

BILL ANALYSIS

Senate Research Center
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H.B. 2430
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2004, the Department of State Health Services (DSHS) adopted rules to regulate public swimming pools and spas. The majority of these rules were directed at construction and equipment requirements, but DSHS also included a rule that prohibits the consumption of food or beverages in a swimming pool altogether.

Despite being in code, this rule is not being enforced. In fact, many establishments in Texas currently operate swim-up bars that serve beverages and or food to guests in the water. However, the agency or local regulatory authorities could choose to begin enforcing this rule at any time, which would put these businesses at risk of not only immediate closure, but also civil and criminal penalties.

Although the food and beverages rule has been in effect but unenforced for over a decade, DSHS has not taken the initiative to amend the rules—even though the regulatory division supports eliminating the rule.

H.B. 2430 cleans up the unenforced rule by directing DSHS that the agency may not prohibit the consumption of food or beverages in any public swimming pool that is privately owned and operated. This would be a specific and limited restriction of DSHS's rulemaking authority, in order to allow private establishments (such as hotels, resorts, spas, et cetera) to serve food or drinks to guests in their swimming pools without being in violation of the health code. This simple fix will protect businesses that provide a popular and perfectly harmless service from being penalized on a technicality.

H.B. 2430 amends current law relating to food and beverage consumption in certain public swimming pools.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of State Health Services is modified in SECTION 1 (Section 341.064, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 341.064, Health and Safety Code, by adding Subsection (1-1) to prohibit rules adopted under this chapter from prohibiting the consumption of food or beverages in a public swimming pool that is privately owned and operated.

SECTION 2. Effective date: upon passage or September 1, 2015.