

# WILL: Opposes state rule to regulate pools at rental properties

Posted on Friday, Apr 15, 2022

>> **WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

The News: The Wisconsin Institute for Law & Liberty (WILL) submitted [comment](#), Friday, opposing a [rule proposal](#) from the Department of Agriculture, Trade, and Consumer Protection (DATCP) to regulate pools at short-term rental properties in Wisconsin. The state agency intends to blanket Wisconsin's short-term rental properties in regulations and licensing requirements if pools and hot tubs are available to renters.

The Quote: WILL Policy Director, Kyle Koenen, said, "While DATCP cannot spell out a compelling government interest in regulating pools and hot tubs at short-term rental properties, it continues to make efforts to subject these properties to red tape and rules. We urge the agency to abandon this latest effort or, at least, scale back the requirements."

Background: WILL represented a new pool-sharing startup, Swimply, in 2021 after DATCP indicated their business model would be unable to operate in Wisconsin. After WILL got involved, [DATCP issued a letter](#) that said, "On further review of the administrative code, the Department wishes to clarify that, generally, Swimply's model of pool owners offering their pools for public use on the Swimply website would not fall under public pool licensing requirements in Wis. Admin. Code ch. ATCP 76, regulating safety, maintenance, and operation of public pools and water attractions."

But DATCP isn't done trying to regulate pools and hot tubs at short-term rental properties like AirBNB and VRBO. A new [proposed rule](#) would impose a "Limited-Use Public Pool" license with 15 pages of new regulations on rental properties that make their pools and hot tubs available to renters. Among other things, homeowners will be required to test the water daily and the licensing process will require a physical inspection that could result in costly delays.

DATCP's claim that pools at private properties available for rent become "public," and therefore subject to regulations found at community pools, is one that WILL

does not agree with. The definitions of “public pool” found in state law clearly do not apply to these situations.

But even if DATCP does have statutory authorization, the department makes no compelling case as to why a strict licensing model is necessary to protect the public health and safety for short-term rental users. Short-term rentals with pools have been rented in Wisconsin and nationwide for years, yet the department did not reference any documented complaints related to pools at these rentals in the draft of this rule. There have been no horror stories in the media. Regulation of this nature should be reserved to achieve a compelling government interest, and to our best knowledge the data does not support this conclusion.

WILL is encouraging DATCP to abandon this rule entirely. At minimum, the measures should be scaled back considerably after getting input from short-term rental owners.

Read More:

- [WILL Public Comment to DATCP](#), April 15, 2022

Read and share this [press release](#) online.