
DIGEST

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Walker

HB No. 320

Abstract: Creates the Louisiana Residential Swimming Pool Safety Act.

Present law provides that parish and municipal governing authorities may adopt ordinances regulating the enclosure of residential and commercial swimming pools, but that such ordinance shall be subject to judicial review on the grounds of abuse of discretion, unreasonable exercise of police powers, excessive use of the power herein granted, or the denial of the right of due process. Present law also provides that the provisions of present law shall not apply to municipalities or parishes that either have an existing ordinance that governs fencing of commercial swimming pools or have a home rule charter.

Proposed law changes present law by providing that the provisions of present law shall only apply to commercial swimming pools.

Proposed law provides for definitions.

Proposed law provides that every parish and municipality in this state shall adopt a local ordinance that requires residential swimming pools within its jurisdiction to be equipped with at least one of the following pool safety features:

- (1) The pool shall be enclosed by a barrier that meets the requirements of proposed law.
- (2) The pool shall be equipped with an approved pool safety cover as provided for in proposed law.

Proposed law provides that a barrier shall meet all of the following requirements:

- (1) The barrier shall enclose the entire residential swimming pool and have a minimum height of 60" above the ground as measured on the exterior side of the barrier.
- (2) The barrier shall have no openings or voids that allow passage of a sphere equal to or greater than four inches in diameter.
- (3) The barrier shall not contain openings, handholds, or footholds that are accessible from the exterior side of the barrier that can be used to climb the barrier.
- (4) The barrier access gates, not including doorways or windows of the residence if such residence is used as part of the barrier, shall open outward away from the pool and be

equipped with self-closing and self-latching devices. The release mechanism of the self-latching device shall comply with one of the following:

- (a) Such device shall be located not less than 54" from the bottom of the gate.
- (b) Such device shall be located on the pool side of the gate and shall have no opening greater than one-half inch within 18" of the release mechanism.

Proposed law provides that the structure of an above-ground residential swimming pool may be used as its barrier, or the barrier for such pool may be mounted on top of its structure, but shall meet all the barrier requirements of proposed law. Proposed law further provides that any ladder or steps that access an above-ground pool shall be capable of being secured, locked, or removed to prevent access or shall be surrounded by a barrier that meets the requirements of proposed law.

Proposed law provides that a barrier shall be maintained in good condition at all times, free from any conditions that would defeat its purpose.

Proposed law provides for the following exceptions to proposed law:

- (1) Any system of sumps, irrigation canals, or irrigation flood control or drainage works constructed or operated for the purpose of storing, delivering, distributing, or conveying water.
- (2) Stock ponds, storage tanks, livestock operations, livestock watering troughs, or other structures used in normal agricultural practices.
- (3) Public swimming pools.
- (4) Residential swimming pools in parishes or municipalities that have adopted a pool barrier ordinance before the effective date of proposed law, provided the ordinance is equal to or more stringent than the provisions of proposed law.
- (5) Residential swimming pools in parishes or municipalities that adopt a pool barrier ordinance after the effective date of proposed law, provided that the ordinance is equal to or more stringent than the provisions of proposed law.
- (6) Small, temporary pools without motors that are commonly referred to or known as "kiddy pools".

Proposed law provides that proposed law shall be enforced exclusively by the parish or municipality adopting an ordinance pursuant to proposed law and such parish or municipality shall determine any fines imposed for noncompliance and any procedures for abatement or remedying of the noncompliance. However, proposed law provides that a residential pool owner shall be guilty of a misdemeanor if he fails to comply with an ordinance adopted pursuant to proposed law within 45 days of receiving a citation for a violation of such local ordinance.

(Amends R.S. 33:4875.1; Adds R.S. 40:2861-2865)