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**Public Law**  
123rd Legislature  
Second Regular Session

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**Chapter 631**  
**H.P. 1491 - L.D. 2105**

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

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

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

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

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

**§ 257. Health workforce forum**

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

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

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

**§ 2661. Purpose**

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

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

## **§ 2662. Definitions**

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

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

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

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

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

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

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

**5. Residential swimming pool.** "PrivateResidential swimming pool" means any constructed pool whichthat is used as afor swimming pool in connection with a single or multifamily residence, used by tenants of apartment buildings, owners of condominiums and members of property owners associations and available only to thethese residents and their private guests. A pool on the premises of a family child care provider who is certified or required to be certified under section 8301-A is a residential pool.

**6. Public spa.** "Public spa" means any constructed spa other than a privateresidential spa or medical facility spa.

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

**8. Spa.** "Spa" means a unit containing water primarily designed for therapeutic or nontherapeutic use whichthat is not drained, cleaned or refilled for each individual. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles or any combination thereof. ~~The term spa~~"Spa" includes, but is not limited to, a therapeutic pool, hydrotherapy pool, whirlpool, hot spa and hot tubsub.

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

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

### **§ 2663. Existing installations**

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

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

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

### **§ 2664. Rules**

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

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

### **§ 2665. Submission of plans**

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

The design criteria to be followed by the department in the review and approval is the minimum standard for ~~public swimming~~all pools and the minimum standard for ~~public~~all spas published by the ~~National Swimming Pool Institute~~American National Standards Institute and the Association of Pool and Spa Professionals or successor organizations.

The design criteria standards that the department is using to review and approve pools and spas must be posted annually on the department's publicly accessible website.

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

### **§ 2666. Health and safety**

**1. Employment; communicable disease.** ~~No person having a communicable disease may be employed or work at a public swimming pool or spa.~~

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

**3. Supervision.** Every public swimming pool or spa ~~shall~~must be under the supervision of a ~~capable individual person as defined in standards by American National Standards Institute and the Association of Pool and Spa Professionals or successor organizations~~ who shall assume the responsibility for compliance with this chapter relating to the safe and sanitary operation and maintenance of a public swimming pool or spa. ~~Nothing in this~~This chapter may not be construed to require a lifeguard to be on duty when a public swimming pool or spa is open to the public.

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

### **§ 2667. Inspections**

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

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

### **§ 2668. Closure**

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

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

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

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