

By the Committee on Comprehensive Planning; and Senator Wasserman Schultz

316-2595-04

1                                   A bill to be entitled  
2           An act relating to public swimming pools;  
3           creating s. 514.0305, F.S.; requiring the pools  
4           to be enclosed by a barrier; establishing  
5           additional safety requirements; requiring  
6           inspections; providing penalties for  
7           violations; providing that attorney's fees and  
8           costs be awarded to the Department of Health at  
9           a hearing at which the department prevails;  
10          providing definitions and for application;  
11          providing for exceptions; amending s. 514.0115,  
12          F.S.; providing that certain condominiums and  
13          cooperatives must comply with specified  
14          requirements of law; providing an effective  
15          date.

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

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19           Section 1. Section 514.0305, Florida Statutes, is  
20 created to read:

- 21           514.0305 Public pools; safety barriers.--  
22           (1) Public pools must be equipped with the following  
23 safety features:  
24           (a) A permanent barrier that completely encloses the  
25 pool.  
26           (b) Pedestrian gates that open outward, are  
27 self-closing, and equipped with a release mechanism that is  
28 located on the pool side of the gate and placed so that a  
29 young child cannot reach it.

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1           (c) Gates, other than pedestrian gates, which must be  
2 equipped with lockable hardware or padlocks and which must  
3 remain locked when not being used.

4           (2)(a) The barriers and other equipment required by  
5 this section shall be inspected by the county health  
6 department during each routine inspection.

7           (b) The inspector shall immediately close any pool  
8 that does not comply with the requirements of this section.  
9 Upon such closing, the owner or operator of the pool must  
10 correct the deficiencies or be subject to an administrative  
11 fine not to exceed \$1,500. The department, upon prevailing in  
12 enforcement of this section, shall be awarded attorney's fees  
13 at the rate of \$150 per attorney hour and shall in addition be  
14 awarded the costs of litigation. The attorney's fees and costs  
15 shall be awarded against the public pool operator by the  
16 presiding officer of any proceeding before the Division of  
17 Administrative Hearings or before a hearing officer appointed  
18 by the department.

19           (3) The definitions in s. 515.25 apply to this section  
20 and are incorporated herein by reference, except that the  
21 definition of the term "public swimming pool" shall be as  
22 provided in s. 514.011(2).

23           (4) This section applies to all public pools that are  
24 operated or constructed on or after January 1, 2005. Pools in  
25 operation on that date must be brought into compliance by  
26 April 1, 2005.

27           (5) This section does not apply to existing pools at  
28 any unit, group of units, dwelling, building, or group of  
29 buildings within a single complex of buildings which is rented  
30 to guests more than three times in a calendar year for periods  
31 of fewer than 30 days or 1 calendar month, whichever is less,

1 or advertised or held out to the public as a place regularly  
2 rented to guests.

3 (6) The department shall revise its rules authorized  
4 by s. 514.021 in order to administer this section.

5 Section 2. Subsection (2) of section 514.0115, Florida  
6 Statutes, is amended to read:

7 514.0115 Exemptions from supervision or regulation;  
8 variances.--

9 (2)(a) Pools serving no more than 32 condominium or  
10 cooperative units which are not operated as a public lodging  
11 establishment shall be exempt from supervision under this  
12 chapter, except for water quality and the requirements of s.  
13 514.0305.

14 (b) Pools serving condominium or cooperative  
15 associations of more than 32 units and whose recorded  
16 documents prohibit the rental or sublease of the units for  
17 periods of less than 60 days are exempt from supervision under  
18 this chapter, except that the condominium or cooperative owner  
19 or association must file applications with the department and  
20 obtain construction plans approval and receive an initial  
21 operating permit. The department shall inspect the swimming  
22 pools at such places annually, at the fee set forth in s.  
23 514.033(3), or upon request by a unit owner, to determine  
24 compliance with department rules relating to water quality,  
25 ~~and~~ lifesaving equipment, and the requirements of s. 514.0305.  
26 The department may not require compliance with rules relating  
27 to swimming pool lifeguard standards.

28 Section 3. This act shall take effect July 1, 2004.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 2014

4 This CS differs from the bill as filed in that it:

- 5 - allows the department to recover attorney's fees and  
6 costs when they prevail in an enforcement action pursuant  
7 to this bill;
- 8 - references the definition of public swimming pool in s.  
9 514.011(2), F.S., which insures that pools exempted in s.  
10 514.0115, F.S. (which includes condominiums), are subject  
11 to the requirements of the bill;
- 12 - extends the for compliance deadline by 6 months;
- 13 - requires the department to revise its rules to  
14 incorporate the requirements of this bill; and
- 15 - exempts hotels from the requirements of the bill.

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