

Bill No. CS for SB 880

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	Senate Amendment (with title amendment)		
14	On page 13, between lines 16 and 17,		
15			
16	insert:		
17	Section 7. 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."

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8 (Redesignate subsequent sections.)

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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 1, line 25, 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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