

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 368
PROPOSED COMMITTEE SUBSTITUTE S368-PCS15096-RI-5

Short Title: Modify Public Swimming Pool Requirements.

(Public)

Sponsors:

Referred to:

March 21, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE APPLICABILITY OF CERTAIN FENCING REQUIREMENTS
FOR PUBLIC SWIMMING POOLS.

The General Assembly of North Carolina enacts:

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

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

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

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

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

"(b) ~~Exception.~~ Exceptions. –

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

(2) The owner or operator of a public swimming pool with a fence constructed prior to April 1, 2010, shall be required to comply with the specific fencing requirements set forth in 15A NCAC 18A .2528(a)(1) through 15A NCAC 18A .2528(a)(6) and 15A NCAC 18A .2528(b)(1) through 15A NCAC 18A .2528(b)(2) only when (i) at least fifty percent (50%) of the fence has been damaged or destroyed or (ii) the owner or operator elects to replace the



1 fence. The owner or operator of a public swimming pool that received an
2 operation permit prior to April 1, 2010, shall comply with all other rules for
3 public swimming pools adopted by the Commission.

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

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

20 **SECTION 4.** From the effective date of this act through July 1, 2012, the
21 Department shall not require owners and operators of public swimming pools to comply with
22 15A NCAC 18A .2531(a)(7).

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