

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1783

By: Boyd (Laura)

AS INTRODUCED

An Act relating to public health and safety; enacting the Swimming Pool Safety Act; providing short title; stating Legislative findings; stating purpose; defining terms; requiring certain enclosures; requiring certain duty of contractors and owners; providing exceptions; providing penalties; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Swimming Pool Safety Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Legislature hereby finds and declares that:

1. The accidental death and injury of children as a result of drowning or accidents in swimming pools constitutes a serious threat

to the people of this state, and the prevention of such death and injury is a goal of its people;

2. According to estimates of the United States Consumer Product Safety Commission, many children less than five (5) years of age die by drowning in residential swimming pools. Many other children sustained non-fatal injuries from submersion and were treated in hospital emergency rooms;

3. Studies suggest that the incidence of swimming pool drownings in municipalities with requirements for protective enclosures is significantly lower than the rate in municipalities without such requirements;

4. Reducing the incidence of accidental death and injury due to drowning is both a public and private responsibility; and

5. Swimming pools that are not entirely surrounded by an enclosure designed and constructed to keep unsupervised young children away from them are a threat to public health and safety and constitute a public nuisance.

B. The purpose of the Swimming Pool Safety Act is to reduce the incidence of accidental death and injury due to drowning by requiring owners of nonpublic swimming pools to erect enclosures around their swimming pools.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Swimming Pool Safety Act:

1. "Swimming pool" means any man-made watertight tank or cavity or other contained body of water, which is wider than eight feet (8') at any point and contains water more than eighteen inches (18") in depth, intended for the use of persons in bathing, wading, swimming, water sports, or other aquatic activity. Such term applies whether the swimming pool is placed below or above ground level;

2. "Public swimming pool" means a swimming pool operated for the use of the general public, with or without charge, or for the use of the members and guests of a private club. Such term does not include a swimming pool located on the grounds of a private home, apartment complex, hotel, motel, or other residential facility;

3. "Enclosure" means a fence, wall, or other barrier which entirely surrounds a swimming pool and has all of the following characteristics:

- a. isolates the swimming pool from the remainder of the property on which it is located, including from any children's play area,
- b. minimum height of sixty inches (60"),
- c. maximum vertical clearance from ground to bottom of enclosure of two inches (2"),
- d. openings, if any, cannot allow passage of a sphere equal to or greater than four inches (4") in width or diameter,
- e. outside surface free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds and could enable a child less than five (5) years of age to climb over,
- f. placed no fewer than twenty inches (20") from the edge of the swimming pool,
- g. except as provided in subparagraph h of this paragraph, any access doors or gates open outward away from the swimming pool and are self-closing with a self-latching device placed no lower to the ground than sixty inches (60"),
- h. where a disabled person resides on the property where the swimming pool is located, a key-locking latch may be substituted for the self-latching device,

- i. a wall of a building may serve as one portion of an enclosure only if the wall contains no doors or windows that open to provide access into the pool enclosure; and

4. "Hot tub or spa" means a man-made structure containing water intended for recreational use in which all controls, water-heating equipment and water-circulating equipment are an integral part of the unit.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

Except as provided in Section 6 of this act, on and after July 1, 1994, every swimming pool in this state shall be entirely surrounded by an enclosure.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any person entering into an agreement to build a swimming pool, or sell, rent, or lease property on which is located a swimming pool shall give the buyer, lessee, or renter notice of the provisions of the Swimming Pool Safety Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Swimming Pool Safety Act shall not apply to:

1. Public swimming pools;
2. Hot tubs or spas with locking safety covers that comply with the American Society for Testing Materials - Emergency performance specifications (ASTM-ES 13-89); and
3. Political subdivisions that adopt ordinances for swimming pool safety which include enclosure requirements that are at least as stringent as the provisions of this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

In addition to any other penalties that may be prescribed by law, the owner or lessee of any property on which is located a swimming pool that is found to be out of conformity with the Swimming Pool Safety Act, upon conviction, shall be punished as follows:

1. An owner not previously convicted of a violation of the Swimming Pool Safety Act, upon conviction, shall be guilty of a misdemeanor and fined not more than One Hundred Dollars (\$100.00) and ordered to correct the nonconformity. Provided, however, no fine may be imposed if the defendant shows that the nonconformity was corrected within forty-five (45) days of the date on which a citation was issued;

2. An owner previously convicted of not more than one (1) violation of the Swimming Pool Safety Act, upon conviction of a second violation, shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not more than sixty (60) days or both such fine and imprisonment, and ordered to correct the nonconformity; and

3. An owner previously convicted of more than one (1) violation of the Swimming Pool Safety Act, upon conviction of any additional violations, shall be guilty of a misdemeanor and required to pay a mandatory fine of One Thousand Dollars (\$1,000.00) and imprisoned in the county jail for not more than one (1) year.

SECTION 8. This act shall become effective July 1, 1993.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-5842

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