

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 368
Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/22/11
House Committee Substitute Favorable 3/31/11

Short Title: Modify Public Swimming Pool Requirements.

(Public)

Sponsors:

Referred to:

March 21, 2011

A BILL TO BE ENTITLED

1 AN ACT TO (1) MODIFY THE APPLICABILITY OF CERTAIN FENCING
2 REQUIREMENTS TO PUBLIC SWIMMING POOLS; (2) PROVIDE THAT
3 REQUIREMENTS RELATED TO DRESSING AND SANITARY FACILITIES DO NOT
4 APPLY TO INTERACTIVE PLAY ATTRACTIONS; (3) DIRECT THE COMMISSION
5 FOR PUBLIC HEALTH TO STUDY ISSUES RELATED TO FENCING
6 REQUIREMENTS FOR WADING POOLS; AND (4) TEMPORARILY PROHIBIT THE
7 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM
8 ENFORCING CERTAIN REQUIREMENTS RELATED TO FENCING FOR WADING
9 POOLS.
10

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.(a)** Public Swimming Pool Operation Permit: Fencing Requirements.
13 – Notwithstanding Part 10 of Article 8 of Chapter 130A of the General Statutes and rules
14 adopted pursuant to the Part, except as provided in this section, the Department of Environment
15 and Natural Resources shall not deny an operation permit to an owner or operator of a public
16 swimming pool that received an operation permit prior to April 1, 2010, solely due to the
17 failure of the owner or operator to comply with the specific fencing requirements set forth in
18 15A NCAC 18A .2528(a)(1) through 15A NCAC 18A .2528(a)(6) and 15A NCAC 18A
19 .2528(b)(1) through 15A NCAC 18A .2528(b)(2). The Department may deny an operation
20 permit to an owner or operator that fails to comply with these provisions when: (i) at least fifty
21 percent (50%) of the fence has been damaged or destroyed or (ii) the owner or operator elects
22 to replace the fence. The Department may deny an operation permit to an owner or operator
23 that fails to comply with any other rules for public swimming pools adopted by the
24 Commission for Health Services.

25 **SECTION 1.(b)** Public Swimming Pool Owner/Operator Compliance: Fencing
26 Requirements. – Notwithstanding Part 10 of Article 8 of Chapter 130A of the General Statutes
27 and rules adopted pursuant to the Part, except as provided in this section, the owner or operator
28 of a public swimming pool that received an operation permit prior to April 1, 2010, shall not be
29 required to comply with the specific fencing requirements set forth in 15A NCAC 18A
30 .2528(a)(1) through 15A NCAC 18A .2528(a)(6) and 15A NCAC 18A .2528(b)(1) through
31 15A NCAC 18A .2528(b)(2). The owner or operator of a public swimming pool that received
32 an operation permit prior to April 1, 2010, shall be required to comply with these fencing
33 requirements when (i) at least fifty percent (50%) of the fence has been damaged or destroyed
34 or (ii) the owner or operator elects to replace the fence. The owner or operator of a public
35 swimming pool that received an operation permit prior to April 1, 2010, shall comply with all
36 other rules for public swimming pools adopted by the Commission for Public Health.



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1 **SECTION 2.(a)** Interactive Play Attraction Operation Permit: Dressing and
2 Sanitary Facilities. – Notwithstanding Part 10 of Article 8 of Chapter 130A of the General
3 Statutes and rules adopted pursuant to the Part, the Department of Environment and Natural
4 Resources shall not deny an operation permit to an owner or operator of an interactive play
5 attraction, as described in 15A NCAC 18A .2508(2)(d)(v), solely due to the failure of the
6 owner or operator to comply with the dressing and sanitary facilities requirements of 15A
7 NCAC 18A .2526. The Department may deny an operation permit to an owner or operator that
8 fails to comply with any other rules for interactive play attractions adopted by the Commission
9 for Health Services.

10 **SECTION 2.(b)** Interactive Play Attraction Owner/Operator Compliance: Dressing
11 and Sanitary Facilities. – Notwithstanding Part 10 of Article 8 of Chapter 130A of the General
12 Statutes or rules adopted pursuant to the Part, the owner or operator of an interactive play
13 attraction, as described in 15A NCAC 18A .2508(2)(d)(v), shall not be required to comply with
14 the dressing and sanitary facilities requirements of 15A NCAC 18A .2526. The owner or
15 operator of an interactive play attraction shall comply with all other rules for interactive play
16 attractions adopted by the Commission for Public Health.

17 **SECTION 3.(a)** Wading Pool Fence Study. – The Commission for Public Health
18 shall review the safety benefits of 15A NCAC 18A .2531(a)(7), which requires a wading pool
19 to be separated from a swimming pool by a fence or other structure. As part of its review, the
20 Commission shall specifically consider whether the safety benefits of requiring a fence or other
21 structure between a wading pool and a swimming pool outweigh the safety benefits of allowing
22 a parent with a child in each pool to quickly move between the wading pool and the swimming
23 pool. The Commission shall report its findings and recommendations to the Joint Regulatory
24 Reform Committee by March 1, 2012.

25 **SECTION 3.(b)** Wading Pool Fence Compliance. – From the effective date of this
26 act through July 1, 2012, the Department of Environment and Natural Resources shall not
27 require owners and operators of public swimming pools to comply with 15A NCAC 18A
28 .2531(a)(7).

29 **SECTION 4.** Rule-making Authority. – No later than January 1, 2012, the
30 Commission for Public Health shall adopt rules consistent with the provisions of Sections 1 and
31 2 of this act. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant
32 to this section shall be substantively identical to the provisions of Sections 1 and 2 of this act.

33 **SECTION 5.** This act is effective when it becomes law.