

Bill No. CS for SB 880

Amendment No.

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Sullivan moved the following amendment:

Senate Amendment (with title amendment)

On page 13, between lines 16 and 17,

insert:

Section 7. Chapter 515, Florida Statutes, consisting of sections 515.21, 515.23, 515.25, 515.27, 515.29, 515.31, 515.33, 515.35, and 515.37, is created to read:

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

515.23 Legislative findings and intent.--The Legislature finds that drowning is the leading cause of death of young children in this state and is also a significant cause of death for medically frail elderly persons in this state, that constant adult supervision is the key to accomplishing the objective of reducing the number of submersion incidents, and that when lapses in supervision occur a pool safety feature designed to deny, delay, or detect unsupervised entry to the swimming pool, spa, or hot tub will reduce drowning and near-drowning incidents. In addition to

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

18 515.25 Definitions.--As used in this chapter, the
19 term:

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

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

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

30 (4) "Exit alarm" means a device that makes audible,
31 continuous alarm sounds when any door or window which permits

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1 access from the residence to any pool area that is without an
2 intervening enclosure is opened or left ajar.

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

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

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

13 (8) "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 (9) "Public swimming pool" means a swimming pool, as
19 defined in s. 514.011(2), which is operated, with or without
20 charge, for the use of the general public; however, the term
21 does not include a swimming pool located on the grounds of a
22 private residence.

23 (10) "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 (11) "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 (12) "Young child" means any person under the age of 6

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1 years.

2 515.27 Residential swimming pool safety feature
3 options; penalties.--

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

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

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

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

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

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

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1 515.29 Residential swimming pool barrier
2 requirements.--

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

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

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

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

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

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

30 (3) Gates that provide access to swimming pools must
31 open outwards away from the pool and be self-closing and

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

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

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

11 515.31 Drowning prevention education program; public
12 information publication.--

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

22 (2) The department shall also produce, for
23 distribution to the public at no charge, a publication that
24 provides information on drowning prevention and the
25 responsibilities of pool ownership.

26 515.33 Information required to be furnished to
27 buyers.--A licensed pool contractor, on entering into an
28 agreement with a buyer to build a residential swimming pool,
29 or a licensed home builder or developer, on entering into an
30 agreement with a buyer to build a house that includes a
31 residential swimming pool, must give the buyer a document

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1 containing the requirements of this chapter and a copy of the
2 publication produced by the department under s. 515.31 that
3 provides information on drowning prevention and the
4 responsibilities of pool ownership.

5 515.35 Rulemaking authority.--The department shall
6 adopt rules pursuant to the Administrative Procedure Act
7 establishing the fees required to attend drowning prevention
8 education programs and setting forth the information required
9 under this chapter to be provided by licensed pool contractors
10 and licensed home builders or developers.

11 515.37 Exemptions.--This chapter does not apply to:

12 (1) Any system of sumps, irrigation canals, or
13 irrigation flood control or drainage works constructed or
14 operated for the purpose of storing, delivering, distributing,
15 or conveying water.

16 (2) Stock ponds, storage tanks, livestock operations,
17 livestock watering troughs, or other structures used in normal
18 agricultural practices.

19 (3) Public swimming pools.

20 (4) Any political subdivision that has adopted or
21 adopts a residential pool safety ordinance, provided the
22 ordinance is equal to or more stringent than the provisions of
23 this chapter.

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

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

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31 (Redesignate subsequent sections.)

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

2 And the title is amended as follows:

3 On page 1, line 25, after the semicolon,

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5 insert:

6 creating ch. 515, F.S., the "Florida
7 Residential Swimming Pool Safety Act";
8 providing legislative findings and intent;
9 providing definitions; providing pool safety
10 feature requirements and options; providing
11 penalties; providing pool barrier requirements;
12 providing for a drowning prevention education
13 program and a public information publication;
14 providing for a fee; requiring pool
15 contractors, home builders, and developers to
16 provide buyers with certain information;
17 providing rulemaking authority; providing
18 exemptions;

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