

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

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**HOUSE BILL 1890\***

Short Title: Pool Safety.

(Public)

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Sponsors: Representatives Luebke, Mosley; and Colton.

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Referred to: Health and Human Services.

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May 30, 1994

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE COMMISSION FOR HEALTH SERVICES TO  
2 ADOPT RULES TO MINIMIZE THE RISK OF INJURY TO CHILDREN WHO  
3 USE PUBLIC SWIMMING POOLS.  
4

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

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

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

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

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

21 Whereas, the General Assembly recognizes that the risk of serious injury to  
22 children compels immediate action by the State to minimize that risk; Now, therefore,  
23 The General Assembly of North Carolina enacts:

24 Section 1. Effective January 1, 1995, G.S. 130A-282 reads as rewritten:

1 **"§ 130A-282. Commission to adopt rules; exception.**

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

8 (1) Submission and review of plans prior to construction.

9 (2) Application, review, expiration, renewal, and revocation or suspension  
10 of an operating permit.

11 (3) Inspection.

12 (4) Design and construction including materials, depth and other  
13 dimensions, and standards for the abatement of suction hazards.  
14 ~~Construction and operation including water source, water quality and testing,~~  
15 ~~materials, depth and other dimensions, fencing, water treatment, chemical~~  
16 ~~storage, toilet and bath facilities, measures to ensure the personal cleanliness~~  
17 ~~of bathers, safety equipment and other safety measures, and sewage and~~  
18 ~~other wastewater disposal.~~

19 (5) Operation and safety including water source, water quality and testing,  
20 fencing, water treatment, chemical storage, toilet and bath facilities,  
21 measures to ensure the personal cleanliness of bathers, safety  
22 equipment and other safety measures, and sewage and other  
23 wastewater disposal.

24 (b) Exception. Public swimming pools constructed or remodeled prior to May 1,  
25 1993, that do not meet specific design and construction requirements of the rules for  
26 public swimming pools adopted by the Commission shall not be required to comply  
27 with ~~the design and construction requirements.~~ requirements other than requirements  
28 related to the abatement of suction hazards. Public swimming pools constructed or  
29 remodeled prior to May 1, 1993, shall comply with all other rules for public swimming  
30 pools adopted by the Commission."

31 Sec. 2. Effective January 1, 1995, G.S. 130A-23 reads as rewritten:

32 **"§ 130A-23. Suspension and revocation of permits and program participation.**

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

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

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

6 (d) A permit shall be suspended or revoked immediately if a violation of the  
7 Chapter, the rules or a condition imposed upon the permit presents an imminent hazard.  
8 An operation permit issued pursuant to G.S. 130A-281 shall be immediately suspended  
9 for failure of a public swimming pool to maintain minimum water quality or safety  
10 standards or design and construction standards pertaining to the abatement of suction  
11 hazards which result in an unsafe condition. A permit issued pursuant to G.S. 130A-228  
12 or G.S. 130A-248 shall be revoked immediately for failure of a market or a facility to  
13 maintain a minimum grade of C. The Secretary shall immediately give notice of the  
14 suspension or revocation and shall immediately file a petition for a contested case in  
15 accordance with G.S. 150B-23."

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

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

25 Sec. 5. This act is effective upon ratification.