
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 649 Session of
1999

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PISTELLA, RAMOS, M. COHEN AND ROSS, MARCH 2, 1999

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 2, 1999

AN ACT

1 Establishing standards regulating residential swimming pool, hot
2 tub and spa design and construction; providing for safety
3 precautions and protection against potential immersion
4 accidents for 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 Pennsylvania
9 Residential Swimming Pool Safety and Education Act (Alicea's
10 Law).

11 Section 2. Legislative purpose.

12 The General Assembly finds and declares as follows:

13 (1) Drowning is one of the leading causes of accidental
14 death for children in the United States, and near drownings,
15 resulting in brain damage and physical disabilities, are one
16 of the leading causes of admissions to State 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 United States Consumer Product Safety
26 Commission has issued "Safety Barrier Guidelines for Home
27 Pools" and the National Spa and Pool Institute has sponsored
28 a number of American National Standards for the design,
29 construction, safe use and maintenance of private swimming
30 pools, hot tubs, spas and the barriers that enclose them.

(13) As a result of these findings and the Commonwealth's 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 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:

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

"BOCA Code." The most recent edition of the National Building Code promulgated by the Building Official and Code Administrators International, Inc., or its successor.

"County department of health or department." A phrase used to establish priority for administration and enforcement of this act. Where a county department of health exists, it shall have the administrative and enforcement powers and duties; in counties without a department of health, these powers and duties shall vest in the Department of Labor and Industry of the Commonwealth.

"Department." The Department of Labor and Industry of the Commonwealth.

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

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

6 "Municipality." Any city of the first class, second class,
7 second class A or third class, borough, incorporated town,
8 township of the first or second class, county of the second
9 class A through eighth class, home rule municipality or any
10 similar general purpose unit of government which shall be
11 created by the General Assembly.

12 "Outdoor inground swimming pool." A permanent outdoor
13 swimming pool in which the surface and the volume of water are
14 below ground level.

15 "Swimming pool." Any manmade structure intended for swimming
16 or diving purposes, or both, that has a water depth of 24 inches
17 or more, including, but not limited to, residential inground and
18 aboveground swimming pools.

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

20 (a) Application.--In a municipality without a municipal pool
21 ordinance as described in section 14(a) or (c), an application
22 for a permit to construct a swimming pool, hot tub or spa shall
23 be submitted to the county department of health or department.
24 The application shall be submitted prior to construction or
25 installation of the swimming pool, hot tub or spa and shall
26 include a plan drawn to scale, showing the dimensions and
27 location of the swimming pool, hot tub or spa on the plot of
28 land in relation to the property lines of the adjoining property
29 owners and the buildings constructed on the applicant's plot of
30 land as well as the location of any existing fence or barrier or

1 any fence or barrier to be constructed. In addition, the
2 application shall include any other plans, specifications and
3 related explanatory information necessary to consider the
4 application.

5 (b) Review of application.--The county department of health
6 or department shall review the application and supporting
7 documentation to assure compliance with this act. The county
8 department of health or department shall review the application
9 within 15 days of receipt. Any application not reviewed within
10 15 days of receipt shall be deemed approved.

11 (c) Issue of permit.--If the proposed construction or
12 installation meets the requirements of this act and all other
13 laws and ordinances, the county department of health or
14 department shall issue a permit to proceed with the construction
15 or installation.

16 (d) Fee.--The county department of health or department may
17 establish an application fee to accompany the application
18 required by this section to cover administrative costs incurred
19 as a result of the requirements of this act. In no case shall
20 the fee established by a county health department exceed the fee
21 charged by municipalities within the county for similar
22 services. Any fee established by the department shall be in an
23 amount sufficient to offset all costs associated with or
24 resulting from this act. The department shall, from time to
25 time, as may be necessary, increase the fee to reflect actual
26 costs incurred under this act.

27 (e) Inspection.--

28 (1) The applicant shall notify the county department of
29 health or department upon completion of the construction or
30 installation of the swimming pool, hot tub or spa. Upon

1 notification by the applicant, the county department of
2 health or department shall inspect the swimming pool, hot
3 tub, spa, fence or barrier to determine if it was constructed
4 in compliance with this act. If the construction or
5 installation meets the requirements of this act, the county
6 department of health or department shall issue an occupancy
7 permit allowing the swimming pool, hot tub or spa to be used.
8 If the construction or installation does not meet the
9 requirements of this act, the county department of health or
10 department shall inform the applicant that, unless the
11 facilities are brought into compliance with the requirements
12 of this act within 30 days, a penalty under section 13 may be
13 imposed.

14 (2) The county department of health or department shall
15 perform the inspection within seven days of notification by
16 the applicant. Any swimming pool, hot tub or spa not
17 inspected within seven days of notification by the applicant
18 shall be deemed approved.

19 (3) The county department of health or department may
20 enter into contracts with third parties for the performance
21 of inspections under this subsection.

22 (f) No further duty to inspect.--This section shall not be
23 construed to impose a duty on a municipality or on the county
24 department of health or department to conduct any inspection of
25 a swimming pool, hot tub, spa, fence or barrier after an
26 occupancy permit is issued pursuant to this section.

27 (g) Rules and regulations.--All county health departments in
28 this Commonwealth and the department shall establish rules and
29 regulations to implement this section. Municipalities enacting
30 ordinances under section 14(c) shall have the same powers and

1 duties of the county department of health or department in
2 administering and enforcing the provisions of this act.

3 Section 5. Inspection performance.

4 A county health department or department may engage the
5 services of any qualified individual or firm to perform the
6 application review and inspection requirements under section 4.

7 Section 6. Water purification system.

8 Every swimming pool shall be provided with a water
9 purification or filter system which is capable of complying with
10 section 421.6.1 of the BOCA Code.

11 Section 7. Outdoor swimming pool requirements.

12 An outdoor swimming pool, hot tub or spa shall be provided
13 with a barrier which meets the requirements of section 421.10.1
14 and 421.10.4 of the BOCA Code.

15 Section 8. Access gate requirements.

16 Gates that provide access to an outdoor swimming pool, hot
17 tub or spa shall meet the requirements of section 421.10.1 of
18 the BOCA Code.

19 Section 9. Rescue equipment.

20 Prior to inspection, and at all subsequent times, each
21 swimming pool must be equipped with the following:

22 (1) A ring or throwing buoy with 20 feet of 1/4-inch
23 diameter line, or a pole not less than 12 feet in length.

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

25 Section 10. Electrical components and location requirements.

26 Any electrical components of the construction or installation
27 of a swimming pool, hot tub or spa and the location selected for
28 placement shall comply with the most recently published version
29 of the National Electrical Code.

30 Section 11. Dissemination of information.

1 The seller of any swimming pool, hot tub or spa shall provide
2 the buyer with the following information:

3 (1) A copy of this act.

4 (2) The materials prepared by the department pursuant to
5 section 12(b).

6 Section 12. Public awareness program.

7 (a) Safety programs.--The department shall sponsor public
8 programs and forums, prepare brochures and videos and undertake
9 other educational measures including the encouragement of pool
10 owners to undergo cardiopulmonary resuscitation training,
11 designed to increase public awareness and understanding of
12 immersion accidents and pool safety precautions for children in
13 this Commonwealth. The department may also distribute safety
14 materials prepared by private organizations, including the
15 National Spa and Pool Institute and the Pennsylvania Safe Kids
16 Coalition.

17 (b) Duties of pool owners.--The department shall prepare
18 materials designed to inform homeowners of their duties in
19 complying with this act with regard to the construction or
20 installation of any swimming pool, hot tub or spa. The
21 department shall distribute these materials to municipalities,
22 any seller of swimming pools, hot tubs or spas, and to anyone
23 upon request.

24 Section 13. Penalties.

25 (a) Grace period.--A person who has constructed or installed
26 a swimming pool, hot tub or spa and who has been cited by a
27 building inspector, the county or the department for
28 noncompliance with the provisions of this act shall be granted a
29 30-day grace period to make any required changes to comply with
30 the provisions of this act.

1 (b) Civil penalty.--A person who willfully fails to complete
2 the necessary changes within the 30 days provided under
3 subsection (a) shall be ordered by the county or department to
4 pay a civil penalty of not more than \$1,000.

5 Section 14. Applicability.

6 (a) Municipalities with existing ordinances.--This act shall
7 not apply to any municipality which has an ordinance regulating
8 the construction or installation of swimming pools, hot tubs or
9 spas in effect on the effective date of this act.

10 (b) Municipalities without existing ordinances.--This act
11 shall apply to any municipality which has no ordinance
12 regulating the construction or installation of swimming pools,
13 hot tubs or spas upon the effective date of this act.

14 (c) Subsequent ordinances.--Any municipal ordinance enacted
15 subsequent to the effective date of this act which regulates the
16 construction or installation of swimming pools, hot tubs or spas
17 must comply with the provisions of this act.

18 (d) Exceptions.--The provisions of this act shall not apply
19 to:

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

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

23 Section 15. Effective date.

24 This act shall take effect in 90 days.