

By Representatives Wasserman Schultz, Dawson-White, Casey,
Ziebarth, Lippman, Fasano and D. Prewitt

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 young
13 children in the State of Florida, with an average of 75 young
14 children drowning each year; and, for every young child who
15 dies from drowning, four suffer brain injury from
16 near-drowning 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 drownings of
21 young children 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, young children who are drowning seldom cry out
25 and usually simply slip into the water and succumb within a
26 few minutes, and

27 WHEREAS, although the victim's family usually has taken
28 precautions to protect the child from the pool, the child, who
29 the family believes to be in the house, even napping, gets
30 into the pool during a brief lapse in supervision, and

31

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 young
4 children in public pools are rare and drownings of young
5 children entering a pool from outside a fence or of young
6 children who are trespassers on property containing a pool are
7 rarer yet, and

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

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

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

31

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

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Chapter 515, Florida Statutes, consisting
10 of sections 515.21, 515.23, 515.25, 515.27, 515.29, and
11 515.31, is created to read:

12 515.21 Short title.--This chapter may be cited as the
13 "Florida Residential Swimming Pool Barriers Act."

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

1 sufficiently high fence or other authorized barrier
2 surrounding the pool on its perimeter and that any residential
3 swimming pool built before the effective date of this chapter
4 shall meet the pool barrier requirements of this chapter when
5 the residence is sold. It is also the intent of the
6 Legislature that the Department of Health be responsible for
7 developing for the public a drowning prevention education
8 program and for producing for the public a publication that
9 explains the responsibilities of pool ownership.

10 515.25 Definitions.--As used in this chapter, the
11 term:

12 (1) "Barrier" means a fence, dwelling wall,
13 nondwelling wall, or combination thereof which completely
14 surrounds the swimming pool and obstructs access to the
15 swimming pool, especially access from the residence or from
16 the yard outside the barrier.

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

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

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

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

31

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

4 (7) "Outdoor swimming pool" means any swimming pool
5 that is not an indoor swimming pool.

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

11 (9) "Young child" means any person under the age of 6
12 years.

13 515.27 Residential swimming pool barriers;
14 requirements; penalties; enforcement; rules.--

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

17 (a) The barrier must be at least 4 feet high on the
18 outside.

19 (b) The barrier may not have any gaps, openings,
20 indentations, protrusions, or structural components that could
21 allow a young child to crawl under, squeeze through, or climb
22 over the barrier.

23 (c) The barrier must be placed around the perimeter of
24 the pool and must be separate from any fence, wall, or other
25 enclosure surrounding the yard unless the fence, wall, or
26 other enclosure or portion thereof is situated on the
27 perimeter of the pool, is being used as part of the barrier,
28 and meets the barrier requirements of this section.

29 (d) The barrier must be placed sufficiently away from
30 the water's edge to prevent a young child who may have managed
31

1 to penetrate the barrier from immediately falling into the
2 water.

3 (2) The structure of an aboveground swimming pool may
4 be used as its barrier or the barrier for such a pool may be
5 mounted on top of its structure; however, such structure or
6 separately mounted barrier must meet all barrier requirements
7 of this section. In addition, any ladder or steps that are the
8 means of access to an aboveground pool must be capable of
9 being secured, locked, or removed to prevent access or must be
10 surrounded by a barrier that meets the requirements of this
11 section.

12 (3) Gates that provide access to swimming pools must
13 open outwards away from the pool and be self-closing and
14 equipped with a self-latching locking device, the release
15 mechanism of which must be located on the pool side of the
16 gate and so placed that it cannot be reached by a young child
17 over the top or through any opening or gap.

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

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

24 (6) A licensed pool contractor, on entering into an
25 agreement with a buyer to build a residential swimming pool,
26 must give the buyer a document containing the requirements of
27 this section for residential swimming pool barriers and a
28 publication produced by the department that provides
29 information on drowning prevention and the responsibilities of
30 pool ownership.

31

1 (7) A residential swimming pool built before the
2 effective date of this chapter must meet the barrier
3 requirements of this section when the residence is sold after
4 such effective date.

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

12 (9) The department shall adopt rules necessary to
13 implement and administer the provisions of this section.

14 515.29 Exemptions.--This chapter does not apply to:

15 (1) A system of sumps, irrigation canals, or
16 irrigation flood control or drainage works constructed or
17 operated for the purpose of storing, delivering, distributing,
18 or conveying water.

19 (2) Stock ponds, storage tanks, livestock operations,
20 livestock watering troughs, or other structures used in normal
21 agricultural practices.

22 (3) Public swimming pools.

23 (4) Political subdivisions that adopt residential pool
24 safety ordinances after the effective date of this chapter,
25 provided the ordinance is equal to or more stringent than the
26 provisions of this chapter.

27 (5) Any portable spa with a safety cover that complies
28 with ASTM F1346-91(Standard Performance Specification for
29 Safety Covers and Labeling Requirements for All Covers for
30 Swimming Pools, Spas and Hot Tubs).

31

