

By Senator Myers

27-1165-98

See HB

1 A bill to be entitled
2 An act relating to residential swimming pools;
3 creating ch. 515, F.S., the Florida Residential
4 Swimming Pool Barriers Act; providing
5 legislative findings and intent; providing
6 definitions; providing requirements for
7 residential swimming pool barriers; providing
8 penalties; providing for rules; providing
9 exemptions; providing for a drowning prevention
10 education program; providing an effective date.
11
12 WHEREAS, drowning is the number one killer of toddlers
13 in the State of Florida, with an average of 75 toddlers
14 drowning each year; and, for every child who dies from
15 drowning, four suffer brain injury from near-drowning
16 incidents, and
17 WHEREAS, advances in medical technology are allowing
18 more near-drowning victims to survive, but many are surviving
19 with serious permanent neurological damage, and
20 WHEREAS, studies repeatedly show that most toddler
21 drownings take place in backyard swimming pools, with the
22 child generally opening a door leading to the pool and
23 drowning before being missed, and
24 WHEREAS, drowning children seldom cry out, and usually
25 simply slip into the water and succumb within a few minutes,
26 and
27 WHEREAS, although the victim's parents usually have
28 taken precautions to protect the child from the pool, the
29 child, who the parents believe to be in the house, even
30 napping, gets into the pool during a brief lapse in
31 supervision, and

1 WHEREAS, one-third of these backyard incidents take
2 place in the pool of a relative or friend and the rest take
3 place in a pool at the child's home, while drownings of
4 children in public pools are rare and drownings of children
5 entering a pool from outside a fence or of children who are
6 trespassers on property containing a pool are rarer yet, and

7 WHEREAS, in addition to the incalculable human cost of
8 these tragic incidents, toddler drownings result in
9 significant losses in productivity and near drownings result
10 in costly emergency medical responses and stays in intensive
11 care units, to the extent that the health care costs, loss of
12 lifetime productivity, and legal and administrative expenses
13 associated with toddler drownings in Florida each year are
14 estimated to be \$73.5 million and the lifetime cost for care
15 and treatment of a toddler who has suffered brain disability
16 due to a near-drowning incident is estimated to be \$4.5
17 million, and

18 WHEREAS, experts in the fields of health care and
19 injury prevention agree that having a fence as a barrier
20 between a home and a pool is the single most effective means
21 of preventing drownings, and

22 WHEREAS, it is the intent of the Legislature that all
23 new residential swimming pools be designed and built with a
24 sufficiently high fence or other authorized barrier
25 surrounding the pool and that any residential swimming pool
26 built before the effective date of this act shall meet the
27 pool barrier requirements of this act when the residence is
28 sold, leased, or rented, and

29 WHEREAS, it is also the intent of the Legislature that
30 the Department of Health be responsible for developing for the
31 public a drowning prevention education program and for

1 producing for the public a publication that explains the
2 responsibilities of pool ownership, NOW, THEREFORE,

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Chapter 515, Florida Statutes, consisting
7 of sections 515.21, 515.23, 515.25, 515.27, 515.29, and
8 515.31, is created to read:

9 515.21 Short title.--This chapter may be cited as the
10 "Florida Residential Swimming Pool Barriers Act."

11 515.23 Legislative findings and intent.--The
12 Legislature finds that drowning is the primary cause of death
13 of toddlers in this state, that most toddler drownings take
14 place in backyard swimming pools, that drownings of children
15 in public pools are rare, that drownings of children entering
16 a pool from outside a fence or of children who are trespassers
17 on property containing a pool are rarer yet, and that a fence
18 barrier between a home and a pool is the single most effective
19 means to prevent drownings. In addition to the incalculable
20 human cost of drownings and near drownings, the health care
21 costs, loss of lifetime productivity, and legal and
22 administrative expenses associated with toddler drownings in
23 this state each year and the lifetime costs for the care and
24 treatment of toddlers who have suffered brain disability due
25 to near-drowning incidents each year are enormous. Therefore,
26 it is the intent of the Legislature that all new residential
27 swimming pools be designed and built with a sufficiently high
28 fence or other authorized barrier surrounding the pool and
29 that any residential swimming pool built before the effective
30 date of this chapter shall meet the pool barrier requirements
31 of this chapter when the residence is sold, leased, or rented.

1 It is also the intent of the Legislature that the Department
2 of Health be responsible for developing for the public a
3 drowning prevention education program and for producing for
4 the public a publication that explains the responsibilities of
5 pool ownership.

6 515.25 Definitions.--As used in this chapter, the
7 term:

8 (1) "Barrier" means a fence, dwelling wall,
9 nondwelling wall, or combination thereof which completely
10 surrounds the swimming pool and obstructs access to the
11 swimming pool.

12 (2) "Department" means the Department of Health.

13 (3) "Portable spa" means a nonpermanent structure
14 intended for recreational bathing, in which all controls and
15 water-heating and water-circulating equipment are an integral
16 part of the product and which is cord-connected and not
17 permanently electrically wired.

18 (4) "Residential" means situated on the premises of a
19 detached one-family or two-family dwelling or a one-family
20 townhouse not more than three stories high.

21 (5) "Swimming pool" means any structure, located in a
22 residential area, that is intended for swimming or
23 recreational bathing and contains water over 24 inches deep,
24 including, but not limited to, in-ground, aboveground, and
25 on-ground swimming pools; hot tubs; and nonportable spas.

26 (6) "Indoor swimming pool" means a swimming pool that
27 is totally contained within a building and surrounded on all
28 four sides by walls of the building or within the building.

29 (7) "Outdoor swimming pool" means any swimming pool
30 that is not an indoor swimming pool.

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1 (8) "Public swimming pool" means a swimming pool, as
2 defined in s. 514.011(2), which is operated, with or without
3 charge, for the use of the general public; however, the term
4 does not include a swimming pool located on the grounds of a
5 private home.

6 515.27 Residential swimming pool barriers;
7 requirements; enforcement; penalties; rules.--

8 (1) An outdoor swimming pool must be provided with a
9 barrier that complies with the following requirements:

10 (a) The barrier must be at least 5 feet high on the
11 outside.

12 (b) The barrier may not have any gaps, openings,
13 indentations, protrusions, or structural components that could
14 allow a child to crawl under, squeeze through, or climb over
15 the barrier.

16 (c) The barrier must be placed sufficiently away from
17 the water's edge to prevent a child who may have managed to
18 penetrate the barrier from immediately falling into the water.

19 (2) The structure of an aboveground swimming pool may
20 be used as its barrier or the barrier for such a pool may be
21 mounted on top of its structure; however, such structure or
22 separately mounted barrier must meet all barrier requirements
23 of this section. In addition, any ladder or steps that are the
24 means of access to an aboveground pool must be capable of
25 being secured, locked, or removed to prevent access or must be
26 surrounded by a barrier that meets the requirements of this
27 section.

28 (3) Gates that provide access to swimming pools must
29 open outwards away from the pool and be self-closing and
30 equipped with a self-latching locking device, the release
31 mechanism of which must be located on the pool side of the

1 gate and so placed that it cannot be reached by a child over
2 the top or through any opening or gap.

3 (4) A wall of a dwelling may serve as part of the
4 barrier if it does not contain any door or window that opens
5 to provide access to the swimming pool.

6 (5) A barrier may not be located in a way that allows
7 any permanent structure, equipment, or similar object to be
8 used for climbing the barrier.

9 (6) A licensed pool contractor, on entering into an
10 agreement with a buyer to build a residential swimming pool,
11 must give the buyer a document containing the requirements of
12 this section for residential swimming pool barriers and a
13 publication produced by the department that provides
14 information on drowning prevention and the responsibilities of
15 pool ownership.

16 (7) A residential swimming pool built before the
17 effective date of this chapter must meet the barrier
18 requirements of this section when the residence is sold,
19 leased, or rented after such effective date.

20 (8) A person who fails to equip a residential swimming
21 pool with a barrier as required by this section commits a
22 misdemeanor of the second degree, punishable as provided in s.
23 775.082 or s. 775.083, except that a fine may not be imposed
24 if the person, within 45 days after citation therefor, has
25 equipped the pool with a barrier as required by this section
26 and has attended a drowning prevention education program.

27 (9) The department shall adopt rules necessary to
28 implement, administer, and enforce the provisions of this
29 section.

30 515.29 Exemptions.--This chapter does not apply to:
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1 (1) A system of sumps, irrigation canals, or
2 irrigation flood control or drainage works constructed or
3 operated for the purpose of storing, delivering, distributing,
4 or conveying water.

5 (2) Stock ponds, storage tanks, livestock operations,
6 livestock watering troughs, or other structures used in normal
7 agricultural practices.

8 (3) Public swimming pools.

9 (4) Political subdivisions that adopt residential pool
10 safety ordinances after the effective date of this chapter,
11 provided the ordinance is equal to or more stringent than the
12 provisions of this chapter.

13 (5) A portable spa with a safety cover that complies
14 with ASTM F1346-91(Standard Performance Specification for
15 Safety Covers and Labeling Requirements for All Covers for
16 Swimming Pools, Spas and Hot Tubs).

17 515.31 Drowning prevention education program.--The
18 department shall develop for the public a drowning prevention
19 education program and shall produce a publication for
20 distribution to the public that explains the responsibilities
21 of pool ownership. The drowning prevention education program
22 shall be funded using state funds appropriated for this
23 purpose and grants.

24 Section 2. This act shall take effect October 1 of the
25 year in which enacted.

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HOUSE SUMMARY

Creates ch. 515, F.S., the Florida Residential Swimming Pool Barriers Act, to require fences or other authorized barriers around residential swimming pools. Provides requirements for such pool barriers and specifies exemptions from such requirements. Provides penalties for failure to provide pool barriers as required. Authorizes the Department of Health to adopt rules necessary to implement, administer, and enforce such pool barrier requirements. Provides for a drowning prevention education program. (See bill for details.)