under section 8301-A is a public pool.

34 **8. Spa.** "Spa" means a unit containing water primarily designed for therapeutic or
35 nontherapeutic use which that is not drained, cleaned or refilled for each individual. It
36 may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral
37 baths, air induction bubbles or any combination thereof. The term spa "Spa" includes, but
38 is not limited to, a therapeutic pool, hydrotherapy pool, whirlpool, hot spa and hot tubs
39 tub.

1 ~~9. **Swimming pool.** "Swimming pool" means any basin, chamber or tank~~
2 ~~constructed of impervious material, located either indoors or outdoors containing an~~
3 ~~artificial body of water for swimming or recreational bathing and having a depth of 2 feet~~
4 ~~or more at any point. This includes any related equipment, structures, areas and~~
5 ~~enclosures that are intended for the use of persons using or operating the swimming pool~~
6 ~~such as equipment, dressing lockers, showers and toilet rooms.~~

7 **Sec. 5. 22 MRSA §2663**, as enacted by PL 1985, c. 150, is amended to read:

8 **§2663. Existing installations**

9 **1. Public pool or spa; existing use.** Any public ~~swimming~~ pool or spa installed
10 prior to ~~the effective date of this chapter~~ September 19, 1985, may have its existing use,
11 maintenance or repair continued if the use, maintenance or repair is in accordance with
12 the original design and location and no hazard to the public health, safety or welfare has
13 been created by the installation.

14 **2. Public pool or spa; maintenance.** The owner or ~~his~~ the owner's designated agent
15 ~~shall be~~ is responsible for the maintenance of the public ~~swimming~~ pool or spa in a safe
16 and sanitary condition.

17 **Sec. 6. 22 MRSA §2664**, as enacted by PL 1985, c. 150, is amended to read:

18 **§2664. Rules**

19 The department may ~~promulgate~~ adopt and enforce rules necessary to protect public
20 health and safety and carry out the provisions of this chapter relating directly to the safe
21 and sanitary design, construction and operation of public ~~swimming~~ pools and spas.

22 **Sec. 7. 22 MRSA §2665**, as enacted by PL 1985, c. 150, is amended to read:

23 **§2665. Submission of plans**

24 ~~No~~ A person may not begin construction of a public ~~swimming~~ pool or spa or
25 substantially alter or reconstruct any public ~~swimming~~ pool or spa without first having
26 submitted plans and specifications to the department for review and approval. The
27 department review ~~shall be~~ is limited to matters relating directly to safety and sanitation.

28 The design criteria to be followed by the department in the review and approval is the
29 minimum standard for public ~~swimming~~ pools and the minimum standard for public spas
30 published by the ~~National Swimming Pool Institute~~ Association of Pool and Spa
31 Professionals or successor organization.

32 **Sec. 8. 22 MRSA §2666**, as enacted by PL 1985, c. 150, is amended to read:

33 **§2666. Health and safety**

34 **1. Employment; communicable disease.** ~~No~~ A person having a communicable
35 disease may not be employed or work at a public ~~swimming~~ pool or spa.

1 2. **Nuisance.** Any public ~~swimming~~ pool or spa found to be unsanitary, as defined
2 by the department's rules, is declared to be a nuisance.

3 3. **Supervision.** Every public ~~swimming~~ pool or spa ~~shall~~ must be under the
4 supervision of a capable individual who shall assume the responsibility for compliance
5 with this chapter relating to the safe and sanitary operation and maintenance of a public
6 ~~swimming~~ pool or spa. ~~Nothing in this~~ This chapter may not be construed to require a
7 lifeguard to be on duty when a public ~~swimming~~ pool or spa is open to the public.

8 **Sec. 9. 22 MRSA §2667,** as enacted by PL 1985, c. 150, is amended to read:

9 **§2667. Inspections**

10 The department may conduct the inspections as it ~~deems~~ considers necessary to
11 ~~insure~~ ensure compliance with the provisions of this chapter and ~~shall have~~ has right of
12 entry at any reasonable hour to public ~~swimming~~ pools or spas for this purpose.

13 **Sec. 10. 22 MRSA §2668,** as enacted by PL 1985, c. 150, is amended to read:

14 **§2668. Closure**

15 The department may close any public ~~swimming~~ pool or spa for failure to comply
16 with the provisions of this chapter.

17 Before closing a public ~~swimming~~ pool or spa, the department shall issue a notice in
18 writing enumerating instances of failure to comply with the law or rules. The owner ~~shall~~
19 must have an opportunity to request a fair hearing before the department pursuant to Title
20 5, sections 9052 to 9064.

21 Closed public ~~swimming~~ pools and spas ~~shall~~ must be reopened upon presentation of
22 evidence that the deficiencies causing the closing have been corrected.

23 **Sec. 11. Maine Revised Statutes headnote amended; revision clause.** In
24 the Maine Revised Statutes, Title 22, chapter 602, in the chapter headnote, the words
25 "public swimming pools and spas" are amended to read "public pools and spas" and the
26 Revisor of Statutes shall implement this revision when updating, publishing or
27 republishing the statutes.

28 **SUMMARY**

29 This bill changes the timing of the Department of Labor's health care occupations
30 report from annually to every 4th year beginning in 2009.

31 This bill also changes the definition of "private" pool or spa to "residential" pool or
32 spa and distinguishes a residential pool or spa from a public pool or spa by including in
33 the definition the limitation that the residential pool or spa is available for use only by the
34 residents of the apartment, condominium or association related to the pool or spa. This
35 bill also clarifies the definition of "public pool" by stating that its characterization as
36 public does not depend on a fee being charged for its use. This bill clearly defines a pool

1 on the premises of a child care facility within the meaning of the Maine Revised Statutes,
2 Title 22, section 8301-A, subsection 2 to be a public pool and a pool on the premises of a
3 family child care provider within the meaning of Title 22, section 8301-A, subsection 3 to
4 be a residential pool. The bill also updates the law to reflect the change of terminology
5 created by the bill.