

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 368

Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/22/11

Short Title: Modify Public Swimming Pool Requirements.

(Public)

Sponsors:

Referred to:

March 21, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE APPLICABILITY OF CERTAIN FENCING REQUIREMENTS
3 FOR PUBLIC SWIMMING POOLS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 130A-281 reads as rewritten:

6 "**§ 130A-281. Operation permit required.**

7 (a) No public swimming pool may be opened for use unless the owner or operator has
8 obtained an operation permit issued by the Department pursuant to rules adopted under
9 G.S. 130A-282.

10 (b) The Department shall not deny an operation permit to an owner or operator of a
11 public swimming pool that received an operation permit prior to April 1, 2010, solely due to the
12 failure of the owner or operator to comply with the fencing requirements set forth in 15A
13 NCAC 18A .2528(a)(1) through 15A NCAC 18A .2528(a)(6) and 15A NCAC 18A .2528(b)(1)
14 through 15A NCAC 18A .2528(b)(2), except that the Department may deny an operation
15 permit to an owner or operator that fails to comply with these provisions when (i) at least fifty
16 percent (50%) of the fence has been damaged or destroyed or (ii) the owner or operator elects
17 to replace the fence."

18 **SECTION 2.** G.S. 130A-282(b) reads as rewritten:

19 "(b) ~~Exception.~~ Exceptions. –

20 (1) ~~Public swimming pools~~ The owner or operator of a public swimming pool
21 constructed or remodeled prior to May 1, 1993, that ~~do~~ does not meet
22 specific design and construction requirements of the rules for public
23 swimming pools adopted by the Commission shall not be required to comply
24 with design and construction requirements other than requirements related to
25 the abatement of suction hazards. ~~Public swimming pools~~ The owner or
26 operator of a public swimming pool constructed or remodeled prior to May
27 1, 1993, shall comply with all other rules for public swimming pools adopted
28 by the Commission.

29 (2) The owner or operator of a public swimming pool with a fence constructed
30 prior to April 1, 2010, shall be required to comply with the specific fencing
31 requirements set forth in 15A NCAC 18A .2528(a)(1) through 15A NCAC
32 18A .2528(a)(6) and 15A NCAC 18A .2528(b)(1) through 15A NCAC 18A
33 .2528(b)(2) only when (i) at least fifty percent (50%) of the fence has been
34 damaged or destroyed or (ii) the owner or operator elects to replace the
35 fence. The owner or operator of a public swimming pool that received an
36 operation permit prior to April 1, 2010, shall comply with all other rules for
37 public swimming pools adopted by the Commission.



1 (3) The owner or operator of a fountain is not required to provide dressing and
2 sanitation facilities or fencing in connection with the fountain if the fountain
3 (i) is located on public grounds or in a public park; (ii) is not associated with
4 a swimming pool; (iii) incorporates devices using sprayed, jetted, or other
5 water sources that come into contact with the users; and (iv) does not
6 incorporate standing water as part of the user activity area. The owner or
7 operator of this type of fountain shall comply with all other rules adopted by
8 the Commission for public swimming pools classified as interactive play
9 attractions."

10 **SECTION 3.** The Commission shall review the safety benefits of 15A NCAC 18A
11 .2531(a)(7), which requires a wading pool to be separated from a swimming pool by a fence or
12 other structure. As part of its review, the Commission shall specifically consider whether the
13 safety benefits of requiring a fence or other structure between a wading pool and a swimming
14 pool outweigh the safety benefits of allowing a parent with a child in each pool to quickly
15 move between the wading pool and the swimming pool. The Commission shall report its
16 findings and recommendations to the Joint Regulatory Reform Committee by March 1, 2012.

17 **SECTION 4.** From the effective date of this act through July 1, 2012, the
18 Department shall not require owners and operators of public swimming pools to comply with
19 15A NCAC 18A .2531(a)(7).

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