

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: SB 1480

INTRODUCER: Senator Evers

SUBJECT: Public Swimming Pools and Spas

DATE: April 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Stovall	HR	Pre-meeting
2.			RI	
3.			CM	
4.			BC	
5.				
6.				

I. Summary:

The bill creates a new section of Florida Statutes relating to required 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 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.

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 to have a compliant drain cover and one of the following five devices that would prevent entrapment:

¹ 15 U.S.C. s. 8001.

- 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 pools not already fitted with such a system.⁵ 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, 2012.⁶

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.⁷ DOH has a regulatory mechanism⁸ that allows the department to grant a variance from the rule to pool owners who demonstrate that they cannot comply.

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.⁹

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

⁸ Ch. 64E-9.016, F.A.C.

⁹ Section 514.0115 (2) (b), F.S.

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.¹⁰

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 requires all public pools and spas to be fitted with an anti-entrapment device that complies with AMSE, ANSI¹¹ standard A112.19.8, or ASTM standard F2387.¹² This departs from current DOH rule 64E-9.007(10), F.A.C., which requires that the only anti-entrapment device allowed is a gravity drainage system that uses a collector tank. The bill provides other anti-entrapment options for public pools and spas.

The bill provides that a single-drain pool or spa, 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, or any successor standard;
- A suction-limiting vent system with a tamper-resistant atmospheric opening;
- A gravity drainage system that uses a collector tank;
- An automatic pump shut-off 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.

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.

¹⁰ AMSE Standard A112.19.8, vii.

¹¹ 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.

¹² 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.

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.

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:

The DOH advises the following:

Apart from statutory exemptions, all public swimming pools and spas are required to comply with the Federal law, so facilities should have already installed anti-entrapment systems or devices. These facilities should have already incurred the cost to comply. However, some public pools and spas are exempted from regulation under Florida law and might not have been retrofitted. Currently, there are 1,561 exempt pools with 32 or fewer units that are not inspected and do not require a permit. However, the statutory exemption allows for a complaint investigation for water quality. There are 1,009 exempt facilities over 32 units. These facilities are inspected once a year for water quality and life-saving equipment only. If Florida begins enforcing a state law that mimics the Federal law in total, facilities that are not in compliance will incur costs to comply or face state enforcement.

C. Government Sector Impact:

The DOH advises the following:

There will be staff resources spent notifying the impacted facility owners, design engineers, and contractors of the statutory change and rule revisions. If the installation of anti-entrapment systems or devices is required at currently exempted facilities, there will be staff resources needed to notify these facilities of the statutory change and to perform follow-through with compliance enforcement. For those currently exempted facilities, DOH engineering offices would need to verify proper installation and testing required of those systems or devices not currently allowed to ensure compliance. Enforcement at all public swimming pools and spas would be performed by DOH. Current appropriations and existing staff will be utilized to provide the notification to facilities of statutory change and to enforce compliance.

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.)

None.

B. Amendments:

None.

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