

Bill No. CS for SB 2348

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Sullivan moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 17, between lines 29 and 30,		
15			
16	insert:		
17	Section 14. Chapter 515, Florida Statutes, consisting		
18	of sections 515.21, 515.23, 515.25, 515.27, 515.29, 515.31,		
19	515.33, 515.35, and 515.37, is created to read:		
20	<u>515.21 Short title.--This chapter may be cited as the</u>		
21	<u>"Preston de Ibern/McKenzie Merriam Residential Swimming Pool</u>		
22	<u>Safety Act."</u>		
23	<u>515.23 Legislative findings and intent.--The</u>		
24	<u>Legislature finds that drowning is the leading cause of death</u>		
25	<u>of young children in this state and is also a significant</u>		
26	<u>cause of death for medically frail elderly persons in this</u>		
27	<u>state, that constant adult supervision is the key to</u>		
28	<u>accomplishing the objective of reducing the number of</u>		
29	<u>submersion incidents, and that when lapses in supervision</u>		
30	<u>occur a pool safety feature designed to deny, delay, or detect</u>		
31	<u>unsupervised entry to the swimming pool, spa, or hot tub will</u>		

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

19 515.25 Definitions.--As used in this chapter, the  
20 term:

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

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

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

31 (4) "Exit alarm" means a device that makes audible,

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1 continuous alarm sounds when any door or window which permits  
2 access from the residence to any pool area that is without an  
3 intervening enclosure is opened or left ajar.

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

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

12 (7) "Outdoor swimming pool" means any swimming pool  
13 that is not an indoor swimming pool.

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

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

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

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

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1           (12) "Young child" means any person under the age of  
2 6 years.

3           515.27 Residential swimming pool safety feature  
4 options; penalties.--

5           (1) In order to pass final inspection and receive a  
6 certificate of completion, a residential swimming pool must  
7 meet at least one of the following requirements relating to  
8 pool safety features:

9           (a) The pool must be isolated from access to a home by  
10 an enclosure that meets the pool barrier requirements of s.  
11 515.29;

12           (b) The pool must be equipped with an approved safety  
13 pool cover;

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

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

21           (2) A person who fails to equip a new residential  
22 swimming pool with at least one pool safety feature as  
23 required in subsection (1) commits a misdemeanor of the second  
24 degree, punishable as provided in s. 775.082 or s. 775.083,  
25 except that no penalty shall be imposed if the person, within  
26 45 days after arrest or issuance of a summons or a notice to  
27 appear, has equipped the pool with at least one safety feature  
28 as required in subsection (1) and has attended a drowning  
29 prevention education program as established by s. 515.31.  
30 However, the requirement of attending a drowning prevention  
31 education program is waived if such program is not offered

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1 within 45 days after issuance of the citation.

2 515.29 Residential swimming pool barrier  
3 requirements.--

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

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

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

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

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

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

31 (3) Gates that provide access to swimming pools must

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1 open outwards away from the pool and be self-closing and  
2 equipped with a self-latching locking device, the release  
3 mechanism of which must be located on the pool side of the  
4 gate and so placed that it cannot be reached by a young child  
5 over the top or through any opening or gap.

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

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

12 515.31 Drowning prevention education program; public  
13 information publication.--

14 (1) The department shall develop a drowning  
15 prevention education program, which shall be made available to  
16 the public at the state and local levels and which shall be  
17 required as set forth in s. 515.27(2) for persons in violation  
18 of the pool safety requirements of this chapter. The  
19 department may charge a fee, not to exceed \$100, for  
20 attendance at such a program. The drowning prevention  
21 education program shall be funded using fee proceeds, state  
22 funds appropriated for such purpose, and grants. The  
23 department, in lieu of developing its own program, may adopt a  
24 nationally recognized drowning prevention education program to  
25 be approved for use in local safety education programs, as  
26 provided by rule of the department.

27 (2) The department shall also produce, for  
28 distribution to the public at no charge, a publication that  
29 provides information on drowning prevention and the  
30 responsibilities of pool ownership. The department, in lieu of  
31 developing its own publication, may adopt a nationally

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1 recognized drowning prevention and responsibilities of pool  
2 ownership publication, as provided by rule of the department.

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

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

19 515.37 Exemptions.--This chapter does not apply to:

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

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

27 (3) Public swimming pools.

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

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

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

7  
 8 (Redesignate subsequent sections.)

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 10

11 ===== T I T L E    A M E N D M E N T =====

12 And the title is amended as follows:

13           On page 2, line 29, after the semicolon

14

15 insert:

16           creating ch. 515, F.S., the "Preston de Ibern/  
 17 McKenzie Merriam Residential Swimming Pool  
 18 Safety Act"; providing legislative findings and  
 19 intent; providing definitions; providing pool  
 20 safety feature requirements and options;  
 21 providing penalties; providing pool barrier  
 22 requirements; providing for a drowning  
 23 prevention education program and a public  
 24 information publication; providing for a fee;  
 25 requiring pool contractors, home builders, and  
 26 developers to provide buyers with certain  
 27 information; providing rulemaking authority;  
 28 providing exemptions;

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