

AN ACT

relating to local regulation of public swimming pools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 341.064, Health and Safety Code, is amended by adding Subsections (n) and (o) to read as follows:

(n) A county or municipality may:

(1) require that the owner or operator of a public swimming pool within the jurisdiction of the county or municipality obtain a permit for operation of the pool;

(2) inspect a public swimming pool within the jurisdiction of the county or municipality for compliance with this section; and

(3) impose and collect a reasonable fee in connection with a permit or inspection required under this subsection provided the following are met:

(A) the auditor for the county shall review the program every two years to ensure that the fees imposed do not exceed the cost of the program; and

(B) the county refunds the permit holders any revenue determined by the auditor to exceed the cost of the program.

(o) A county or municipality may by order close, for the period specified in the order, a swimming pool within the jurisdiction of the county or municipality if the operation of the pool violates this section or a permitting or inspection

1 requirement imposed by the county or municipality under Subsection
2 (n).

3 SECTION 2. Section 341.091(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) A person commits an offense if the person violates this
6 chapter or a rule adopted under this chapter. A person commits an
7 offense if the person violates a permitting or inspection
8 requirement imposed under Section 341.064(n) or a closure order
9 issued under Section 341.064(o). An offense under this section is a
10 misdemeanor punishable by a fine of not less than \$10 or more than
11 \$200.

12 SECTION 3. Sections 341.092(b), (d), and (h), Health and
13 Safety Code, are amended to read as follows:

14 (b) A person who violates this chapter or a rule adopted
15 under this chapter shall be assessed a civil penalty. A person who
16 violates a permitting or inspection requirement imposed under
17 Section 341.064(n) or a closure order issued under Section
18 341.064(o) shall be assessed a civil penalty. A civil penalty under
19 this section may not be [of not] less than \$10 or more than \$200 for
20 each violation and for each day of a continuing violation.

21 (d) If it appears that a person has violated, is violating,
22 or is threatening to violate this chapter, [or] a rule adopted under
23 this chapter, a permitting or inspection requirement imposed under
24 Section 341.064(n), or a closure order issued under Section
25 341.064(o), the department, a county, a municipality, or the
26 attorney general on request by the district attorney, criminal
27 district attorney, county attorney, or, with the approval of the

1 governing body of the municipality, the attorney for the
2 municipality may institute a civil suit in a district court for:

3 (1) injunctive relief to restrain the person from
4 continuing the violation or threat of violation;

5 (2) the assessment and recovery of a civil penalty; or

6 (3) both injunctive relief and a civil penalty.

7 (h) In a suit under this section to enjoin a violation or
8 threat of violation of this chapter, ~~or~~ a rule adopted under this
9 chapter, a permitting or inspection requirement imposed under
10 Section 341.064(n), or a closure order issued under Section
11 341.064(o), the court shall grant the state, county, or
12 municipality, without bond or other undertaking, any injunction
13 that the facts may warrant, including temporary restraining orders,
14 temporary injunctions after notice and hearing, and permanent
15 injunctions.

16 SECTION 4. (a) The change in law made by this Act to Section
17 341.091, Health and Safety Code, applies only to an offense
18 committed on or after the effective date of this Act. For purposes
19 of this section, an offense is committed before the effective date
20 of this Act if any element of the offense occurs before that date.

21 (b) An offense committed before the effective date of this
22 Act is covered by the law in effect when the offense was committed,
23 and the former law is continued in effect for that purpose.

24 SECTION 5. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 1952

1 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 1952 was passed by the House on May 2, 2003, by the following vote: Yeas 126, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1952 was passed by the Senate on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor