

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 732
SENATE BILL 1517

AN ACT TO AUTHORIZE THE COMMISSION FOR HEALTH SERVICES TO
ADOPT RULES TO MINIMIZE THE RISK OF INJURY TO CHILDREN WHO
USE PUBLIC SWIMMING POOLS.

Whereas, in recent years four children in North Carolina have suffered suction-related injuries while playing in public wading pools. These injuries were severe in three of the four cases and in one recent case the injuries were so extensive as to be life-threatening and cause permanent physical damage to the child; and

Whereas, the injuries to these children occurred in public wading pools where there was a single drain only, only one drain outlet to the pump, and the cover to the drain was not in place; and

Whereas, although current standards require that drain covers be secured, the covers are susceptible to easy and quick removal, thus making it difficult for a pool operator to ensure that the drain covers are in place at all times during pool operation; and

Whereas, construction and design standards can be established to minimize the risk of suction injuries without requiring extensive remodeling to the pool, thus making the cost of complying with these standards reasonable; and

Whereas, the cost of treatment for one serious suction injury is many times greater than the cost to bring all pools to minimum standards; and

Whereas, the General Assembly recognizes that the risk of serious injury to children compels immediate action by the State to minimize that risk; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 1995, except subsection (c) which becomes effective 30 days after ratification, G.S. 130A-282 reads as rewritten:

"§ 130A-282. Commission to adopt rules; exception.

(a) Rules Required. For protection of the public health and safety, the Commission shall adopt and the Department shall enforce rules concerning the construction and operation of public swimming pools. The Commission shall classify public swimming pools on the basis of size, usage, type, or any other appropriate factor and shall adopt requirements for each classification. The rules shall include requirements for:

- (1) Submission and review of plans prior to construction.
- (2) Application, review, expiration, renewal, and revocation or suspension of an operating permit.

- (3) Inspection.
- (4) Design and construction including materials, depth and other dimensions, and standards for the abatement of suction hazards. Construction and operation including water source, water quality and testing, materials, depth and other dimensions, fencing, water treatment, chemical storage, toilet and bath facilities, measures to ensure the personal cleanliness of bathers, safety equipment and other safety measures, and sewage and other wastewater disposal.
- (5) Operation and safety including water source, water quality and testing, fencing, water treatment, chemical storage, toilet and bath facilities, measures to ensure the personal cleanliness of bathers, safety equipment and other safety measures, and sewage and other wastewater disposal.

(b) Exception. Public swimming pools constructed or remodeled prior to May 1, 1993, that do 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 ~~the design and construction requirements.~~ requirements other than requirements related to the abatement of suction hazards. Public swimming pools constructed or remodeled prior to May 1, 1993, shall comply with all other rules for public swimming pools adopted by the Commission.

(c) No single drain, single suction outlet public swimming pools less than 18 inches deep shall be allowed to operate."

Sec. 2. Effective January 1, 1995, except subsection (c) which becomes effective 30 days after ratification, G.S. 130A-23 reads as rewritten:

"§ 130A-23. Suspension and revocation of permits and program participation.

(a) The Secretary may suspend or revoke a permit issued under this Chapter upon a finding that a violation of the applicable provisions of this Chapter, the rules of the Commission or a condition imposed upon the permit has occurred. A permit may also be suspended or revoked upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit.

(b) The Secretary may suspend or revoke a person's participation in a program administered under this Chapter upon a finding that a violation of the applicable provisions of this Chapter or the rules of the Commission has occurred. Program participation may also be suspended or revoked upon a finding that participation was based upon incorrect or inadequate information that materially affected the decision to grant program participation.

(c) A person shall be given notice that there has been a tentative decision to suspend or revoke the permit or program participation and that an administrative hearing will be held in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act, at which time the person may challenge the tentative decision.

(d) A permit shall be suspended or revoked immediately if a violation of the Chapter, the rules or a condition imposed upon the permit presents an imminent hazard. An operation permit issued pursuant to G.S. 130A-281 shall be immediately suspended

for failure of a public swimming pool to maintain minimum water quality or safety standards or design and construction standards pertaining to the abatement of suction hazards which result in an unsafe condition. A permit issued pursuant to G.S. 130A-228 or G.S. 130A-248 shall be revoked immediately for failure of a market or a facility to maintain a minimum grade of C. The Secretary shall immediately give notice of the suspension or revocation and shall immediately file a petition for a contested case in accordance with G.S. 150B-23."

Sec. 3. The Commission for Health Services shall adopt whatever temporary rules it deems necessary to minimize the risk of suction-related injuries to children during the 1994 pool season.

Sec. 4. The Department of Environment, Health, and Natural Resources shall disseminate not later than 15 days after ratification of this act written information designed to adequately inform local health departments, public swimming pool operators, and the general public of the presence of and ways to avoid hazards related to the use and operation of public swimming pools. This information shall include easily understandable language relating to suction hazards in wading pools.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives