

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: CS/SB 1480

INTRODUCER: Health Regulation Committee and Senator Evers

SUBJECT: Public Swimming Pools and Spas

DATE: April 14, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Stovall	HR	Fav/CS
2.	_____	_____	RI	_____
3.	_____	_____	CM	_____
4.	_____	_____	BC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill creates a new section of Florida Statutes relating to required safety features for public swimming pools and spas. The bill provides that public swimming pools and spas that are on a direct suction system have a one-year extension from the initial compliance date to install a gravity drainage system as required by Department of Health rule.

This bill creates the following sections of the Florida Statutes: 514.0315.

II. Present Situation:

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.¹ The act was named for the 7-year-old granddaughter of the former Secretary of State who drowned after being trapped under water by the suction of a hot tub drain. The act created federal requirements for suction entrapment avoidance in pools and spas. Specifically, a pool is required

¹ 15 U.S.C. s. 8001.

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).²

Florida Department of Health Rule and Statutory Authority

Public pools and spas are regulated in Florida by the Department of Health (DOH) pursuant to chapter 514, F.S. The DOH has rulemaking authority to protect the health, safety, and welfare of bathers in public pools and spas.³ By rule, the DOH has required gravitational drainage systems with collector tanks since 1977 for public pools and since 1993 for public spas.⁴ DOH rule requires gravitational drainage systems despite the federal law's allowance for other options.

In 2008, the DOH promulgated rules and a timetable to require retrofitting to gravitational drainage systems and collector tanks for pools and spa-type pools not already fitted with such a system. For all pools, including wading pools, with a main drain grate water depth of four feet or less, retrofitting was required to be completed on or before one year from the effective date of the rule, or May 24, 2010, except for spa-type pools.⁵

For spa-type 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, 2012.⁶

For all other pools (non-spa-type pools with a main drain grate water depth greater than four feet or spa-type pools built after 1995), the deadline for retrofitting is July 1, 2013.⁷

It is estimated there are approximately 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.⁸ DOH has a regulatory mechanism⁹ that allows the department to grant a variance from the rule to pool owners who demonstrate that they cannot comply.

² 15 U.S.C. s. 8004(c)(1)(A).

³ Section 514.021, F.S.

⁴ Department of Health, *Bill Analysis, Economic Statement and Fiscal Note: SB 1480*, March 21, 2011.

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

⁶ *Id.*

⁷ *Id.*

⁸ Email from the Florida Pool Association to Senate Committee on Health Regulation, April 8, 2011, at 6:29 p.m.

⁹ Ch. 64E-9.016, F.A.C.

Exemptions

Section 514.0115, F.S., provides exemptions from chapter 514 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 fewer, the DOH has authority to regulate water quality. If there are more than 32 units, the DOH inspects the pool annually for water quality and life saving equipment.¹⁰

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, hot tubs, and other aquatic facilities. Suction outlet fittings include all components including the body, cover, grate, and hardware. Skimmers and vacuum connection covers are excluded from the standards.¹¹

III. Effect of Proposed Changes:

Section 1 creates s. 514.0315, F.S., relating to required safety features for public swimming pools and spas. The bill provides that public swimming pools and spas that are on a direct suction system have a one-year extension from the initial compliance date to install a gravity drainage system as required by DOH rule. Under the bill, the DOH compliance deadlines in ch. 64E-9.007, F.A.C., will need to be amended to that effect.

Chapter 64E-9.007, F.A.C., indicates that the objective of the requirement for a gravity drainage system in conjunction with a collector tank is “to eliminate direct suction through the main drain.” This is addressed in the bill by providing that public swimming pools and spas that are on a “direct suction system” have a one-year extension to comply with DOH rule.

Section 2 provides an effective date for the bill of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

¹⁰ Section 514.0115 (2) (b), F.S.

¹¹ AMSE Standard A112.19.8, vii.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Because the owners of public pools and spas that are on a direct suction system are granted a one-year extension from the initial compliance date¹² to install a gravity drainage system as required by DOH rule, the costs yet to be incurred by owners who have not installed such a system could be delayed. Immediately impacted by the bill are owners of public spa-type pools built between 1977 and 1986, for which the deadline is July 1, 2011, under current DOH rule.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Regulation on April 12, 2011:

The bill as filed required that a public swimming pool or spa be equipped with an anti-entrapment system or device and that if a public pool or spa had one main drain, the owner or operator of the pool could choose one of the following options:

- 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.

¹² *Supra* notes 5, 6, and 7.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
