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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

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YOUNGBLOOD, WOGAN, BROWNE AND MICHLOVIC, FEBRUARY 13, 1995

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 13, 1995

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AN ACT

1 Establishing standards regulating swimming pool, hot tub and spa  
2 design and construction; providing for safety precautions and  
3 protection against potential immersion accidents for  
4 children; and imposing a penalty.

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5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Residential  
9 Swimming Pool Safety and Education Act.

10 Section 2. Legislative purpose.

11 The General Assembly finds and declares as follows:

12 (1) Drowning is one of the leading causes of accidental  
13 death for children in the United States, and near drownings,  
14 resulting in mental retardation and physical disabilities,  
15 are one of the leading causes of admissions to State  
16 hospitals.

17 (2) Approximately 67% of all childhood drownings occur  
18 in backyard pools, hot tubs and spas.

19 (3) Most drownings occur while the supervising adult  
20 thinks the child is safely indoors.

21 (4) Twenty-five percent of all drowning victims have had  
22 swimming lessons.

23 (5) A child can drown in as little as two inches of  
24 water.

25 (6) In the period 1980-1985, 209 children in this  
26 Commonwealth 13 years of age or younger died from drownings.

27 (7) Drowning deaths related to swimming pools were  
28 highest for preschool children one year of age or older and  
29 four years of age or younger.

30 (8) Presently, this Commonwealth has no law mandating

1 swimming pool fencing for outdoor swimming pools, although  
2 some municipalities in this Commonwealth have enacted  
3 municipal ordinances regulating swimming pool fencing.

4 (9) According to experts, mandatory fencing of swimming  
5 pools, hot tubs and spas can reduce both fatalities and  
6 disabling injuries by at least 50%.

7 (10) A study by the United States Consumer Product  
8 Safety Commission concluded that a barrier completely  
9 surrounding the pool to keep a child out of a pool area could  
10 have prevented up to 70% of the incidents investigated by the  
11 commission.

12 (11) The National Committee for Injury Prevention and  
13 Control recommends the following barriers to prevent  
14 drownings in swimming pools:

15 (i) Restricted entry to the pool, hot tub or spa  
16 from the yard and residence.

17 (ii) The use of self-closing and self-latching gates  
18 with the latch placed at a height unreachable by small  
19 children.

20 (iii) Fences and other barriers of at least five  
21 feet in height with vertical openings no more than four  
22 inches wide.

23 (iv) An unrestricted view of the pool so that  
24 children within the fence are visible from outside.

25 (12) The Center for Disease Control and the National  
26 Pool and Spa Institute have issued guidelines for the safety,  
27 design, construction, use and maintenance of commercial and  
28 residential hot tubs and spas. These guidelines recommend  
29 that these structures have barriers around them.

30 (13) As a result of these findings and Department of

Health support for local ordinances requiring the fencing of swimming pools, hot tubs and spas, including those belonging to public and private institutions and private residences, it is the intent of the General Assembly to enact an enabling statute to establish standards regulating swimming pool design and construction and providing pool safety precautions and protection against potential immersion accidents for all children in all municipalities in this Commonwealth. This will result in a serious reduction in the number of drownings and injuries by near drownings for children in this Commonwealth.

### Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Aboveground swimming pool." A removable swimming pool of any shape that:

(1) Has walls.

(2) Has an impervious liner that is located on the surrounding earth.

(3) May be disassembled or stored and reassembled to its original form.

"Barrier." A fence, dwelling wall or nondwelling wall, or combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

"Farm." A parcel of 25 acres or more used exclusively for agricultural purposes and containing at least one residential structure and an outbuilding.

"Hot tub" or "spa." A noninflatable outdoor structure containing water and intended for recreational use.

1 "Municipality." Any city of the first class, second class,  
2 second class A or third class, borough, incorporated town,  
3 township of the first or second class, county of the second  
4 class A through eighth class, home rule municipality or any  
5 similar general purpose unit of government which shall be  
6 created by the General Assembly.

7 "Outdoor inground swimming pool." A permanent outdoor  
8 swimming pool in which the surface and the volume of water are  
9 below ground level.

10 "Swimming pool." Any manmade structure intended for swimming  
11 or diving purposes, or both, that has a water depth of 18 inches  
12 or more, including, but not limited to, residential inground and  
13 aboveground swimming pools.

14 Section 4. Permit for swimming pool, hot tub or spa.

15 (a) Application.--An application for a permit to construct a  
16 swimming pool, hot tub or spa shall be submitted to the building  
17 inspector for the municipality in which the swimming pool, hot  
18 tub or spa is to be located. The application shall be submitted  
19 prior to construction or installation of the swimming pool, hot  
20 tub or spa and shall include the following:

21 (1) Plans, specifications and related explanatory  
22 information.

23 (2) A plan drawn to scale by a registered or certified  
24 surveyor or engineer, showing the dimensions and location of  
25 the swimming pool, hot tub or spa on the plot of land in  
26 relation to the property lines of the adjoining property  
27 owners and the buildings constructed on the applicant's plot  
28 of land.

29 (b) Review of application.--The building inspector shall  
30 review the application and supporting documentation to assure

1 compliance with this act.

2 (c) Issue of permit.--If the proposed construction or  
3 installation meets the requirements of this act, the municipal  
4 building inspector shall issue a permit to proceed with the  
5 construction or installation.

6 (d) Fee.--A municipality may establish a reasonable  
7 application fee to accompany the application required by this  
8 section to cover administrative costs incurred by a municipality  
9 as a result of the requirements placed on a municipality by this  
10 act.

11 (e) Inspection.--The applicant shall notify the building  
12 inspector upon completion of the construction or installation of  
13 the swimming pool, hot tub or spa. Upon notification by the  
14 applicant, the building inspector shall inspect the swimming  
15 pool, hot tub or spa to determine if it was constructed in  
16 compliance with this act. If the construction or installation  
17 meets the requirements of this act, the building inspector shall  
18 issue an occupancy permit allowing the swimming pool, hot tub or  
19 spa to be used. If the construction or installation of the  
20 swimming pool, hot tub or spa does not meet the requirements of  
21 this act, the building inspector shall inform the applicant  
22 that, unless the facilities are brought into compliance with the  
23 requirements of this act within 60 days, a penalty under section  
24 15 may be imposed.

25 Section 5. Alternate application procedure.

26 (a) Application.--Where the swimming pool, hot tub or spa is  
27 to be located in a municipality that has no building inspector,  
28 the applicant for a permit required under section 4 shall apply  
29 to the county health department in the county in which the  
30 swimming pool, hot tub or spa is to be located. If the county

1 has no health department, the applicant shall apply to the  
2 Department of Health.

3 (b) Review of application.--A county health department and  
4 the Department of Health shall follow the procedures and  
5 requirements provided under section 4 in reviewing an  
6 application for a permit to construct or install a swimming  
7 pool, hot tub or spa.

8 (c) Fee.--A county health department and the Department of  
9 Health may establish a reasonable fee to accompany the  
10 application required by section 4 to cover the administrative  
11 costs incurred by the county health department or Department of  
12 Health as a result of the requirements placed on either by this  
13 act.

14 (d) Inspection.--A county health department and the  
15 Department of Health may engage the services of a municipal  
16 building inspector to perform the inspection requirements under  
17 this act and shall reimburse the municipality employing the  
18 building inspector for all reasonable costs incurred in the  
19 performance of all inspections.

20 (e) Rules and regulations.--All county health departments in  
21 this Commonwealth and the Department of Health shall establish  
22 rules and regulations to implement the provisions of this  
23 section.

24 Section 6. Water purification system.

25 Every swimming pool shall be provided with a water  
26 purification or filter system which is capable of maintaining  
27 water clarity and purity. Water clarity and purity shall be such  
28 that water in the pool does not obscure the bottom of the pool  
29 when seen from above the water level.

30 Section 7. Outdoor swimming pool requirements.

1 An outdoor swimming pool shall be provided with a barrier  
2 which meets the following requirements:

3 (1) The top of the barrier shall be at least 48 inches  
4 above grade measured on the side of the barrier which faces  
5 away from the swimming pool. The maximum vertical clearance  
6 between grade and the bottom of the barrier shall be two  
7 inches measured on the side of the barrier which faces away  
8 from the swimming pool. If the top of the pool structure is  
9 above grade, such as an aboveground pool, the barrier may be  
10 mounted on top of the pool structure as long as the barrier  
11 is at least 48 inches above the top of the pool structure. If  
12 the barrier is mounted on top of the pool structure, the  
13 maximum vertical clearance between the top of the pool  
14 structure and the bottom of the barrier shall be four inches.

15 (2) Openings in the barrier shall prevent passage of a  
16 four-inch diameter sphere.

17 (3) Solid barriers which do not have openings,  
18 including, but not limited to, masonry and stone walls, shall  
19 not contain indentations or protrusions except for normal  
20 construction tolerances and tooled masonry joints.

21 (4) If the barrier is composed of horizontal and  
22 vertical members and the distance between the tops of the  
23 horizontal members is less than 45 inches:

24 (i) The horizontal members shall be located on the  
25 swimming pool side of the fence.

26 (ii) Spacing between vertical members shall not  
27 exceed one and three-fourths inches in width.

28 (iii) Spacing within any decorative cutouts shall  
29 not exceed one and three-fourths inches in width.

30 (5) If the barrier is composed of horizontal and



vertical members and the distance between the tops of the horizontal members is 45 inches or more:

(i) Spacing between vertical members shall not exceed four inches.

(ii) Spacing within any decorative cutouts shall not exceed one and three-fourths inches in width.

(6) Maximum mesh size for chain link fences shall be a one and one-fourth inch square unless the fence is provided with slats fastened at the top or the bottom of the fence which reduce the openings to no more than one and three-fourths inches.

(7) If the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than one and three-fourths inches.

#### Section 8. Access gate requirements.

(a) General rule.--Gates that provide access to swimming pools shall meet the following requirements:

(1) Access gates shall be equipped to accommodate a locking device.

(2) Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device.

(3) Gates other than pedestrian access gates shall have a self-latching device.

(4) If the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate:

(i) The release mechanism shall be located on the pool side of the gate at least three inches below the top of the gate.

(ii) The gate and barrier shall have no opening greater than one-half inch within 18 inches of the release mechanism.

(b) Exception.--In those cases where an individual with a disability is in residence, a municipality may grant a variance allowing a key-locking latch to be placed to allow entry.

#### Section 9. Dwelling wall requirements.

Where a wall of a dwelling serves as any part of a barrier, all doors with direct access to a swimming pool through the wall shall meet one of the following requirements:

(1) Be equipped with an alarm that meets all of the following requirements:

(i) The alarm shall produce an audible warning when the door or its screen, if present, is opened.

(ii) The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened. The alarm shall have a minimum sound pressure rating of 85 decibels at ten feet and should be distinctive from other household sounds, such as smoke alarms, telephones and doorbells.

(iii) The alarm shall automatically reset under all conditions.

(iv) The alarm shall be equipped with manual means, including, but not limited to, touchpads or switches, to temporarily deactivate the alarm for a single opening from either direction. The deactivation shall last no more than 15 seconds. The deactivation touchpads or switches shall be located at least 54 inches above the threshold of the door.

(2) Be equipped with other means of protection, such as

self-closing mechanisms and self-latching devices, which offer the same or greater level of protection as the alarm described in paragraph (1).

Section 10. Swimming pool ladder or step requirements.

The following shall apply to an aboveground swimming pool that has a means of access by way of a ladder or steps:

(1) The ladder or steps shall be equipped with a device or mechanism to make them self-closing and self-latching to prevent unauthorized access by young children.

(2) When the ladder or steps are secured and locked, any opening created shall prevent the passage of an eight-inch sphere.

Section 11. Safety covers on hot tubs or spas.

A hot tub or spa with a safety cover which complies with the American Society for Testing Materials--Emergency Standard performance specifications (ASTM-ES 13-89) shall be exempt from fence or barrier restrictions contained in this act.

Section 12. Rescue equipment.

(a) Swimming pool.--The following shall be installed with each swimming pool:

(1) A ring or throwing buoy fitted with 40 feet of one-fourth inch diameter line.

(2) A pole not less than 12 feet in length.

(3) A sign bearing basic life support instructions.

(4) A telephone within easy access to the swimming pool.

(b) Hot tubs and spas.--The following shall be installed with each hot tub or spa:

(1) A sign bearing basic life support instructions.

(2) A telephone within easy access to the hot tub or spa.

1 Section 13. Public awareness program.

2 The Department of Health shall sponsor public programs and  
3 forums, prepare brochures and videos and undertake other  
4 educational measures designed to increase public awareness and  
5 understanding of immersion accidents and pool safety precautions  
6 for children in this Commonwealth.

7 Section 14. Municipal ordinances.

8 If a municipal ordinance regulates the construction and  
9 installation of swimming pools, hot tubs or spas in order to  
10 provide pool safety precautions and protection against potential  
11 immersion accidents for all children in the municipality and the  
12 requirements under the municipal ordinance meet or exceed the  
13 requirements contained in this act, the requirements of the  
14 municipal ordinance shall govern. A person meeting the  
15 requirements under the municipal ordinance meets the  
16 requirements under this act.

17 Section 15. Penalties.

18 (a) Grace period.--A person who has constructed or installed  
19 a swimming pool, hot tub or spa and who has been cited by a  
20 building inspector, the county or the Department of Health for  
21 noncompliance with the provisions of this act shall be granted a  
22 60-day grace period to make any required changes to comply with  
23 the provisions of this act.

24 (b) Penalty.--A person who fails to complete the necessary  
25 changes within the 60 days provided under subsection (a) commits  
26 a summary offense and shall, upon conviction, be sentenced to  
27 pay a fine of not more than \$300 or to imprisonment for not more  
28 than 90 days, or both.

29 Section 16. Applicability.

30 (a) General rule.--This act shall apply to every person in

1 possession of land as owner or purchaser under contract upon  
2 which is proposed to be situated a swimming pool, hot tub or spa  
3 in a municipality in this Commonwealth, regardless of whether  
4 the municipality in which the swimming pool, hot tub or spa is  
5 to be located has a building inspector.

6 (b) Exceptions.--This act shall not apply to:

7 (1) Any swimming pool, hot tub or spa installed or  
8 constructed prior to the effective date of this act.

9 (2) A swimming pool located on a farm.

10 Section 17. Effective date.

11 This act shall take effect in 90 days.