

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 1074**

Introduced by Nantkes, 46.

Read first time January 22, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to swimming pools; to amend sections 71-4301  
2 and 71-4307, Reissue Revised Statutes of Nebraska, and  
3 sections 71-4303, 71-4304, 71-4305, and 71-4306, Revised  
4 Statutes Supplement, 2007; to provide requirements for  
5 owners and certified operators as prescribed; to define  
6 a term; to harmonize provisions; to provide an operative  
7 date; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 71-4301, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-4301 For purposes of sections 71-4301 to 71-4307  
4 and sections 2 and 3 of this act, unless the context otherwise  
5 requires, swimming pool means any artificial basin of water  
6 modified, improved, constructed, or installed solely for the  
7 purpose of public swimming, wading, diving, recreation, or  
8 instruction. Swimming pool includes, but is not limited to, a  
9 pool serving a community, a subdivision, an apartment complex, a  
10 condominium, a club, a camp, a school, an institution, a park, a  
11 manufactured home park, a hotel, a motel, a recreational area, or  
12 a water park. Swimming pool includes a spa, hot tub, or whirlpool  
13 or similar device which (1) is designed for recreational use and  
14 not to be drained, cleaned, and refilled after each individual  
15 use and (2) may consist of elements, including, but not limited  
16 to, hydrojet circulation, hot water, cold water, mineral baths,  
17 air induction systems, or any combination thereof. Swimming pool  
18 does not include an artificial lake, a pool at a private residence  
19 intended only for the use of the owner and guests, or a pool  
20 operated exclusively for medical treatment, physical therapy, water  
21 rescue training, or training of divers.

22           Sec. 2. For purposes of sections 71-4301 to 71-4307 and  
23 section 3 of this act, certified operator means an individual who  
24 has successfully completed the Certified Pool-Spa Operator course  
25 approved by the National Swimming Pool Foundation, the Aquatic

1 Facility Operator course approved by the National Recreation and  
2 Park Association, or an equivalent course provided by a nonprofit  
3 organization approved by the Department of Health and Human  
4 Services. Such course shall provide at least fourteen hours of  
5 training on pool operation, safety, and maintenance, at least six  
6 hours of which shall be conducted in a classroom environment  
7 along with a proctored exam. The remainder of the required  
8 training may be completed on the Internet, subject to approval  
9 by the department. A copy of the certification shall be forwarded  
10 to the department. A certified operator shall maintain his or  
11 her certification as required by the applicable organization.  
12 A certified operator shall remit a fee for a certificate of  
13 competency from the department pursuant to section 71-4305.

14           Sec. 3. On and after July 1, 2009, an owner of a  
15 swimming shall employ at least one certified operator. The owner  
16 shall replace a vacancy in the certified operator position within  
17 ninety days of the occurrence of the vacancy if the owner employs  
18 only one certified operator. A current certificate of a certified  
19 operator employed by an owner of a swimming pool shall be posted  
20 conspicuously and maintained at the swimming pool for the duration  
21 of such employment.

22           Sec. 4. Section 71-4303, Revised Statutes Supplement,  
23 2007, is amended to read:

24           71-4303 No swimming pool shall be constructed after  
25 January 1, 1970, unless and until plans, specifications, and any

1 additional information relative to such pool as may be requested  
2 by the Department of Health and Human Services shall have been  
3 submitted to such department and after review by such department  
4 found to comply with section 3 of this act and the minimum sanitary  
5 and safety requirements provided in section 71-4302 and a permit  
6 for the construction of the pool issued by such department.

7           Sec. 5. Section 71-4304, Revised Statutes Supplement,  
8 2007, is amended to read:

9           71-4304 After January 1, 1970, swimming pools shall have  
10 equipment and shall be operated so as to comply with section  
11 3 of this act and the minimum sanitary and safety requirements  
12 provided in section 71-4302. After such date no swimming pool  
13 shall operate until it has received a permit from the Department  
14 of Health and Human Services. Application for a permit to operate  
15 shall be submitted on forms provided by such department. Swimming  
16 pools constructed prior to January 1, 1970, which do not fully  
17 comply with the minimum sanitary and safety requirements as regards  
18 design and construction may be continued in use for such period  
19 as the department may authorize if the equipment and operation  
20 of such swimming pool comply with the minimum sanitary and safety  
21 requirements.

22           Sec. 6. Section 71-4305, Revised Statutes Supplement,  
23 2007, is amended to read:

24           71-4305 (1) The Department of Health and Human Services  
25 shall make at least one inspection every year of each swimming pool

1 to determine that such swimming pool complies with section 3 of  
2 this act and the minimum sanitary and safety requirements provided  
3 in section 71-4302.

4 (2) The owner ~~and operator~~ of any swimming pool or  
5 a certified operator employed by the owner shall submit such  
6 operation and analytical records as may be requested at any time  
7 by the department to determine the sanitary and safety condition of  
8 the swimming pool.

9 (3) The department shall adopt and promulgate rules and  
10 regulations which classify swimming pools on the basis of criteria  
11 deemed appropriate by the department. The department shall charge  
12 engineering firms, swimming pool owners, and other appropriate  
13 parties fees established by rules and regulations for the review  
14 of plans and specifications of a swimming pool, the issuance of  
15 a license or permit, the inspection of a swimming pool, and any  
16 other services rendered at a rate which defrays no more than  
17 the actual cost of the services provided. All fees shall be paid  
18 as a condition of annual renewal of licensure or of continuance  
19 of licensure. All fees collected under this subsection shall be  
20 remitted to the State Treasurer for credit to the Health and Human  
21 Services Cash Fund. The department shall not charge a municipal  
22 corporation an inspection fee for an inspection of a swimming pool  
23 owned by such municipal corporation.

24 (4) The department shall establish and collect fees for  
25 certificates of competency for ~~swimming pool~~ certified operators as

1 provided in sections 38-151 to 38-157.

2           Sec. 7. Section 71-4306, Revised Statutes Supplement,  
3 2007, is amended to read:

4           71-4306 Whenever any duly authorized representative of  
5 the Department of Health and Human Services shall find that a  
6 swimming pool is being constructed, equipped, or operated in  
7 violation of any of the provisions of sections 71-4301 to 71-4307  
8 and sections 2 and 3 of this act, the department may grant such  
9 time as in its opinion may reasonably be necessary for changing the  
10 construction or providing for the proper operation of the swimming  
11 pool to meet the provisions of sections 71-4301 to 71-4307 and  
12 sections 2 and 3 of this act. If and when the duly authorized  
13 representative of the department upon inspection and investigation  
14 of a swimming pool considers that the conditions are such as to  
15 warrant prompt closing of such swimming pool until the provisions  
16 of sections 71-4301 to 71-4307 and sections 2 and 3 of this act  
17 are complied with, he or she shall notify the owner or ~~operator~~  
18 of the swimming pool or the certified operator employed by the  
19 owner to prohibit any person from using the swimming pool and upon  
20 such notification to the sheriff and the county attorney of the  
21 county in which such pool is located, it shall be the duty of  
22 such county attorney and sheriff to see that the notice of the  
23 representative of the department shall be enforced. If and when  
24 the owner or certified operator of the pool has, in the opinion of  
25 the department, met the provisions of sections 71-4301 to 71-4307

1 and sections 2 and 3 of this act, the department may in writing  
2 authorize the use again of such swimming pool.

3           Sec. 8. Section 71-4307, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-4307 Any owner ~~or operator~~ of a swimming pool or  
6 certified operator employed by the owner failing to comply with any  
7 of the provisions of sections 71-4301 to 71-4307 and sections 2 and  
8 3 of this act shall be guilty of maintaining a public nuisance and  
9 it shall be the duty of the county attorney of the county in which  
10 such swimming pool is located to act as provided by law for the  
11 abatement of public nuisances.

12           Sec. 9. This act becomes operative on July 1, 2009.

13           Sec. 10. Original sections 71-4301 and 71-4307, Reissue  
14 Revised Statutes of Nebraska, and sections 71-4303, 71-4304,  
15 71-4305, and 71-4306, Revised Statutes Supplement, 2007, are  
16 repealed.