

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1065

Short Title: Swimming Pool Safety Act. (Public)

Sponsors: Representatives Gibson and Luebke (Primary Sponsors).

Referred to: Ways and Means.

April 10, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE OWNERS OF RESIDENTIAL SWIMMING POOLS TO
3 ERECT PROTECTIVE BARRIERS TO PREVENT ACCIDENTAL
4 DROWNINGS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 75A of the General Statutes is amended by adding a
7 new Article to read:

8 "Article 5.
9 "Swimming Pool Safety Act.

10 **"§ 75A-50. Short title.**

11 This Article shall be known as the Swimming Pool Safety Act.

12 **"§ 75A-51. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) "ASTM" means the American Society for Testing Materials.
15 (2) "Barrier" means a fence, wall, building wall, or combination thereof
16 which completely surrounds the swimming pool and obstructs access
17 to the swimming pool.
18 (3) "Indoor swimming pool" means a swimming pool which is totally
19 contained within a structure and surrounded on all four sides by walls
20 of the structure.
21 (4) "Outdoor swimming pool" means any swimming pool which is not an
22 indoor pool.
23 (5) "Portable hot tub or spa" means a nonpermanent structure intended for
24 recreational bathing, in which all controls, water-heating and water-
25 circulating equipment are an integral part of the product.
26 (6) "Residential" means that which is situated on the premises of a
27 detached one- or two-family dwelling or a one-family townhouse not
28 more than three stories in height.

1 (7) "Swimming pool" means any structure intended for swimming or
2 recreational bathing that contains water over 24 inches deep. This
3 includes in-ground, aboveground, and on-ground swimming pools, hot
4 tubs, and spas.

5 **"§ 75A-52. Safety requirements.**

6 On and after the effective date of this Article, every residential swimming pool in
7 this State shall have the following safety requirements:

8 (1) The pool must be entirely surrounded by a barrier that meets all of the
9 following requirements:

10 a. The top of the barrier shall be at least 48 inches above grade
11 measured on the side of the barrier which faces away from the
12 swimming pool. The maximum vertical clearance between
13 grade and the bottom of the barrier shall be two inches
14 measured on the side of the barrier which faces away from the
15 swimming pool. Where the top of the pool structure is above
16 grade, such as an aboveground pool, the barrier may be at
17 ground level, such as the pool structure, or mounted on top of
18 the pool structure. Where the barrier is mounted on top of the
19 pool structure, the maximum vertical clearance between the top
20 of the pool structure and the bottom of the barrier shall be four
21 inches.

22 b. Openings in the barrier shall not allow passage of a
23 four-inch-diameter sphere.

24 c. Solid barriers which do not have openings, such as masonry or
25 stone walls, shall not contain indentations or protrusions except
26 for normal construction tolerances and tooled masonry joints.

27 d. If the barrier is composed of horizontal and vertical members
28 and the distance between the tops of the horizontal members is
29 less than 45 inches, the horizontal members shall be located on
30 the swimming pool side of the fence. Spacing between vertical
31 members shall not exceed one and three-fourths inches in
32 width. If there are decorative cutouts within vertical members,
33 spacing within the cutouts shall not exceed one and three-
34 fourths inches in width.

35 e. If the barrier is composed of horizontal and vertical members
36 and the distance between the tops of the horizontal members is
37 45 inches or more, spacing between vertical members shall not
38 exceed four inches. If there are decorative cutouts within
39 vertical members, spacing within the cutouts shall not exceed
40 one and three-fourths inches in width.

41 f. If the barrier is composed of diagonal members, such as a
42 lattice fence, the maximum opening formed by the diagonal
43 members shall not be more than one and three-fourths inches.

1 g. If the barrier is a chain link fence, the maximum mesh size shall
2 be a one and one-fourth-inch square unless the fence is
3 provided with slats fastened at the top or the bottom which
4 reduce the openings to not more than one and three-fourths
5 inches.

6 (2) Any gate providing direct access to the pool must meet all of the
7 following requirements:

8 a. It shall comply with the requirements in subdivision (1) of this
9 section.

10 b. It shall be equipped to accommodate a locking device.

11 c. If it is a pedestrian-access gate, it shall open outward away from
12 the pool and shall be self-closing and self-latching.

13 d. If it is other than a pedestrian-access gate, it shall have a self-
14 latching device.

15 (3) Any release mechanism on a self-latching device must meet the
16 following requirements:

17 a. It must be placed no lower than 54 inches from the bottom of
18 the gate; or

19 b. If it is located less than 54 inches from the bottom of the gate, it
20 shall be located on the pool side of the gate at least three inches
21 below the top of the gate, and the gate and barrier shall have no
22 opening greater than one-half inch within 18 of the release
23 mechanism.

24 (4) If a wall of a dwelling serves as part of the barrier, one of the
25 following conditions shall be met:

26 a. The pool shall be equipped with a powered safety cover in
27 compliance with ASTM ES 13-89; or

28 b. All doors with direct access to the pool through that wall shall
29 be equipped with an alarm which produces an audible warning
30 when the door and its screen, if present, are opened. The alarm
31 shall sound continuously for a minimum of 30 seconds
32 immediately after the door is opened and be capable of being
33 heard throughout the house during normal household activities.

34 The alarm shall automatically reset under all conditions. The
35 alarm system shall be equipped with a manual means, such as
36 touchpad or switch, to temporarily deactivate the alarm for a
37 single opening. The deactivation shall last for not more than 15
38 seconds. The deactivation switch or switches shall be located at
39 least 54 inches above the threshold of the door; or

40 c. Other means of protection, such as self-closing doors with self-
41 latching devices, approved by the North Carolina Building
42 Code Council, shall be acceptable so long as the degree of
43 protection afforded is not less than the protection afforded by
44 sub-subdivision a. or b. of this subdivision.

1 (5) Where an aboveground pool structure is used as a barrier or where the
2 barrier is mounted on top of the pool structure, and the means of
3 access is a ladder or steps, then the ladder or steps shall be capable of
4 being secured, locked, or removed to prevent access, or the ladder or
5 steps shall be surrounded by a barrier which meets the requirements of
6 subdivisions (1) and (2) of this section. When the ladder or steps are
7 secured, locked, or removed, any opening created shall not allow the
8 passage of a four-inch-diameter sphere.

9 **"§ 75A-53. Duty of contractors and owners.**

10 Any person entering into an agreement to build a residential swimming pool, or sell,
11 rent, or lease property on which is located a residential swimming pool shall give the
12 buyer, lessee, or renter notice of the provisions of this Article.

13 **"§ 75A-54. Penalties.**

14 Any person who owns or leases property on which is located a residential swimming
15 pool that fails to comply with this Article shall be guilty of a Class 3 misdemeanor,
16 except that no penalty shall be imposed if the person corrects the nonconformity within
17 45 days after the date on which the citation was issued.

18 **"§ 75A-55. Exceptions.**

19 This Article does not apply to:

- 20 (1) Any system of pumps, irrigation canals, or irrigation flood control or
21 drainage works constructed or operated for the purpose of storing,
22 delivering, distributing, or conveying water.
23 (2) Any political subdivision that has adopted or adopts a residential pool
24 safety ordinance, provided the ordinance is equal to or more stringent
25 to the provisions of this act.
26 (3) Stock ponds, storage tanks, livestock operations, livestock watering
27 troughs, or other structures used in normal agricultural practices.
28 (4) Any portable hot tub or spa with a safety cover that complies with the
29 ASTM ES 13.
30 (5) Small, temporary pools not more than 24 inches deep designed for use
31 by children which are commonly referred to as "wading pools" or
32 "kiddy pools."

33 **SECTION 2.** The Department of Insurance and the Building Code Council
34 shall amend the State Building Code to comply with this act. Specifically, the
35 requirements of this act for the construction of swimming pools shall apply statewide
36 and shall apply to residential swimming pools as defined in this act. On or before April
37 1, 2002, the Department of Insurance shall report to the General Assembly on any
38 legislative amendments to the North Carolina Building Code required by this act.

39 **SECTION 3.** This act applies to agreements to construct residential
40 swimming pools that are entered into on or after December 1, 2001, and applies to
41 offenses committed on or after that date. Owners and lessors of property on which a
42 completed residential swimming pool is located prior to the effective date of this act
43 have one year from the effective date of this act to comply with the requirements of this

- 1 Article and shall be subject to the penalties in this Article for offenses that occur on or
- 2 after December 1, 2002.