

By Senator Sullivan

22-1579-99

See HB 385

1 A bill to be entitled
2 An act relating to residential swimming pools,
3 spas, and hot tubs; creating ch. 515, F.S., the
4 "Florida Residential Swimming Pool Safety Act";
5 providing legislative findings and intent;
6 providing definitions; providing pool safety
7 feature requirements and options; providing
8 penalties; providing pool barrier requirements;
9 providing for a drowning prevention education
10 program and a public information publication;
11 providing for a fee; requiring pool
12 contractors, home builders, and developers to
13 provide buyers with certain information;
14 providing rulemaking authority; providing
15 exemptions; providing an effective date.
16
17 WHEREAS, drowning is the leading cause of death for
18 young children in Florida, with 420 children ages 1-4 years
19 drowning in Florida between 1992-1997, 268 of whom drowned at
20 home and 208 of these drowned in swimming pools at home, and
21 WHEREAS, for every young child who dies from drowning,
22 four suffer brain injury from near-drowning incidents, and
23 WHEREAS, advances in medical technology are allowing
24 more near-drowning victims to survive, but many are surviving
25 with serious permanent neurological damage, and
26 WHEREAS, although supervision is one of the keys to
27 accomplishing the objective of reducing the number of
28 submersion incidents, it is well known that at times children
29 do the unexpected, catching their supervisors off guard, and
30 WHEREAS, the United States Consumer Product Safety
31 Commission found, in a study of drowning and near-drowning

1 incidents, that the majority of victims lived in or were
2 visiting the residence where the drowning occurred, that less
3 than 2 percent of the submersions occurred when a child
4 trespassed on the property, and that most of the victims were
5 either near or in the residence immediately prior to the
6 incident and reached the pool unnoticed, and

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

19 WHEREAS, Florida has a large population of persons age
20 65 and older, and drowning is a significant cause of death in
21 this older age group as well, with 448 such elderly persons
22 drowning between 1992-1997, 195 of whom had medical problems
23 such as Alzheimer's disease, confusion, balance or vision
24 impairment, heart problems, or diabetes and 145 of whom
25 drowned in swimming pools; and, in cases where it was
26 documented, 52 percent of these older Floridians fell into the
27 swimming pool and were not intending to be in the water when
28 they drowned, and

29 WHEREAS, constant adult supervision of young children
30 and medically frail elderly persons is the primary element in
31 an integrated approach to drowning prevention, and

1 WHEREAS, in the event of a lapse in such supervision, a
2 pool safety feature that limits or delays access to the
3 residential swimming pool, spa, or hot tub is a critical
4 component in the prevention of drownings, and

5 WHEREAS, it is the intent of the Legislature that all
6 new residential swimming pools, spas, and hot tubs have at
7 least one pool safety feature to supplement and complement the
8 requirement for constant adult supervision of young children
9 and medically frail elderly persons around such aquatic
10 environments, and

11 WHEREAS, it is also the intent of the Legislature that
12 the Department of Health be responsible for producing for the
13 public a publication that provides information on drowning
14 prevention and the responsibilities of pool ownership and also
15 for developing a drowning prevention program for the public
16 and for persons violating pool safety requirements, NOW,
17 THEREFORE,

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

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21 Section 1. Chapter 515, Florida Statutes, consisting
22 of sections 515.21, 515.23, 515.25, 515.27, 515.29, 515.31,
23 515.33, 515.35, and 515.37, is created to read:

24 515.21 Short title.--This chapter may be cited as the
25 "Florida Residential Swimming Pool Safety Act."

26 515.23 Legislative findings and intent.--The
27 Legislature finds that drowning is the leading cause of death
28 of young children in this state and is also a significant
29 cause of death for medically frail elderly persons in this
30 state, that constant adult supervision is the key to
31 accomplishing the objective of reducing the number of

1 submersion incidents, and that when lapses in supervision
2 occur a pool safety feature designed to deny, delay, or detect
3 unsupervised entry to the swimming pool, spa, or hot tub will
4 reduce drowning and near-drowning incidents. In addition to
5 the incalculable human cost of these submersion incidents, the
6 health care costs, loss of lifetime productivity, and legal
7 and administrative expenses associated with drownings of young
8 children and medically frail elderly persons in this state
9 each year and the lifetime costs for the care and treatment of
10 young children who have suffered brain disability due to
11 near-drowning incidents each year are enormous. Therefore, it
12 is the intent of the Legislature that all new residential
13 swimming pools, spas, and hot tubs be equipped with at least
14 one pool safety feature as specified in this chapter. It is
15 also the intent of the Legislature that the Department of
16 Health be responsible for producing for the public a
17 publication that provides information on drowning prevention
18 and the responsibilities of pool ownership and also for
19 developing a drowning prevention education program for the
20 public and for persons violating the pool safety requirements
21 of this chapter.

22 515.25 Definitions.--As used in this chapter, the
23 term:

24 (1) "Approved safety pool cover" means a manually or
25 power-operated safety pool cover that meets all of the
26 performance standards of the American Society for Testing and
27 Materials (ASTM) in compliance with standard F1346-91.

28 (2) "Barrier" means a fence, dwelling wall, or
29 nondwelling wall, or any combination thereof, which completely
30 surrounds the swimming pool and obstructs access to the
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1 swimming pool, especially access from the residence or from
2 the yard outside the barrier.

3 (3) "Department" means the Department of Health.

4 (4) "Exit alarm" means a device that makes audible,
5 continuous alarm sounds when any door or window which permits
6 access from the residence to any pool area that is without an
7 intervening enclosure is opened or left ajar.

8 (5) "Indoor swimming pool" means a swimming pool that
9 is totally contained within a building and surrounded on all
10 four sides by walls of or within the building.

11 (6) "Medically frail elderly person" means any person
12 who is at least 65 years of age and has a medical problem that
13 affects balance, vision, or judgment, including, but not
14 limited to, a heart condition, diabetes, or Alzheimer's
15 disease or any related disorder.

16 (7) "Outdoor swimming pool" means any swimming pool
17 that is not an indoor swimming pool.

18 (8) "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 (9) "Public swimming pool" means a swimming pool, as
24 defined in s. 514.011(2), which is operated, with or without
25 charge, for the use of the general public; however, the term
26 does not include a swimming pool located on the grounds of a
27 private residence.

28 (10) "Residential" means situated on the premises of a
29 detached one-family or two-family dwelling or a one-family
30 townhouse not more than three stories high.

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

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

8 515.27 Residential swimming pool safety feature
9 options; penalties.--

10 (1) In order to pass final inspection and receive a
11 certificate of completion, a residential swimming pool must
12 meet at least one of the following requirements relating to
13 pool safety features:

14 (a) The pool must be isolated from access to a home by
15 an enclosure that meets the pool barrier requirements of s.
16 515.29;

17 (b) The pool must be equipped with an approved safety
18 pool cover;

19 (c) All doors and windows providing direct access from
20 the home to the pool must be equipped with an exit alarm that
21 has a minimum sound pressure rating of 85 dB A at 10 feet; or

22 (d) All doors providing direct access from the home to
23 the pool must be equipped with a self-closing, self-latching
24 device with a release mechanism placed no lower than 54 inches
25 above the floor.

26 (2) A person who fails to equip a new residential
27 swimming pool with at least one pool safety feature as
28 required in subsection (1) commits a misdemeanor of the second
29 degree, punishable as provided in s. 775.082 or s. 775.083,
30 except that no penalty shall be imposed if the person, within
31 45 days after issuance of a citation therefor, has equipped

1 the pool with at least one safety feature as required in
2 subsection (1) and has attended a drowning prevention
3 education program as required in s. 515.31. However, the
4 requirement of attending a drowning prevention education
5 program is waived if such program is not offered within 45
6 days after issuance of the citation.

7 515.29 Residential swimming pool barrier
8 requirements.--

9 (1) A residential swimming pool barrier must have all
10 of the following characteristics:

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

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

17 (c) The barrier must be placed around the perimeter of
18 the pool and must be separate from any fence, wall, or other
19 enclosure surrounding the yard unless the fence, wall, or
20 other enclosure or portion thereof is situated on the
21 perimeter of the pool, is being used as part of the barrier,
22 and meets the barrier requirements of this section.

23 (d) The barrier must be placed sufficiently away from
24 the water's edge to prevent a young child or medically frail
25 elderly person who may have managed to penetrate the barrier
26 from immediately falling into the water.

27 (2) The structure of an aboveground swimming pool may
28 be used as its barrier or the barrier for such a pool may be
29 mounted on top of its structure; however, such structure or
30 separately mounted barrier must meet all barrier requirements
31 of this section. In addition, any ladder or steps that are the

1 means of access to an aboveground pool must be capable of
2 being secured, locked, or removed to prevent access or must be
3 surrounded by a barrier that meets the requirements of this
4 section.

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

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

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

17 515.31 Drowning prevention education program; public
18 information publication.--

19 (1) The department shall develop a drowning prevention
20 education program, which shall be made available to the public
21 at the state and local levels and which shall be required as
22 set forth in s. 515.27(2) for persons in violation of the pool
23 safety requirements of this chapter. The department may charge
24 a fee, not to exceed \$100, for attendance at such a program.
25 The drowning prevention education program shall be funded
26 using fee proceeds, state funds appropriated for such purpose,
27 and grants.

28 (2) The department shall also produce, for
29 distribution to the public at no charge, a publication that
30 provides information on drowning prevention and the
31 responsibilities of pool ownership.

1 515.33 Information required to be furnished to
2 buyers.--A licensed pool contractor, on entering into an
3 agreement with a buyer to build a residential swimming pool,
4 or a licensed home builder or developer, on entering into an
5 agreement with a buyer to build a house that includes a
6 residential swimming pool, must give the buyer a document
7 containing the requirements of this chapter and a copy of the
8 publication produced by the department under s. 515.31 that
9 provides information on drowning prevention and the
10 responsibilities of pool ownership.

11 515.35 Rulemaking authority.--The department shall
12 adopt rules pursuant to the Administrative Procedure Act
13 establishing the fees required to attend drowning prevention
14 education programs and setting forth the information required
15 under this chapter to be provided by licensed pool contractors
16 and licensed home builders or developers.

17 515.37 Exemptions.--This chapter does not apply to:

18 (1) Any system of sumps, irrigation canals, or
19 irrigation flood control or drainage works constructed or
20 operated for the purpose of storing, delivering, distributing,
21 or conveying water.

22 (2) Stock ponds, storage tanks, livestock operations,
23 livestock watering troughs, or other structures used in normal
24 agricultural practices.

25 (3) Public swimming pools.

26 (4) Any political subdivision that has adopted or
27 adopts a residential pool safety ordinance, provided the
28 ordinance is equal to or more stringent than the provisions of
29 this chapter.

30 (5) Any portable spa with a safety cover that complies
31 with ASTM F1346-91(Standard Performance Specification for

1 Safety Covers and Labeling Requirements for All Covers for
2 Swimming Pools, Spas and Hot Tubs).

3 (6) Small, temporary pools without motors, which are
4 commonly referred to or known as "kiddy pools."

5 Section 2. This act shall take effect October 1, 1999.

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HOUSE SUMMARY

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10 Creates ch. 515, F.S., the Florida Residential Swimming
11 Pool Safety Act, to establish safety requirements for
12 residential swimming pools, which include certain spas
13 and hot tubs. Provides legislative findings and intent
14 and definitions. Provides safety feature options for
15 residential swimming pools, and provides penalties for
16 not having at least one such safety feature. Provides
17 pool barrier requirements. Requires the Department of
18 Health to establish a drowning prevention education
19 program and produce a public information publication.
20 Requires pool contractors, home builders, and developers
21 to provide buyers with information relating to pool
22 safety requirements, drowning prevention, and pool
23 ownership responsibilities. Provides rulemaking authority
24 and exemptions. See bill for details.

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