

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 207

Representative Schmidt

A BILL

To amend sections 993.01, 3749.01, 3749.02, 1
3749.03, 3749.04, and 3749.07 and to enact 2
section 993.11 of the Revised Code to designate 3
the regulatory responsibilities regarding 4
special use pools. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 993.01, 3749.01, 3749.02, 6
3749.03, 3749.04, and 3749.07 be amended and section 993.11 of 7
the Revised Code be enacted to read as follows: 8

Sec. 993.01. As used in this chapter: 9

(A) "Amusement ride" means any mechanical, aquatic, or 10
inflatable device, or combination of those devices that carries 11
or conveys passengers on, along, around, over, or through a 12
fixed or restricted course or within a defined area for the 13
purpose of providing amusement, pleasure, or excitement. 14
"Amusement ride" includes carnival rides, bungee jumping 15
facilities, and fair rides, but does not include passenger 16
tramways as defined in section 4169.01 of the Revised Code, 17
manufactured rock climbing walls in climbing facilities 18
regulated under Chapter 4175. of the Revised Code, or amusement 19

rides operated solely at trade shows for a limited period of 20
time. For purposes of this division, "trade show" means a place 21
of exhibition not open to the general public where amusement 22
ride manufacturers display, promote, operate, and sell amusement 23
rides to prospective purchasers. 24

(B) "Temporary amusement ride" means an amusement ride 25
that is relocated at least once per year with or without 26
disassembly. 27

(C) "Permanent amusement ride" means an amusement ride 28
that is erected to remain a lasting part of the premises. 29

(D) "Owner" means any person who owns or leases and 30
controls or manages the operation of an amusement ride, and 31
includes individuals, partnerships, corporations, both profit 32
and nonprofit, and the state and any of its political 33
subdivisions and their departments or agencies. 34

(E) "Operation" means the use or operation, or both, of an 35
amusement ride with riders. 36

(F) "Rider" means any person who sits, stands, or is 37
otherwise conveyed or carried as a passenger on an amusement 38
ride, but does not include employees or agents of the owner of 39
the amusement ride. 40

(G) "Amusement ride operator" means any person causing the 41
amusement ride to go, stop, or perform its function. 42

(H) "Reassembly" means the installation, erection, or 43
reconstruction of the main mechanical, safety, electrical, or 44
electronic components of an amusement ride following 45
transportation or storage and prior to operation. Replacement of 46
mechanical, safety, electrical, or electronic components of an 47
amusement ride for the purpose of repair or maintenance is not 48

reassembly.	49
(I) "Repair" means to restore an amusement ride to a condition equal to or better than original design specifications.	50 51 52
(J) "Maintenance" means the preservation and upkeep of an amusement ride for the purpose of maintaining its designed operational capability.	53 54 55
(K) "Inspection" means a physical examination of an amusement ride by an inspector for the purpose of approving the application for a permit. "Inspection" includes a reinspection.	56 57 58
(L) "Accident" means an occurrence during the operation of an amusement ride that results in death or injury requiring immediate hospital admission.	59 60 61
(M) "Serious injury" means an injury that does not require immediate hospital admission but does require medical treatment, other than first aid, by a physician.	62 63 64
(N) "First aid" means the one-time treatment or subsequent observation of scratches, cuts not requiring stitches, burns, splinters, and contusions or a diagnostic procedure, including examinations and x-rays, that does not ordinarily require medical treatment even though provided by a physician or other licensed professional personnel.	65 66 67 68 69 70
(O) "Advisory council" means the advisory council on amusement ride safety created by section 993.02 of the Revised Code.	71 72 73
(P) "Safe operation" means, except as provided in section 993.10 of the Revised Code, the practical application of maintenance, inspection, and operational processes, as indicated	74 75 76

by the manufacturer, owner, or advisory council, that secures a 77
rider from threat of physical danger, harm, or loss. 78

(Q) "Private facility" means any facility that is 79
accessible only to members of the facility and not accessible to 80
the general public, even upon payment of a fee or charge, and 81
that requires approval for membership by a membership committee 82
representing the current members who have a policy requiring 83
monetary payment to belong to the facility. 84

(R) "Bungee jumping" means a fall or jump from a height by 85
an individual who is attached to an elastic cord that prevents 86
the individual from hitting the ground, water, or other solid, 87
semi-solid, liquid, or elastic surface. 88

(S) "Bungee jumping facility" means a device or structure 89
utilized for bungee jumping. 90

(T) "Kiddie ride" means an amusement ride designed for use 91
by children under thirteen years of age who are unaccompanied by 92
another person. "Kiddie ride" includes a roller coaster that is 93
not more than forty feet in elevation at any point on the ride. 94

(U) "Climbing facility" has the same meaning as in section 95
4175.01 of the Revised Code. 96

(V) "Special use pool" has the same meaning as in section 97
3749.01 of the Revised Code. 98

Sec. 993.11. (A) In adopting rules in accordance with this 99
chapter, the director of agriculture shall not adopt rules 100
governing the appurtenant facilities, surrounding areas, water 101
quality, or disinfection of special use pools. However, the 102
rules shall address all of the following concerning special use 103
pools: 104

<u>(1) Operation;</u>	105
<u>(2) Components;</u>	106
<u>(3) Structural integrity, including the walls and floors</u> <u>of special use pools with wave generating equipment;</u>	107 108
<u>(4) Physical safety.</u>	109
<u>(B) The regulation of the appurtenant facilities,</u> <u>surrounding areas, water quality, and disinfection of special</u> <u>use pools is the responsibility of the department of health and</u> <u>local boards of health under Chapter 3749. of the Revised Code.</u>	110 111 112 113
<u>(C) Notwithstanding any provision of section 121.95 of the</u> <u>Revised Code to the contrary, a regulatory restriction contained</u> <u>in a rule adopted under this chapter concerning special use</u> <u>pools is not subject to sections 121.95 to 121.953 of the</u> <u>Revised Code.</u>	114 115 116 117 118
Sec. 3749.01. As used in sections 3749.01 to 3749.10 of the Revised Code:	119 120
(A) "Board of health" means a city board of health or a general health district, or an authority having the duties of a city board of health as authorized by section 3709.05 of the Revised Code.	121 122 123 124
(B) "Health district" means any city or general health district created pursuant to section 3709.01 of the Revised Code.	125 126 127
(C) "Person" means the state, any political subdivision, special district, public or private corporation, individual, firm, partnership, association, or any other entity.	128 129 130
(D) "Licensor" means a city board of health or a general	131

health district, an authority having the duties of a city board 132
of health as authorized pursuant to section 3709.05 of the 133
Revised Code, or the director of health when acting under 134
section 3749.07 of the Revised Code. 135

(E) "Director" means the director of health or an 136
authorized representative of the director of health. 137

(F) "Private residential swimming pool" means any indoor 138
or outdoor structure, chamber, or tank containing a body of 139
water for swimming, diving, or bathing located at a dwelling 140
housing no more than three families and used exclusively by any 141
of the following: 142

(1) The dwelling's residents; 143

(2) The resident's nonpaying guests; 144

(3) A paying guest of a resident if the guest is 145
participating in a certified swimming class conducted by the 146
resident, provided that both of the following apply: 147

(a) The resident is a certified swimming instructor and is 148
conducting the certified swimming class on a one-on-one basis. 149

(b) Not more than four individuals are in the pool at the 150
same time during the class. 151

(G) "Public swimming pool" means any indoor or outdoor 152
structure, chamber, or tank containing a body of water for 153
swimming, diving, or bathing that is intended to be used 154
collectively for swimming, diving, or bathing and is operated by 155
any person whether as the owner, lessee, operator, licensee, or 156
concessionaire, regardless of whether or not a fee is charged 157
for use, but does not mean any public bathing area or private 158
residential swimming pool. 159

(H) "Public spa" means any public swimming pool that is 160
typically operated as a smaller, higher temperature pool for 161
recreational or nonmedical uses. 162

(I) "Special use pool" means a public swimming pool 163
containing flume slides, wave generating equipment, or other 164
special features that necessitate different design and safety 165
requirements. "~~Special use pool" does not include any water~~ 166
~~slide or wave generating pool at a public amusement area which~~ 167
~~is licensed and inspected by the department of agriculture~~ 168
pursuant to Chapter 993. of the Revised Code includes any catch 169
pool or tank of water used in connection with a special feature 170
that also is for bathing, swimming, or other purposes. 171

(J) "Public bathing area" means an impounding reservoir, 172
basin, lake, pond, creek, river, or other similar natural body 173
of water. 174

(K) "Certified swimming class" means an infant swimming 175
resource (ISR) class; an American red cross swimming class, 176
swimming lesson, or learn-to-swim class; and any other swimming 177
class certified by a nationally accredited organization that 178
operates in all fifty states. 179

(L) "Certified swimming instructor" means a certified ISR 180
instructor; a certified American red cross swimming instructor 181
or swim coach; and any other swim instructor certified by a 182
nationally accredited organization that operates in all fifty 183
states. 184

Sec. 3749.02. (A) The director of health shall, subject to 185
Chapter 119. of the Revised Code, adopt rules of general 186
application throughout the state governing the issuance of 187
licenses, approval of plans, layout, construction, sanitation, 188

safety, and operation of public swimming pools, public spas, and 189
special use pools. Such rules shall not be applied to the 190
construction, erection, or manufacture of any building to which 191
section 3781.06 of the Revised Code is applicable when the 192
building or structure is either integral to or appurtenant to a 193
public swimming pool, a public spa, or a special use pool. 194

(B) Notwithstanding any provision of section 121.95 of the 195
Revised Code to the contrary, a regulatory restriction contained 196
in a rule adopted under this section concerning special use 197
pools is not subject to sections 121.95 to 121.953 of the 198
Revised Code. 199

Sec. 3749.03. (A) No person shall construct or install, or 200
renovate or otherwise substantially alter, a public swimming 201
pool, public spa, or special use pool after September 10, 1987, 202
until the plans for the pool or spa have been submitted to and 203
approved by the director of health. Within thirty days of 204
receipt of the plans, the director shall approve or disapprove 205
them. The plans and approval required under this division do not 206
apply to repairs or ordinary maintenance that does not 207
substantially affect the manner of water recirculation or basic 208
design of the public swimming pool, public spa, or special use 209
pool. 210

Any person aggrieved by the director's disapproval of 211
plans under this division may, within thirty days following 212
receipt of the director's notice of disapproval, request a 213
hearing on the matter. The hearing shall be held in accordance 214
with Chapter 119. of the Revised Code and may be appealed in the 215
manner provided in that chapter. 216

(B) Prior to the issuance of a license to operate a newly 217
constructed or altered public swimming pool, public spa, or 218

special use pool, the director or a licensor authorized by the 219
director shall verify that the construction or alterations are 220
consistent with the plans submitted and approved under division 221
(A) of this section. The director or licensor authorized by the 222
director shall have two working days from the time notification 223
is received that a public swimming pool, public spa, or special 224
use pool is ready for an inspection to verify the construction 225
or alterations. 226

(C) (1) Except as provided in division (C) (2) of this 227
section, the fees for the approval of plans are as follows: 228

(a) Five per cent of the total cost of the equipment and 229
installation not to exceed two hundred seventy-five dollars for 230
a public swimming pool, public spa, or special use pool, or a 231
combination thereof, that has less than two thousand square feet 232
of surface area; 233

(b) Five per cent of the total cost of the equipment and 234
installation not to exceed five hundred fifty dollars for a 235
public swimming pool, public spa, special use pool, or a 236
combination thereof, that has two thousand or more square feet 237
of surface area. 238

(2) The director may, by rule adopted in accordance with 239
Chapter 119. of the Revised Code, increase the fees established 240
by this section. 241

(D) All plan approval fees shall be paid into the state 242
treasury to the credit of the general operations fund created by 243
section 3701.83 of the Revised Code. The fees shall be 244
administered by the director and shall be used solely for the 245
administration and enforcement of this chapter and the rules 246
adopted thereunder. 247

(E) Plan approvals issued under this section shall not 248
constitute an exemption from the land use and building 249
requirements of the political subdivision in which the public 250
swimming pool, public spa, or special use pool is or is to be 251
located. 252

(F) Beginning ninety days after the effective date of this 253
amendment, the licensee of a public swimming pool, public spa, 254
or special use pool shall ensure that carbon monoxide detectors 255
with local alarming functions that are listed and labeled in 256
accordance with UL Standard 2075, as amended, are installed in 257
all equipment rooms and all rooms adjacent to spaces containing 258
fuel-burning equipment or vents carrying the products of 259
combustion. 260

Sec. 3749.04. (A) No person shall operate or maintain a 261
public swimming pool, public spa, or special use pool without a 262
license issued by the licensor having jurisdiction. 263

(B) Every person who intends to operate or maintain an 264
existing public swimming pool, public spa, or special use pool 265
shall, during the month of April of each year, apply to the 266
licensor having jurisdiction for a license to operate the pool 267
or spa. Any person proposing to operate or maintain a new or 268
otherwise unlicensed public swimming pool, public spa, or 269
special use pool shall apply to the licensor having jurisdiction 270
at least thirty days prior to the intended start of operation of 271
the pool or spa. Within thirty days of receipt of an application 272
for licensure of a public swimming pool, public spa, or special 273
use pool, the licensor shall process the application and either 274
issue a license or otherwise respond to the applicant regarding 275
the application. 276

(C) Each license issued shall be effective from the date 277

of issuance until the last day of ~~May~~April of the following 278
year. 279

(D) Each licensor administering and enforcing sections 280
3749.01 to 3749.09 of the Revised Code and the rules adopted 281
thereunder may establish licensing and inspection fees in 282
accordance with section 3709.09 of the Revised Code, which shall 283
not exceed the cost of licensing and inspecting public swimming 284
pools, public spas, and special use pools. 285

(E) Except as provided in division (F) of this section and 286
in division (B) of section 3749.07 of the Revised Code, all 287
license fees collected by a licensor shall be deposited into a 288
swimming pool fund, which is hereby created in each health 289
district. The fees shall be used by the licensor solely for the 290
purpose of administering and enforcing this chapter and the 291
rules adopted under this chapter. 292

(F) An annual license fee established under division (D) 293
of this section shall include any additional amount determined 294
by rule of the director of health, which the board of health 295
shall collect and transmit to the director pursuant to section 296
3709.092 of the Revised Code. The amounts collected under this 297
division shall be administered by the director of health and 298
shall be used solely for the administration and enforcement of 299
this chapter and the rules adopted under this chapter. 300

Sec. 3749.07. (A) The director of health ~~shall~~may 301
annually survey each health district that licenses public 302
swimming pools, public spas, and ~~special-use~~special use pools 303
to determine whether or not the health district is in 304
substantial compliance with this chapter and the rules adopted 305
thereunder. If the director determines that a health district is 306
in substantial compliance, ~~he~~the director shall place the 307

district on an approved health district licensing list. The 308
director shall, as ~~he~~ the director determines necessary, make 309
additional surveys of health districts and shall remove from the 310
approved health district licensing list any health district ~~he~~ 311
the director determines not to be in substantial compliance with 312
this chapter and the rules adopted thereunder. 313

(B) If the director determines that a health district is 314
not eligible to be placed on the approved health district 315
licensing list, ~~he~~ the director shall certify the same to the 316
board of health of the health district and shall perform the 317
duties of a health district in that area until the health 318
district is eligible for placement on the approved list. All 319
fees payable to the health district during the time that the 320
director performs the duties of the health district and all 321
other such fees that have not been expended or otherwise 322
encumbered shall be deposited by the director in the state 323
treasury to the credit of the general operations fund created by 324
section 3701.83 of the Revised Code, to be used by the director 325
in ~~his~~ the director's capacity as a licensor. The director shall 326
keep a record of the fees so deposited and, when the health 327
district is placed on the approved list, shall transfer any 328
remaining balance of the fees to the health district swimming 329
pool fund created under division (E) of section 3749.04 of the 330
Revised Code. 331

Section 2. That existing sections 993.01, 3749.01, 332
3749.02, 3749.03, 3749.04, and 3749.07 of the Revised Code are 333
hereby repealed. 334

Section 3. Section 3749.01 of the Revised Code is 335
presented in this act as a composite of the section as amended 336
by both H.B. 65 and H.B. 665 of the 133rd General Assembly. The 337

General Assembly, applying the principle stated in division (B) 338
of section 1.52 of the Revised Code that amendments are to be 339
harmonized if reasonably capable of simultaneous operation, 340
finds that the composite is the resulting version of the section 341
in effect prior to the effective date of the section as 342
presented in this act. 343