

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2011**

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**SENATE BILL 368**

**Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/22/11**  
**PROPOSED HOUSE COMMITTEE SUBSTITUTE S368-PCS85135-SB-8**

Short Title:   Modify Public Swimming Pool Requirements.

(Public)

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Sponsors:

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Referred to:

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March 21, 2011

A BILL TO BE ENTITLED

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

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



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

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

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

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

28 **SECTION 3.(b)** Wading Pool Fence Compliance. – From the effective date of this  
29 act through July 1, 2012, the Department of Environment and Natural Resources shall not  
30 require owners and operators of public swimming pools to comply with 15A NCAC 18A  
31 .2531(a)(7).

32 **SECTION 4.** Rule-making Authority. – No later than January 1, 2012, the  
33 Commission for Public Health shall adopt rules consistent with the provisions of Sections 1 and  
34 2 of this act. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant  
35 to this section shall be substantively identical to the provisions of Sections 1 and 2 of this act.

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