

1-1 By: Truitt (Senate Sponsor - Brimer) H.B. No. 1952
1-2 (In the Senate - Received from the House May 5, 2003;
1-3 May 7, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 16, 2003, reported favorably by
1-5 the following vote: Yeas 4, Nays 0; May 16, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to local regulation of public swimming pools.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 341.064, Health and Safety Code, is
1-11 amended by adding Subsections (n) and (o) to read as follows:

1-12 (n) A county or municipality may:

1-13 (1) require that the owner or operator of a public
1-14 swimming pool within the jurisdiction of the county or municipality
1-15 obtain a permit for operation of the pool;

1-16 (2) inspect a public swimming pool within the
1-17 jurisdiction of the county or municipality for compliance with this
1-18 section; and

1-19 (3) impose and collect a reasonable fee in connection
1-20 with a permit or inspection required under this subsection provided
1-21 the following are met:

1-22 (A) the auditor for the county shall review the
1-23 program every two years to ensure that the fees imposed do not
1-24 exceed the cost of the program; and

1-25 (B) the county refunds the permit holders any
1-26 revenue determined by the auditor to exceed the cost of the program.

1-27 (o) A county or municipality may by order close, for the
1-28 period specified in the order, a swimming pool within the
1-29 jurisdiction of the county or municipality if the operation of the
1-30 pool violates this section or a permitting or inspection
1-31 requirement imposed by the county or municipality under Subsection
1-32 (n).

1-33 SECTION 2. Section 341.091(a), Health and Safety Code, is
1-34 amended to read as follows:

1-35 (a) A person commits an offense if the person violates this
1-36 chapter or a rule adopted under this chapter. A person commits an
1-37 offense if the person violates a permitting or inspection
1-38 requirement imposed under Section 341.064(n) or a closure order
1-39 issued under Section 341.064(o). An offense under this section is a
1-40 misdemeanor punishable by a fine of not less than \$10 or more than
1-41 \$200.

1-42 SECTION 3. Sections 341.092(b), (d), and (h), Health and
1-43 Safety Code, are amended to read as follows:

1-44 (b) A person who violates this chapter or a rule adopted
1-45 under this chapter shall be assessed a civil penalty. A person who
1-46 violates a permitting or inspection requirement imposed under
1-47 Section 341.064(n) or a closure order issued under Section
1-48 341.064(o) shall be assessed a civil penalty. A civil penalty under
1-49 this section may not be [of not] less than \$10 or more than \$200 for
1-50 each violation and for each day of a continuing violation.

1-51 (d) If it appears that a person has violated, is violating,
1-52 or is threatening to violate this chapter, ~~or~~ a rule adopted under
1-53 this chapter, a permitting or inspection requirement imposed under
1-54 Section 341.064(n), or a closure order issued under Section
1-55 341.064(o), the department, a county, a municipality, or the
1-56 attorney general on request by the district attorney, criminal
1-57 district attorney, county attorney, or, with the approval of the
1-58 governing body of the municipality, the attorney for the
1-59 municipality may institute a civil suit in a district court for:

1-60 (1) injunctive relief to restrain the person from
1-61 continuing the violation or threat of violation;

1-62 (2) the assessment and recovery of a civil penalty; or

1-63 (3) both injunctive relief and a civil penalty.

1-64 (h) In a suit under this section to enjoin a violation or

2-1 threat of violation of this chapter, ~~[or]~~ a rule adopted under this
2-2 chapter, a permitting or inspection requirement imposed under
2-3 Section 341.064(n), or a closure order issued under Section
2-4 341.064(o), the court shall grant the state, county, or
2-5 municipality, without bond or other undertaking, any injunction
2-6 that the facts may warrant, including temporary restraining orders,
2-7 temporary injunctions after notice and hearing, and permanent
2-8 injunctions.

2-9 SECTION 4. (a) The change in law made by this Act to Section
2-10 341.091, Health and Safety Code, applies only to an offense
2-11 committed on or after the effective date of this Act. For purposes
2-12 of this section, an offense is committed before the effective date
2-13 of this Act if any element of the offense occurs before that date.

2-14 (b) An offense committed before the effective date of this
2-15 Act is covered by the law in effect when the offense was committed,
2-16 and the former law is continued in effect for that purpose.

2-17 SECTION 5. This Act takes effect immediately if it receives
2-18 a vote of two-thirds of all the members elected to each house, as
2-19 provided by Section 39, Article III, Texas Constitution. If this
2-20 Act does not receive the vote necessary for immediate effect, this
2-21 Act takes effect September 1, 2003.

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