

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1409 Public Swimming Pools and Spas

**SPONSOR(S):** Health & Human Services Access Subcommittee; Hudson and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	10 Y, 3 N, As CS	Batchelor	Schoolfield
2) Health & Human Services Committee			

### SUMMARY ANALYSIS

House Bill 1409 creates s. 514. 0315, F.S., relating to safety features for public swimming pools and spas.

The bill requires that a public swimming pool or spa be equipped with an anti-entrapment system or device.

If a public pool or spa constructed before June 1, 1993, has one main drain, the bill requires that the owner or operator of the pool choose one of the following:

- A safety vacuum release system;
- A suction-limiting vent system;
- A gravity drainage system;
- An automatic pump system; or
- A device that disables the drain.

The bill incorporates into Florida Statute generally accepted industry standards and mirrors federal law.

There is no fiscal impact on the state from this bill.

The bill provides for an effective date of July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

#### Background

##### *Virginia Graeme Baker Pool and Spa Safety Act*

In 2007, the Virginia Graeme Baker Pool and Spa Safety Act was passed by the U.S. Congress.<sup>1</sup> The act was named for the 7 year old granddaughter of the former Secretary of State who died due to suction entrapment in a spa drain. The act created federal requirements for suction entrapment avoidance in pools and spas. Specifically, a pool is required to have a compliant drain cover, and one of the following five devices that would prevent entrapment:

- Safety vacuum release system;
- Suction-limiting vent system;
- Gravity drainage system;
- Automatic pump shut off system;
- Drain disablement; or
- Another system approved by the U.S. Consumer Product Safety Commission (CPSC).<sup>2</sup>

##### *DOH Rule and Statutory Authority*

Public pools and spas are regulated in Florida by the Department of Health (DOH) pursuant to chapter 514, Florida Statutes. DOH has rulemaking authority to protect the health, safety and welfare of bathers in public pools and spas.<sup>3</sup> By rule, DOH has required gravitational drainage systems with collector tanks since 1977 for public pools, and 1993 for public spas.<sup>4</sup> DOH rule provides this one option, although, other options are permitted in federal law. In 2008, DOH promulgated rules and a timetable to require retrofitting to gravitational drainage systems and collector tanks for pools and spa pools not already fitted with such a system.<sup>5</sup> For spa pools, the following implementation schedule applies:

- Built before 1977, retrofit by July 1, 2010,
- Built between 1977 and 1986, retrofit by July 1, 2011,
- Built between 1986 and 1995, retrofit by July 1, 2012.<sup>6</sup>

It is estimated that there are around 37,000 pools in Florida, and approximately 6,000 still require collector tanks to be installed to bring them into compliance with 64E-9.007(10), F.A.C.<sup>7</sup> DOH has a regulatory mechanism,<sup>8</sup> which allows the department to grant pool owners who demonstrate that they cannot comply, a variance from the rule.

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<sup>1</sup> 15 U.S.C. s. 8001.

<sup>2</sup> 15 U.S.C. s. 8004(c)(1)(A).

<sup>3</sup> S. 514.021, F.S.

<sup>4</sup> Department of Health HB 1409 Bill Analysis, Economic Statement and Fiscal Note, March 21, 2011. On file with Health and Human Services Access Subcommittee Staff.

<sup>5</sup> Ch. 64E-9.007 F.A.C., Recirculation and Treatment System Requirements.

<sup>6</sup> *Id.*

<sup>7</sup> Email from Florida Pool Association on file with Health and Human Services Access Subcommittee staff, April 1, 2011.

<sup>8</sup> Ch. 64E-9.016.

## Exemptions

Section 514.0115, F.S., provides exemptions from chapter 514 Florida Statutes requirements for pools that are associated with hospitals, medical facilities, child caring agencies, private pools for instructional purposes and condominiums with no more than 32 units. For condominiums with 32 units or less, DOH has authority to regulate water quality. If there are more than 32 units, DOH inspects the pool annually for water quality and life saving equipment.<sup>9</sup>

## Pool Industry Standards

The American Society of Mechanical Engineers (AMSE) , the American National Standards Institute (ANSI) and the American Standard for Testing and Materials (ASTM) provide industry standards and establish materials, testing and marking requirements for suction outlet fittings in swimming pools, wading pools, spas, and hot tubs, and other aquatic facilities. Suction outlet fittings include all components including the sump, body, cover, grate, and hardware. Skimmers and vacuum connection covers are excluded from the standard.<sup>10</sup>

## Effect of Proposed Changes

The bill creates s. 514.0315, F.S., related to required safety features for public swimming pools and spas. The bill creates s. 514.0315, F.S., related to required safety features for public swimming pools and spas. The new law would require all existing public pools and spas to be fitted with an anti-entrapment device that complies with AMSE, ANSI<sup>11</sup> standard A112.19.8 or ASTM standard F2387<sup>12</sup>. Currently, the DOH rule, 64E-9.007(10), F.A.C. only provides one option for anti-entrapment devices. The bill allows for increased options for public pools and spas.<sup>13</sup> Currently, the DOH rule, 64E-9.007(10), F.A.C. only provides one option for anti-entrapment devices. The bill allows for increased options for public pools and spas.

The bill provides that a single drain pool or spa constructed before June 1, 1993, other than an unblockable drain, to be equipped with at least one of the following:

- A safety vacuum release system that conforms with ASME/ANSI standard A112.19.17 or American Society for Testing and Materials (ASTM) standard F2387;
- A suction-limiting vent system with a tamper-resistant atmospheric opening;
- A gravity drainage system that uses a collector tank;
- An automatic pump system; or
- A device that disables the drain.

The bill provides that the selection of the anti-entrapment device is the sole discretion of the owner or operator of the public pool or spa.

## B.SECTION DIRECTORY:

**Section 1:** Creates s. 514.0315, F.S., relating to safety features for public swimming pools and spas.

**Section 2:** Provides an effective date of July 1, 2011.

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<sup>9</sup> s. 514.0115 (2) (b), F.S.

<sup>10</sup> AMSE Standard A112.19.8, vii.

<sup>11</sup> AMSE standards provide guidance to the industry and policy makers, and are to promote understanding in an industry. They are intended to represent the consensus of concerned parties, and are open to public comment. AMSE Standard A112.19.8, vii.

<sup>12</sup> ASTM is a voluntary standards organization that promulgates consensus driven industry benchmarks that are designed to improve product quality, enhance safety, facilitate market access and trade, and build consumer confidence. ASTM Standard F2387.

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## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None
2. Expenditures:  
None

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None
2. Expenditures:  
None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There could be a cost savings, to the private sector, as pool owners will have more options for retrofitting their pools and spas.<sup>14</sup>

### D. FISCAL COMMENTS:

None

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:  
Not applicable. This bill does not appear to affect county or municipal governments.
2. Other:  
None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

Eliminate subsection (1), because this is already required by existing DOH regulation.  
Subsection (2) would be clearer if the January 1, 1993 date was on line 17 of the committee substitute.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 5, 2011, the Health and Human Services Access Subcommittee adopted one amendment to House Bill 1409.

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<sup>14</sup> Department of Health HB 1409 Bill Analysis, Economic Statement and Fiscal Note, March 21, 2011. On file with Health and Human Services Access Subcommittee Staff.

The amendment provides that an existing single drain public pool built before January 1, 1993, must be equipped with an anti-entrapment system or device.

The bill was reportedly favorably as a Committee Substitute. This analysis reflects the committee substitute.