

AN ACT Relating to Water Recreation Facilities; Amending RCW 70.90.110, 70.90.120, 70.90.125, 70.90.140, 70.90.150, 70.90.160, 70.90.170, 70.90.180, 70.90.190, 70.90.205, 70.90.210, 70.90.230, 70.90.240, and 70.90.250.

**Sec. 1.** RCW 70.90.110 and 1991 c 3 s 352 are each amended to read as follows:

Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) "Water recreation facility" means any artificially constructed structure ((~~basin~~)) or modified natural ((~~other~~)) structure containing water used or intended to be used for recreation, bathing, relaxation, therapy, or swimming, where body contact with the water occurs or is intended to occur and includes auxiliary buildings and appurtenances. The term includes, but is not limited to:

(a) Aquatic Facilities as defined in this chapter ~~(( Conventional swimming pools, wading pools, and spray pools;~~

~~(b) Recreational water contact facilities as defined in this chapter;~~

~~(c) Spa pools and tubs using hot water, cold water, mineral water, air induction, or hydrojets)); and~~

~~(d) (b) Any area designated for swimming in natural waters with artificial boundaries within the waters.~~

(2) "Aquatic facility" means a physical place that contains one or more aquatic venues and support infrastructure. ((~~"Recreational water contact facility" means an artificial water associated facility with design and operational features that provide patron recreational activity which is different from that associated with a conventional swimming pool and purposefully involves immersion of the body partially or totally in the water, and that includes but is not limited to, water slides, wave pools, and water lagoons.~~))

(3) "Aquatic venue" means an artificially constructed structure where the public is exposed to water intended for recreational or therapeutic use and where the primary intended use is not watering livestock, irrigation, water storage, fishing, or habitat for aquatic life. The term includes, but is not limited to:

(a) Swimming pools, wading pools, spray pools and spray pads;

(b) Spa pools and tubs using hot water, cold water, mineral water, air induction, or hydrojets;

(c) Water slides, wave pools, surf pools, and water lagoons;

(d) Float tanks and cold plunges; and

(e) Any other interactive water venue.

(4) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the county or district public health department ((~~health officer of the city, county, or city-county department or district~~)) or a representative authorized by the local health officer.

~~((4))~~ (5) "Secretary" means the secretary of health or authorized representative.

~~((5))~~ (6) "Person" means an individual, firm, partnership, co-partnership, corporation, company, association, club, government entity, or organization of any kind.

~~((6))~~ (7) "Department" means the department of health.

~~((7))~~ (8) "Board" means the state board of health.

(9) "Local Health Jurisdiction" means a local health department as defined in chapter 70.05 RCW, or county health department as defined in chapter 70.08 RCW, or health district as defined in chapter 70.05 RCW.

(10) "Residential aquatic facility" means an aquatic facility at a single-family dwelling that allows use of the facility beyond the resident and invited guests.

(11) "Invited guest" means an individual who is allowed gratuitous use, without payment of any kind.

(12) "Residential community" means a group of housing units where people live; it does not include short term rentals as defined in chapter 64.37 RCW or transient accommodations as defined in chapter 70.62 RCW and where transient guests may stay no longer than 30 days.

**Sec. 2.** RCW 70.90.120 and 2017 c 102 s 1 are each amended to read as follows:

(1) The board shall adopt rules under the administrative procedure act, chapter 34.05 RCW, governing safety, sanitation, and water quality for water recreation facilities. The rules shall include but not be limited to requirements for design; operation; injury and illness reporting; biological and chemical contamination standards; water quality monitoring; inspection; permit application and issuance; and enforcement procedures. ~~((However, a water recreation facility intended for the exclusive use of residents of any apartment house complex or of a group of rental housing units of less than fifteen living units, or of a mobile home park, or of a condominium complex or any group or association of less than fifteen homeowners shall not be subject to preconstruction design review, routine inspection, or permit or fee requirements; and water treatment of hydroelectric reservoirs or natural streams, creeks, lakes, or irrigation canals shall not be required.))~~

(2) The board may adopt minimum health and safety rules for residential aquatic facilities that focus on injury and drowning prevention and recreational water illness prevention. Rules may include: restroom access, lifesaving equipment, signage, illness and injury reporting, and water quality.

(3) In adopting rules under ~~((subsection (1) of))~~ this section ~~((regarding the operation or design of a recreational water contact facility)),~~ the board shall review and consider the most recent version of the United States centers for disease control and prevention's model aquatic health code.

**Sec. 3.** RCW 70.90.125 and 1987 c 222 s 6 are each amended to read as follows:

~~((Nothing in this chapter shall prohibit any))~~ Local boards of health ~~((from))~~ may establish ~~((ing))~~ and enforce ~~((ing))~~ any provisions governing safety, sanitation, and water quality for any water recreation facility, regardless of ownership or use, in addition to those rules established by the ~~((state))~~ board ~~((of health))~~ under this chapter.

**Sec. 4.** RCW 70.90.140 and 1986 c 236 s 5 are each amended to read as follows:

The secretary shall enforce the rules adopted under this chapter. The secretary may develop joint plans of responsibility with any local health jurisdiction or other state agency deemed appropriate by the secretary to administer this chapter.

**Sec. 5.** RCW 70.90.150 and 1986 c 236 s 6 are each amended to read as follows:

(1) Local health officers may establish and collect fees sufficient to cover their costs incurred in carrying out their duties under this chapter and the rules adopted under this chapter.

(2) The department may establish and collect fees sufficient to cover its costs incurred in carrying out its duties under this chapter. The department ~~((fees))~~ shall ~~((be))~~ deposit ~~((ed))~~ the fees in the state general fund.

(3) A person shall not be required to submit fees at both the state and local levels for the same service.

**Sec. 6.** RCW 70.90.160 and 1987 c 222 s 7 are each amended to read as follows:

(1) A permit is required for any modification to or construction of an ~~((y recreational water contact facility after June 11, 1986, and for any other water recreation))~~ aquatic facility ~~((after July 26, 1987)). ((Water recreation))~~ Aquatic facilities existing on July 26, 1987, ~~((which do not comply with the design and construction requirements established by the state board of health under this chapter))~~ may continue to operate without modification ~~((to or replacement of the existing physical plant,))~~ if ~~((provided the))~~ water quality, sanitation, and lifesaving equipment ~~((are in))~~ comply ~~((iance))~~ with the requirements established under this chapter. However, if any modifications are made to ~~((the physical plant of))~~ an existing ~~((water recreation))~~ aquatic facility the modifications ~~((shall))~~ must comply with the requirements established under this chapter.

(2) A person shall submit ~~((The))~~ plans and specifications for the modification or construction of an aquatic facility ~~((shall be submitted))~~ to the ~~((applicable))~~ local health jurisdiction

~~((authority))~~ or the department as applicable, but a person shall not be required to submit plans at both the state and local levels or apply for both a state and local permit.

(3) The department or local health jurisdiction shall review plans ~~((shall be reviewed))~~ and may ~~((be))~~ approve~~((d))~~ or ~~((rejected))~~ deny or impose modifications or conditions ~~((imposed))~~ consistent with this chapter ~~((as the public health or safety may require, and))~~

(4) The department or local health jurisdiction shall issue or deny a permit ~~((shall be issued or denied))~~ within ~~((thirty))~~ 30 days of approving or denying the plan submittal.

**Sec. 7.** RCW 70.90.170 and 1987 c 222 s 8 are each amended to read as follows:

~~((An operating permit from the department or local health officer, as applicable, is required for))~~ Each water recreation facility ~~((operated in this state))~~ shall have an operating permit from the local health jurisdiction or the department as applicable. The aquatic facility shall renew permits annually and ~~((shall be renewed annually. The))~~ permits shall be conspicuously displayed ~~((at the water recreation facility))~~.

**Sec. 8.** RCW 70.90.180 and 1987 c 222 s 9 are each amended to read as follows:

(1) Nothing in this chapter or the rules adopted under this chapter creates or forms the basis for any liability:

~~((1))~~ (a) On the part of the state and local health jurisdictions, or their officers, employees, or agents, for any injury or damage resulting from the failure of the owner or operator of water recreation facilities to comply with this chapter or the rules adopted under this chapter; or

~~((2))~~ (b) ~~b~~ By reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter or the rules adopted under this chapter on the part of the state and local health jurisdictions, or by their officers, employees, or agents.

(2) All actions of local health officers and the secretary shall be deemed an exercise of the state's police power.

**Sec. 9.** RCW 70.90.190 and 1987 c 222 s 10 are each amended to read as follows:

A~~((ny))~~ person operating a water recreation facility shall report to the local health officer or the department any serious injury, communicable disease, or death occurring at or caused by the water recreation facility.

**Sec. 10.** RCW 70.90.205 and 1987 c 222 s 11 are each amended to read as follows:

The violation of any provisions of this chapter and any rules adopted under this chapter (~~(shall be)~~) is a misdemeanor punishable by a fine of not more than five hundred dollars.

**Sec. 11.** RCW 70.90.210 and 1991 c 3 s 354 are each amended to read as follows:

(1) A(~~ny~~) person aggrieved by an order of the department or by the imposition of a civil fine by the department has the right to an adjudicative proceeding. RCW 43.70.095 governs department notice of a civil fine and a person's right to an adjudicative proceeding.

(2) A(~~ny~~) person aggrieved by an order of a local health officer or by the imposition of a civil fine by the officer has the right to appeal. The hearing is governed by the local health jurisdiction's administrative appeals process. Notice (~~(shall)~~) must be provided by the local health jurisdiction consistent with its due process requirements.

**Sec. 12.** RCW 70.90.230 and 1986 c 236 s 14 are each amended to read as follows:

(1) (~~(A recreational water contact)~~) An aquatic facility (~~(shall)~~) must not (~~(be)~~) operate(~~(d within the state)~~) unless the owner or operator has (~~(purchased)~~) insurance in an amount not less than (~~(one hundred thousand dollars)~~) \$1,000,000 against liability for bodily injury to or death of one or more persons in any one accident arising out of the use of the (~~(recreational water contact)~~) aquatic facility(~~(-)~~)or

(2) The aquatic facility must demonstrate to the department or local health jurisdiction they maintain an equivalent form of liability coverage with the ability to respond to damages for bodily injury or death. (~~(—The board may require a recreational water contact facility to purchase insurance in addition to the amount required in subsection (1) of this section.)~~)

**Sec. 13.** RCW 70.90.240 and 1987 c 222 s 4 are each amended to read as follows:

Every seller of aquatic venues (~~(spas, pools and tubs under RCW 70.90.110(1)(a) and (c))~~) shall furnish to the purchaser a complete set of operating instructions (~~(which shall include detailed instructions)~~) on the safe use of the aquatic venue (~~(spa, pool, or tub)~~) and (~~(for)~~) the proper treatment of water to reduce health risks to the purchaser. (~~(Included in)~~) The instructions (~~(shall be)~~) must include information about the health (~~(effects)~~) risks of hot and cold water with (~~(and)~~) a specific caution and explanation of the health risks during pregnancy (~~(effects of hot water on pregnant women)~~).

**Sec. 14.** RCW 70.90.250 and 2017 c 102 s 2 are each amended to read as follows:

(1) This chapter applies to all water recreation facilities regardless of whether ownership is public or private and regardless of whether the intended use is commercial or private, except that this chapter shall not apply to:

~~((1))~~ (a) Any ~~((water recreation))~~ aquatic facility for the sole use of residents and invited guests at a single-family dwelling;

~~((2) Therapeutic water facilities operated exclusively for physical therapy;)~~

~~((3))~~ (b) Steam baths and saunas; and

~~((4))~~ (c) Inflatable equipment operated at a temporary event, including inflatable water slides, that:

(i) do not allow water to pool more than six inches; ~~((and))~~

(ii) do not recirculate water ~~((-))~~; and

(iii) do not retain water when the equipment is not in use (such as overnight).

(2) An aquatic facility intended for the exclusive use of residents of a residential community consisting of fifteen living units or less is exempt from preconstruction design review, routine inspection, permit, and fee requirements. Residential communities may include: apartment complexes, groups of rental housing units, mobile home parks, condominium complexes, or home owner groups or associations.

(3) Residential aquatic facilities are exempt from preconstruction design review, plan submittal, routine inspection, permits, and fee requirements.