

**As Passed by the Senate**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Am. Sub. H. B. No. 65**

**Representative Carfagna**

**Cosponsors: Representatives Boggs, Boyd, Crawley, Ginter, Hambley, LaTourette, Lipps, Miller, A., Miranda, Rogers, Russo, Smith, R., Stein, Weinstein, West, Abrams, Baldrige, Blair, Brent, Brown, Carruthers, Clites, Cross, Crossman, Denson, Edwards, Galonski, Ghanbari, Greenspan, Hicks-Hudson, Holmes, A., Hoops, Howse, Ingram, Jones, Jordan, Keller, Kelly, LaRe, Leland, Lepore-Hagan, Lightbody, Liston, Manning, D., Manning, G., Merrin, Miller, J., O'Brien, Oelslager, Patterson, Patton, Perales, Plummer, Richardson, Robinson, Ryan, Scherer, Sheehy, Skindell, Smith, T., Sobecki, Stephens, Upchurch**

**Senators Maharath, Antonio, Blessing, Brenner, Burke, Coley, Craig, Dolan, Eklund, Gavarone, Hackett, Johnson, Kunze, Manning, O'Brien, Peterson, Schaffer, Thomas, Wilson, Yuko**

**A BILL**

To amend section 3749.01 and to enact section 1  
5104.043 of the Revised Code regarding parental 2  
notice of serious risks to the health or safety 3  
of children receiving child care and to allow 4  
certified swimming classes to take place at a 5  
private residential swimming pool without 6  
requiring the pool's operator to obtain a public 7  
swimming pool license and to declare an 8  
emergency. 9

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

**Section 1.** That section 3749.01 be amended and section 10  
5104.043 of the Revised Code be enacted to read as follows: 11

Sec. 3749.01. As used in sections 3749.01 to 3749.10 of 12  
the Revised Code: 13

(A) "Board of health" means a city board of health or a 14  
general health district, or an authority having the duties of a 15  
city board of health as authorized by section 3709.05 of the 16  
Revised Code. 17

(B) "Health district" means any city or general health 18  
district created pursuant to section 3709.01 of the Revised 19  
Code. 20

(C) "Person" means the state, any political subdivision, 21  
special district, public or private corporation, individual, 22  
firm, partnership, association, or any other entity. 23

(D) "Licensor" means a city board of health or a general 24  
health district, an authority having the duties of a city board 25  
of health as authorized pursuant to section 3709.05 of the 26  
Revised Code, or the director of ~~the department of~~ health when 27  
acting under section 3749.07 of the Revised Code. 28

(E) "Director" means the director of ~~the department of~~ 29  
health or his an authorized representative of the director of 30  
health. 31

(F) "Private residential swimming pool" means any indoor 32  
or outdoor structure, chamber, or tank containing a body of 33  
water for swimming, diving, or bathing located at a dwelling 34  
housing no more than three families and used exclusively by ~~the~~ 35  
any of the following: 36

(1) The dwelling's residents and their; 37

(2) The resident's nonpaying guests; 38

(3) A paying guest of a resident if the guest is 39

participating in a certified swimming class conducted by the 40  
resident, provided that both of the following apply: 41

(a) The resident is a certified swimming instructor and is 42  
conducting the certified swimming class on a one-on-one basis. 43

(b) Not more than four individuals are in the pool at the 44  
same time during the class. 45

(G) "Public swimming pool" means any indoor or outdoor 46  
structure, chamber, or tank containing a body of water for 47  
swimming, diving, or bathing that is intended to be used 48  
collectively for swimming, diving, or bathing and is operated by 49  
any person whether as the owner, lessee, operator, licensee, or 50  
concessionaire, regardless of whether or not a fee is charged 51  
for use, but does not mean any public bathing area or private 52  
residential swimming pool. 53

(H) "Public spa" means any public swimming pool that is 54  
typically operated as a smaller, higher temperature pool for 55  
recreational or nonmedical uses. 56

(I) "Special use pool" means a public swimming pool 57  
containing flume slides, wave generating equipment, or other 58  
special features that necessitate different design and safety 59  
requirements. "Special use pool" does not include any water 60  
slide or wave generating pool at a public amusement area which 61  
is licensed and inspected by the department of agriculture 62  
pursuant to sections 1711.50 to 1711.57 of the Revised Code. 63

(J) "Public bathing area" means an impounding reservoir, 64  
basin, lake, pond, creek, river, or other similar natural body 65  
of water. 66

(K) "Certified swimming class" means an infant swimming 67  
resource (ISR) class; an American red cross swimming class, 68

swimming lesson, or learn-to-swim class; and any other swimming 69  
class certified by a nationally accredited organization that 70  
operates in all fifty states. 71

(L) "Certified swimming instructor" means a certified ISR 72  
instructor; a certified American red cross swimming instructor 73  
or swim coach; and any other swim instructor certified by a 74  
nationally accredited organization that operates in all fifty 75  
states. 76

**Sec. 5104.043.** (A) If the department of job and family 77  
services determines that an act or omission of a child day-care 78  
center, type A family day-care home, or licensed type B family 79  
day-care home constitutes a serious risk noncompliance, the 80  
licensee shall notify the caretaker parent of each child 81  
receiving care in the center or home of the department's 82  
determination. 83

(B) With respect to the notice required by division (A) of 84  
this section, all of the following apply: 85

(1) The licensee shall notify caretaker parents not later 86  
than fifteen business days after the department informs the 87  
licensee of the department's determination. If the licensee 88  
requests a review of the department's determination, the 89  
licensee shall notify caretaker parents not later than five 90  
business days after the department has completed its review. 91

(2) The notice shall include a statement informing each 92  
caretaker parent of the web site maintained by the department 93  
and the location of further information regarding the 94  
determination. 95

(3) The licensee may provide written or electronic notice 96  
to caretaker parents. 97

<u>(4) The licensee shall provide a copy of the notice to the</u>	98
<u>department.</u>	99
<u>(C) The director of job and family services shall adopt</u>	100
<u>rules to enforce this section.</u>	101
<u>(D) The requirements of this section do not apply if the</u>	102
<u>department suspends the license of a child day-care center, type</u>	103
<u>A family day-care home, or licensed type B family day-care home</u>	104
<u>pursuant to section 5104.042 of the Revised Code.</u>	105
<b>Section 2.</b> That existing section 3749.01 of the Revised	106
Code is hereby repealed.	107
<b>Section 3.</b> It is not the intent of the General Assembly	108
that any provision of section 3749.01 of the Revised Code, as	109
amended by this act, be interpreted as either limiting or	110
restricting an insurer's ability to do any of the following:	111
(A) Exclude insurance coverage from any insurance policy;	112
(B) Underwrite any insurance policy; or	113
(C) Create, imply, or otherwise grant insurance coverage	114
not found in a policy of insurance.	115
<b>Section 4.</b> No notice shall be required under divisions (A)	116
and (B) of section 5104.043 of the Revised Code, as enacted by	117
this act, until such time as the Director of Job and Family	118
Services adopts rules under division (C) of that section.	119
<b>Section 5.</b> This act is hereby declared to be an emergency	120
measure necessary for the immediate preservation of the public	121
peace, health, and safety. The reason for such necessity is to	122
continue the essential operation of certified swimming classes	123
and to ensure the safety of children at child care facilities.	124
Therefore, this act shall go into immediate effect.	125