

1999 DRAFTING REQUEST

Bill

Received: 02/11/99

Received By: yacketa

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: yacketa

May Contact:

Alt. Drafters:

Subject: **Health - public health**

Extra Copies: **DAK**

Pre Topic:

No specific pre topic given

Topic:

Certification of pool managers

Instructions:

See Attached; redraft 97-4002

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	yacketa 03/22/99	ygeller 03/22/99	lpaasch 03/22/99	_____	lrb_docadmin 03/22/99	lrb_docadminS&L 04/28/99	

FE Sent For:

05-24-99

<END>

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/?	yacketa	4 3/22 jlg	302 LP	302 LP JF			

FE Sent For:

<END>



Wisconsin Speaker Pro Tempore
Representative Stephen J. Freese

MEMORANDUM

To: Tina Yacker, LRB Attorney
From: Representative Steve Freese
Date: February 11, 1999
Re: Redraft of 1997 LRB-4002/1

I would like you to redraft 1997 LRB-4002/1 with the following changes:

Delete section 4 (4), found on page 3, lines 12-15
Delete section 5, found on page 3, lines 16-20

According to your drafter's note, you found these two sections to be unnecessary since the department is already required, or there are already provisions set up in administrative rule, to administer to these two issues of concern.

I would also like you to include provisions in the draft that are similar to what Minnesota has in their statutes relating to the ability of an owner of a pool to contract out with a CPO for the maintenance and daily operation of the owner's pool. This would afford owners the option of not becoming CPO's themselves, but instead they could contract out with an individual or a business to maintain their pool in compliance with state law. I have enclosed the Minnesota language for your perusal.

THANKS!

Fifty-First Assembly District

Capitol Office: P.O. Box 8952 • Madison, Wisconsin 53708-8952
(608) 266-7502 • Toll-Free: (888) 534-0051 • Fax: (608) 261-9474 • Rep.Freese@legis.state.wi.us
District: 310 E. North • Dodgeville, Wisconsin 53533 • (608) 935-3789

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4002/1dn

TAY:jlg:hmh

Monday, October 27, 1997

Senator Schultz:

Please review this draft carefully to ensure that it complies with your intent. In particular please note the following:

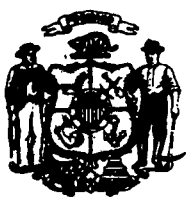
1. I used the word "certify" (or its derivatives) rather than "registration" because "registration" might imply that the department would maintain a registry, which I do not believe is the department's intent.

2. I have included a provision requiring the secretary of DHFS to appoint a committee as the instructions request. However, s. 15.04 already requires the secretary to "create and appoint such committees as the operation of the department or independent agency requires." In other words, the secretary already has the authority — in fact, the obligation — to appoint a committee if the department needs one. I assume that the secretary determines whether the operation of the department requires a committee. If there is a concern that the secretary will not make that determination and there is a strong desire to create the committee, then the provision is probably necessary. Otherwise, I do not believe it is.

3. As the instructions request, I have included a provision requiring the department to conduct evaluations of the certification program to determine its effect on compliance with s. 254.47 and the rules promulgated under that section. To what end would this evaluation be done? To propose changes to the statutes? To demonstrate the program's effectiveness? To whom? Should the evaluation be formal? Should it be done by the audit bureau instead as a performance audit? Every department is already authorized to — and should — evaluate the effectiveness of a program that it administers in carrying out the legislature's intent. Since the evaluation in this draft will be an internal document of the department (per oral instructions from Tom and Rob at the October 20 meeting there is no requirement that the department prepare a report for the legislature or governor), this provision seems unnecessary and may call into question an agency's obligation to self-evaluate in the absence of legislation clearly mandating that it do so.

If you have any questions about this draft, or if any part of it does not meet your intent, please call me.

Tina A. Yacker
Legislative Attorney
261-6927



1997 BILL

1 **AN ACT to amend 254.47 (6); to repeal and recreate 254.47 (6); and to create**
2 **254.47 (6) and 254.475 of the statutes; relating to: registration of pool**
3 **managers and granting rule-making authority.**

Analysis by the Legislative Reference Bureau

Under current law, the department of health and family services (DHFS) issues permits to and regulates public swimming pools. Currently, no person or state or local government may operate, manage or maintain a public swimming pool without a valid permit.

This bill creates a pool manager certification program. Under the bill, DHFS must certify an individual as a pool manager if the person meets certain requirements. Beginning 24 months after the date on which this bill becomes law, DHFS may not issue a permit to a public swimming pool that is 2,000 square feet or larger unless the manager of the public swimming pool holds a valid pool manager certificate. Beginning 36 months after the date on which this bill becomes law, the requirement applies to public swimming pools that are 1,000 square feet or larger. Finally, under the bill, beginning 48 months after the date on which the bill becomes law, the requirement applies to all public swimming pools.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 254.47 (6) of the statutes is created to read:

1 254.47 (6) No permit may be issued under this section for a public swimming
2 pool that is 2,000 square feet or larger unless the manager of the public swimming
3 pool holds a valid certificate granted by the department under s. 254.475.

4 **SECTION 2.** 254.47 (6) of the statutes, as created by 1997 Wisconsin Act (this
5 act), section 1, is amended to read:

6 254.47 (6) No permit may be issued under this section for a public swimming
7 pool that is ~~2,000~~ 1,000 square feet or larger unless the manager of the public
8 swimming pool holds a valid certificate granted by the department under s. 254.475.

9 **SECTION 3.** 254.47 (6) of the statutes, as affected by 1997 Wisconsin Act (this
10 act), sections 1 and 2, is repealed and recreated to read:

11 254.47 (6) No permit may be issued under this section for any public swimming
12 pool unless the manager of the public swimming pool holds a valid certificate granted
13 by the department under s. 254.475.

14 **SECTION 4.** 254.475 of the statutes is created to read:

15 **254.475 Certification of swimming pool managers.** (1) The department
16 shall grant a certificate as a pool manager to any individual who does all of the
17 following:

18 (a) Submits an application for the certificate to the department on a form
19 provided by the department.

20 (b) Completes a training course and written examination approved by the
21 department under sub. (3).

22 (c) Pays to the department the certification fee established by the department
23 by rule.

24 (d) Meets any other requirements for certification established by the
25 department by rule.

1 (2) A certificate granted under sub. (1) is valid for a period established by the
2 department by rule and may be renewed in the manner established by the
3 department by rule. The department may revoke, or refuse to renew, the certificate
4 because of the substantial and intentional violation of this section or of rules
5 promulgated by the department under this section or because of failure to meet the
6 minimum requirements for certification under sub. (1).

7 (3) The department shall establish by rule criteria to be used by the
8 department to approve and evaluate pool management training courses and written
9 examinations for the purpose of certifying an individual under this section. The
10 department shall approve a training course or written examination that meets the
11 criteria established by the department under this subsection.

12 (4) ~~The department shall conduct periodic evaluations of the certification
13 program under this section to determine its effect on compliance by public swimming
14 pools with requirements under s. 254.47 and the rules promulgated under that
15 section.~~

16 **SECTION 5. Nonstatutory provisions; health and family services.**

17 (1) ~~ADVISORY COMMITTEE. The secretary of health and family services of the
18 department of health and family services shall appoint a committee under s. 15.04
19 (1) (c), comprised of pool management experts and certified pool operators, to advise
20 the department with respect to the rules established under this section.~~

21 **SECTION 6. Effective dates.** This act takes effect on the day after publication,
22 except as follows:

23 (1) **PUBLIC SWIMMING POOLS OF 2,000 FEET OR MORE.** The creation of section 254.47
24 (6) of the statutes takes effect on the first day of the 24th month beginning after
25 publication.

Subpart 1. Pool maintenance. A public pool, pool equipment, and related facilities and equipment must be maintained in a properly operating condition.

Subp. 2. Responsibility for operation. A public pool and the related facilities and equipment must be operated and maintained in working condition by a person who is designated as responsible for compliance with parts 4717.0150 to 4717.3975 and ensures that the pool poses no threat to public health or safety. The owner shall be responsible for the operation of the pool and related facilities and compliance with parts 4717.0150 to 4717.3975. Where another person has operational authority under an agreement with the owner, that person also has responsibility for the operation of the pool and related facilities and for compliance with parts 4717.0150 to 4717.3975.

Subp. 3. Designation of trained operator. The owner or operator of the pool must designate a trained operator who is responsible for the direct operation of the pool whenever the pool is open for use.

A. The trained operator must be responsible for the daily operation of the pool and ensure that required testing is done and records are maintained. The trained operator, or a designated alternate trained operator, must be able to respond to emergency, unsafe and unsanitary conditions at any time the pool is open for use.

B. The trained operator must assure that other individuals who assist with chemical monitoring and pool equipment operation are trained for those functions.

Subp. 4. Operations manual. An operations manual must be available that provides operational information relating to all pool equipment.

Subp. 5. Operator training. The owner or operator must ensure that the designated trained operator is trained to operate the pool in compliance with parts 4717.0150 to 4717.3975.

A. The trained operator must be trained in safe chemical handling and the use of protective equipment in addition to pool operation and sanitation described in items B to F.

B. Until January 1, 1997, any operator is eligible for certification through attendance at and successful completion of a pool operator's training course.

C. After January 1, 1997, the trained operator must be certified as successfully completing a pool operator training course as specified in item E.

D. A certified trained operator must successfully complete a training course as specified in item E at least once every five years after January 1, 1997.

E. Acceptable training courses are:

- (1) the National Swimming Pool Foundation Certified Pool Operator course;
- (2) the National Spa and Pool Institute Tech I and Tech II courses (both required); or
- (3) the National Recreation and Park Association Aquatic Facility Operator course.

F. After January 1, 1997, a copy of the trained operator's training certificate must be posted at the facility whenever the pool is open for use.

STAT AUTH: MS s 144.05; 144.12; 144.123; 145A.02; 157.01
HIST: 19 SR 1419; 19 SR 1637

4717.0750 POOL RECORD.

A record of a public pool's operation and routine maintenance must be kept by the operator. The record must be

CHAPTER 4717
DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH RULES

PUBLIC SWIMMING POOLS

4717.0150 APPLICABILITY.

Parts 4717.0150 to 4717.3975 establish operation and maintenance, design, installation, and construction standards for public pools and facilities related to them.

STAT AUTH: MS s 144.05; 144.12; 144.123; 145A.02; 157.01
HIST: 19 SR 1419; 19 SR 1637

4717.0250 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4717.0150 to 4717.3975, the terms defined in this part have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's authorized representative.

Subp. 3. **Operator.** "Operator" means the individual designated by the owner as responsible to operate and maintain the public pool in compliance with parts 4717.0150 to 4717.3975.

Subp. 4. **Owner.** "Owner" means the person who owns the public pool and is responsible for compliance with parts 4717.0150 to 4717.3975.

Subp. 5. **Person.** "Person" means an individual, firm, partnership, association, limited liability company, corporation, company, government agency, club, or organization of any kind.

Subp. 6. **Pool.** "Pool" means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use including special purpose pools and wading pools.

Subp. 7. **Private residential pool.** "Private residential pool" means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. A private residential pool is not a pool used as part of a business.

Subp. 8. **Public pool.** "Public pool" means any pool, other than a private residential pool, intended to be used collectively by numbers of persons, and operated by any person whether the person be an owner, lessee, operator, or concessionaire, and regardless of whether a fee for use is charged. A public pool includes, but is not limited to, pools operated by a person in a park, school, licensed child care facility, group home, motel, camp, resort, apartment building, club, condominium, hotel, manufactured home park, or political subdivision.

Subp. 9. **Spa pool.** "Spa pool" means a hot water pool intended for seated recreational use with a water agitation system in addition to the recirculation system. Spa pool is synonymous with the term "whirlpool."

Subp. 10. **Special purpose pool.** "Special purpose pool" means a pool intended to accommodate a use other than normal swimming, diving, or wading. A special purpose pool includes, but is not limited to, spa pools, pools used for water therapy, dedicated plunge pools, flume water slides, and wave pools.

Subp. 11. **Trained operator.** "Trained operator" means an individual who meets the requirements of part 4717.0650, subpart 5.

WFO-check
auto refs

1999 Bill
1997 BILL

Regen

operators

certification

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25 publication.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2190/1dn

TAY...:.....

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Representative Freese:

In your request you asked to include language similar to Minnesota's language regarding a swimming pool's ability to contract with a certified pool manager (a term I changed to "swimming pool operator" since a manager would not likely be a contract position). I have included language that would permit that. However, the part of the Minnesota law that you submitted with your drafting instructions and that you highlighted concerns other issues related to pool operation. Did you want to include those items, as well? Note that one difference between the Minnesota law and this bill is that the certification requirements are specified under Minnesota law ~~and~~ are to be determined by rule under this bill. If you would like to specify the certification requirements as they are specified under Minnesota law, please let me know.

plain

If you have any questions about this draft, or if any part of it does not meet your intent, I would be happy to meet with you to discuss your concerns.

Tina A. Yacker
Legislative Attorney
Phone: (608) 261-6927
E-mail: Tina.Yacker@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2190/1dn
TAY:jlg:lp

March 22, 1999

Representative Freese:

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Tina A. Yacker
Legislative Attorney
Phone: (608) 261-6927
E-mail: Tina.Yacker@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/22/99

To: Representative Freese

Relating to LRB drafting number: LRB-2190


Topic

Certification of pool managers

Subject(s)

Health - public health

1. **JACKET** the draft for introduction _____



in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Tina A. Yacker, Legislative Attorney
Telephone: (608) 261-6927