

## **BILL ANALYSIS**

Senate Research Center  
84R10977 AJZ-F

S.B. 1324  
By: Menéndez  
Health & Human Services  
3/23/2015  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2004, the Department of State Health Services 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.

S.B. 1324 cleans up the unenforced rule by directing DSHS that DSHS 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 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.

As proposed, S.B. 1324 amends current law relating to food and beverage consumption in certain public swimming pools.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 341.064, Health and Safety Code, by adding Subsection (1-1), as follows:

(1-1) Prohibits 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.