

Assembly Bill No. 2114

CHAPTER 679

An act to amend Sections 115921, 115928, 115928.5, 116064, and 116064.2 of the Health and Safety Code, relating to public safety.

[Approved by Governor September 28, 2012. Filed with
Secretary of State September 28, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2114, Smyth. Swimming pool safety.

(1) The Swimming Pool Safety Act generally requires, whenever a building permit is issued for the construction of a new swimming pool or spa, the pool or spa to be equipped with specified safety features, including that the swimming pool or spa have at least 2 circulation drains per pump that are hydraulically balanced, and symmetrically plumbed through one or more "T" fittings, and that are separated by a distance of at least 3 feet in any dimension between the drains. Existing law also requires a public wading pool to have at least 2 circulation drains per pump, as specified, that are separated by a distance of at least 3 feet in any dimension between the drains.

This bill would instead require a swimming pool, spa, or public wading pool that is subject to the above safety provisions to have at least 2 circulation suction outlets, as defined, per pump, and be separated by a distance of at least 3 feet in any dimension between the suction outlets, or be designed to use alternatives to suction outlets, including, but not limited to, skimmers or perimeter overflow systems to conduct water to the recirculation pump. The bill would also require the circulation system to have the capacity to provide a complete turnover of pool water, as specified.

(2) Existing law requires a building permit issued for the remodel or modification of an existing swimming pool, toddler pool, or spa to require the suction outlet of the pool or spa to be upgraded with an antientrapment cover meeting ASTM or ASME standards.

This bill would instead require those building permits to require all outlets for a swimming pool, toddler pool, or spa to be upgraded with an antientrapment cover meeting ANSI/APSP performance standards, as defined.

(3) Existing law requires public swimming pools, as defined, to be equipped with antientrapment devices or systems that meet ASME/ANSI or ASTM performance standards, as defined. Existing law further requires every public swimming pool with a single main drain that is not an unblockable drain to be equipped with at least one or more safety devices designed to prevent physical entrapment by pool drains. Existing law also requires public wading pool main drain suction outlets to be covered with grates, antivortex plates, or similar protective devices, as specified.

This bill would instead require every public swimming pool with a single suction outlet, as defined, that is not an unblockable suction outlet to be equipped with at least one or more safety devices that meet ANSI/APSP performance standards. The bill would also require all public wading pool suction outlets to be covered with grates, antivortex plates, or similar protective devices, as specified. The bill would additionally require a public swimming pool that has a suction outlet in any location other than on the bottom of the pool to be designed so that the recirculation system has a capacity to provide a complete turnover of pool water within prescribed times based on the pool type, as specified.

(4) Existing law requires the State Department of Public Health to issue a form for use by an owner of a public swimming pool to indicate compliance with specified safety provisions. Under existing law, the form is required to be completed by the owner of a public swimming pool prior to filing the form with the appropriate city, county, or city and county department of environmental health, and is required to include specified information. This information includes a statement of whether the pool operates with a single or split main drain.

This bill would require that form to instead include a statement of whether the pool operates with a single suction outlet or multiple suction outlets. The bill would make other related changes. By imposing new duties on local government officials, the bill would impose a state-mandated local program.

Under existing law, violation of these swimming pool safety requirements constitutes a misdemeanor. This bill, by expanding the definition of an existing crime, would impose a state-mandated local program.

(5) This bill would incorporate additional changes to Section 116064 of the Health and Safety Code proposed by SB 1099, that would become operative only if SB 1099 and this bill are both enacted, both bills become effective on or before January 1, 2012 and this bill is enacted last.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 115921 of the Health and Safety Code is amended to read:

115921. As used in this article the following terms have the following meanings:

(a) “Swimming pool” or “pool” means any structure intended for swimming or recreational bathing that contains water over 18 inches deep. “Swimming pool” includes in-ground and aboveground structures and

includes, but is not limited to, hot tubs, spas, portable spas, and nonportable wading pools.

(b) “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. Public swimming pool does not include a swimming pool located on the grounds of a private single-family home.

(c) “Enclosure” means a fence, wall, or other barrier that isolates a swimming pool from access to the home.

(d) “Approved safety pool cover” means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.

(e) “Exit alarms” means devices that make audible, continuous alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.

(f) “ANSI/APSP performance standard” means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(g) “Suction outlet” means a fitting or fixture typically located at the bottom or on the sides of a swimming pool that conducts water to a recirculating pump.

SEC. 2. Section 115928 of the Health and Safety Code is amended to read:

115928. Whenever a building permit is issued for the construction of a new swimming pool or spa, the pool or spa shall meet all of the following requirements:

(a) (1) The suction outlets of the pool or spa for which the permit is issued shall be equipped to provide circulation throughout the pool or spa as prescribed in paragraphs (2) and (3).

(2) The swimming pool or spa shall either have at least two circulation suction outlets per pump that shall be hydraulically balanced and symmetrically plumbed through one or more “T” fittings, and that are separated by a distance of at least three feet in any dimension between the suction outlets, or be designed to use alternatives to suction outlets, including, but not limited to, skimmers or perimeter overflow systems to conduct water to the recirculation pump.

(3) The circulation system shall have the capacity to provide a complete turnover of pool water, as specified in Section 3124B of Chapter 31B of the California Building Standards Code (Title 24 of the California Code of Regulations).

(b) Suction outlets shall be covered with antientrapment grates, as specified in the ANSI/APSP-16 performance standard or successor standard designated by the federal Consumer Product Safety Commission, that cannot be removed except with the use of tools. Slots or openings in the grates or

similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(c) Any backup safety system that an owner of a new swimming pool or spa may choose to install in addition to the requirements set forth in subdivisions (a) and (b) shall meet the standards as published in the document, “Guidelines for Entrapment Hazards: Making Pools and Spas Safer,” Publication Number 363, March 2005, United States Consumer Product Safety Commission.

SEC. 3. Section 115928.5 of the Health and Safety Code is amended to read:

115928.5. Whenever a building permit is issued for the remodel or modification of an existing swimming pool, toddler pool, or spa, the permit shall require that the suction outlet or suction outlets of the existing swimming pool, toddler pool, or spa be upgraded so as to be equipped with antientrapment grates, as specified in the ANSI/APSP-16 performance standard or a successor standard designated by the federal Consumer Product Safety Commission.

SEC. 4. Section 116064 of the Health and Safety Code is amended to read:

116064. (a) As used in this section the following words have the following meanings:

(1) (A) “Public wading pool” means a pool that meets all of the following criteria:

(i) It has a maximum water depth not exceeding 18 inches.

(ii) It is a pool other than a pool that is located on the premises of a one-unit or two-unit residence, intended solely for the use of the residents or guests.

(B) “Public wading pool” includes, but is not limited to, a pool owned or operated by private persons or agencies, or by state or local governmental agencies.

(C) “Public wading pool” includes, but is not limited to, a pool located in an apartment house, hotel, or similar setting, that is intended for the use of residents or guests.

(2) “Alteration” means any of the following:

(A) To change, modify, or rearrange the structural parts or the design.

(B) To enlarge.

(C) To move the location of.

(D) To install a new water circulation system.

(E) To make any repairs costing fifty dollars (\$50) or more to an existing circulation system.

(3) “ANSI/APSP performance standard” means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(4) “Suction outlet” means a fitting or fixture typically located at the bottom or on the sides of a swimming pool that conducts water to a recirculating pump.

(b) A public wading pool shall have at least two circulation suction outlets per pump that are hydraulically balanced and symmetrically plumbed through one or more “T” fittings, and are separated by a distance of at least three feet in any dimension between the suction outlets.

(c) All public wading pool suction outlets shall be covered with antivortex grates or similar protective devices. All suction outlets shall be covered with grates or antivortex plates that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(d) (1) The State Department of Health Services may adopt regulations pursuant to this section.

(2) The regulations may include, but not be limited to, standards permitting the use of alternative devices or safeguards, or incorporating new technologies, that produce, at a minimum, equivalent protection against entrapment and suction hazard, whenever these devices, safeguards, or technologies become available to the public.

(3) Regulations adopted pursuant to this section constitute building standards and shall be forwarded pursuant to subdivision (e) of Section 11343 of the Government Code to the California Building Standards Commission for approval as set forth in Section 18907 of the Health and Safety Code.

(e) The California Building Standards Commission shall approve the building standards as set forth in this section and publish them in the California Building Standards Code by November 1, 1999. The commission shall publish the text of this section in Title 24 of the California Code of Regulations, Part 2, Chapter 31B, requirements for public swimming pools, with the following note: “NOTE: These building standards are in statute but have not been adopted through the regulatory process.” Enforcement of the standards set forth in this section does not depend upon adoption of regulations, therefore, enforcement agencies shall enforce the standards pursuant to the timeline set forth in this section prior to adoption of related regulations.

(f) The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pump’s flow comes from the circulation system and any suction outlet in the system is completely blocked.

(g) On and after January 1, 1998, all newly constructed public wading pools shall be constructed in compliance with this section.

(h) Commencing January 1, 1998, whenever a construction permit is issued for alteration of an existing public wading pool, it shall be retrofitted so as to be in compliance with this section.

(i) By January 1, 2000, every public wading pool, regardless of the date of original construction, shall be retrofitted to comply with this section.

SEC. 4.5. Section 116064 of the Health and Safety Code is amended to read:

116064. (a) As used in this section the following words have the following meanings:

(1) (A) “Public wading pool” means a pool that meets all of the following criteria:

(i) It has a maximum water depth not exceeding 18 inches.

(ii) It is a pool other than a pool that is located on the premises of a one-unit or two-unit residence, intended solely for the use of the residents or guests.

(B) “Public wading pool” includes, but is not limited to, a pool owned or operated by private persons or agencies, or by state or local governmental agencies.

(C) “Public wading pool” includes, but is not limited to, a pool located in an apartment house, hotel, or similar setting, that is intended for the use of residents or guests.

(2) “Alteration” means any of the following:

(A) To change, modify, or rearrange the structural parts or the design.

(B) To enlarge.

(C) To move the location of.

(D) To install a new water circulation system.

(E) To make any repairs costing fifty dollars (\$50) or more to an existing circulation system.

(3) “ANSI/APSP performance standard” means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(4) “Suction outlet” means a fitting or fixture typically located at the bottom or on the sides of a swimming pool that conducts water to a recirculating pump.

(b) A public wading pool shall have at least two circulation suction outlets per pump that are hydraulically balanced and symmetrically plumbed through one or more “T” fittings, and are separated by a distance of at least three feet in any dimension between the suction outlets.

(c) All public wading pool suction outlets shall be covered with antivortex grates or similar protective devices. All suction outlets shall be covered with grates or antivortex plates that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(d) (1) The State Department of Health Services may adopt regulations pursuant to this section.

(2) The regulations may include, but not be limited to, standards permitting the use of alternative devices or safeguards, or incorporating new technologies, that produce, at a minimum, equivalent protection against entrapment and suction hazard, whenever these devices, safeguards, or technologies become available to the public.

(3) Regulations adopted pursuant to this section constitute building standards and shall be forwarded pursuant to Section 11343 of the

Government Code to the California Building Standards Commission for approval as set forth in Section 18907 of the Health and Safety Code.

(e) The California Building Standards Commission shall approve the building standards as set forth in this section and publish them in the California Building Standards Code by November 1, 1999. The commission shall publish the text of this section in Title 24 of the California Code of Regulations, Part 2, Chapter 31B, requirements for public swimming pools, with the following note: “NOTE: These building standards are in statute but have not been adopted through the regulatory process.” Enforcement of the standards set forth in this section does not depend upon adoption of regulations, therefore, enforcement agencies shall enforce the standards pursuant to the timeline set forth in this section prior to adoption of related regulations.

(f) The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pump’s flow comes from the circulation system and any suction outlet in the system is completely blocked.

(g) On and after January 1, 1998, all newly constructed public wading pools shall be constructed in compliance with this section.

(h) Commencing January 1, 1998, whenever a construction permit is issued for alteration of an existing public wading pool, it shall be retrofitted so as to be in compliance with this section.

(i) By January 1, 2000, every public wading pool, regardless of the date of original construction, shall be retrofitted to comply with this section.

SEC. 5. Section 116064.2 of the Health and Safety Code is amended to read:

116064.2. (a) As used in this section, the following words have the following meanings:

(1) “ANSI/APSP performance standard” means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(2) “ASME/ANSI performance standard” means a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(3) “ASTM performance standard” means a standard that is developed and published by ASTM International.

(4) “Public swimming pool” means an outdoor or indoor structure, whether in-ground or above-ground, intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, or nonportable wading pool, that is any of the following:

(A) Open to the public generally, whether for a fee or free of charge.

(B) Open exclusively to members of an organization and their guests, residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area, or patrons of a hotel or other public accommodations facility.

(C) Located on the premises of an athletic club, or public or private school.

(5) “Qualified individual” means a contractor who holds a current valid license issued by the State of California or a professional engineer licensed in the State of California who has experience working on public swimming pools.

(6) “Safety vacuum release system” means a vacuum release system that ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected.

(7) “Skimmer equalizer line” means a suction outlet located below the waterline, typically on the side of the pool, and connected to the body of a skimmer that prevents air from being drawn into the pump if the water level drops below the skimmer weir. However, a skimmer equalizer line is not a suction outlet for purposes of subdivisions (c) and (d).

(8) “Suction outlet” means a fitting or fixture of a swimming pool that conducts water to a recirculating pump.

(9) “Unblockable suction outlet” means a suction outlet, including the sump, that has a perforated (open) area that cannot be shadowed by the area of the 18 inch by 23 inch Body Blocking Element of the ANSI/APSP-16 performance standard, and that the rated flow through any portion of the remaining open area cannot create a suction force in excess of the removal force values in Table 1 of that standard.

(b) (1) Subject to subdivision (e), every public swimming pool shall be equipped with antientrapment devices or systems that comply with the ANSI/APSP-16 performance standard or successor standard designated by the federal Consumer Product Safety Commission.

(2) A public swimming pool that has a suction outlet in any location other than on the bottom of the pool shall be designed so that the recirculation system shall have the capacity to provide a complete turnover of pool water within the following time:

- (A) One-half hour or less for a spa pool.
- (B) One-half hour or less for a spray ground.
- (C) One hour or less for a wading pool.
- (D) Two hours or less for a medical pool.
- (E) Six hours or less for all other types of public pools.

(c) Subject to subdivisions (d) and (e), every public swimming pool with a single suction outlet that is not an unblockable suction outlet shall be equipped with at least one or more of the following devices or systems that are designed to prevent physical entrapment by pool drains:

(1) A safety vacuum release system that has been tested by a nationally recognized testing laboratory and found to conform to ASME/ANSI performance standard A112.19.17, as in effect on December 31, 2009, or ASTM performance standard F2387, as in effect on December 31, 2009.

(2) A suction-limiting vent system with a tamper-resistant atmospheric opening, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard.

(3) A gravity drainage system that utilizes a collector tank, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard.

(4) An automatic pump shutoff system tested by a department-approved independent third party and found to conform to any applicable ASME/ANSI or ASTM performance standard.

(5) Any other system that is deemed, in accordance with federal law, to be equally effective as, or more effective than, the systems described in paragraph (1) at preventing or eliminating the risk of injury or death associated with the circulation system of the pool and suction outlets.

(d) Every public swimming pool constructed on or after January 1, 2010, shall have at least two suction outlets per pump that are hydraulically balanced and symmetrically plumbed through one or more “T” fittings, and that are separated by a distance of at least three feet in any dimension between the suction outlets. A public swimming pool constructed on or after January 1, 2010, that meets the requirements of this subdivision, shall be exempt from the requirements of subdivision (c).

(e) A public swimming pool constructed prior to January 1, 2010, shall be retrofitted to comply with subdivisions (b) and (c) by no later than July 1, 2010, except that no further retrofitting is required for a public swimming pool that completed a retrofit between December 19, 2007, and January 1, 2010, that complied with the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. Sec. 8001 et seq.) as in effect on the date of issue of the construction permit, or for a nonportable wading pool that completed a retrofit prior to January 1, 2010, that complied with state law on the date of issue of the construction permit. A public swimming pool owner who meets the exception described in this subdivision shall do one of the following prior to September 30, 2010:

(1) File the form issued by the department pursuant to subdivision (f), as otherwise provided in subdivision (h).

(2) (A) File a signed statement attesting that the required work has been completed.

(B) Provide a document containing the name and license number of the qualified individual who completed the required work.

(C) Provide either a copy of the final building permit, if required by the local agency, or a copy of one of the following documents if no permit was required:

(i) A document that describes the modification in a manner that provides sufficient information to document the work that was done to comply with federal law.

(ii) A copy of the final paid invoice. The amount paid for the services may be omitted or redacted from the final invoice prior to submission.

(f) Prior to March 31, 2010, the department shall issue a form for use by an owner of a public swimming pool to indicate compliance with this section. The department shall consult with county health officers and directors of departments of environmental health in developing the form and shall post the form on the department’s Internet Web site. The form shall be completed by the owner of a public swimming pool prior to filing the form with the appropriate city, county, or city and county department of environmental

health. The form shall include, but not be limited to, the following information:

(1) A statement of whether the pool operates with a single suction outlet or multiple suction outlets that comply with subdivision (d).

(2) Identification of the type of antientrapment devices or systems that have been installed pursuant to subdivision (b) and the date or dates of installation.

(3) Identification of the type of devices or systems designed to prevent physical entrapment that have been installed pursuant to subdivision (c) in a public swimming pool with a single suction outlet that is not an unblockable suction outlet and the date or dates of installation or the reason why the requirement is not applicable.

(4) A signature and license number of a qualified individual who certifies that the factual information provided on the form in response to paragraphs (1) to (3), inclusive, is true to the best of his or her knowledge.

(g) A qualified individual who improperly certifies information pursuant to paragraph (4) of subdivision (f) shall be subject to potential disciplinary action at the discretion of the licensing authority.

(h) Except as provided in subdivision (e), each public swimming pool owner shall file a completed copy of the form issued by the department pursuant to this section with the city, county, or city and county department of environmental health in the city, county, or city and county in which the swimming pool is located. The form shall be filed within 30 days following the completion of the swimming pool construction or installation required pursuant to this section or, if the construction or installation is completed prior to the date that the department issues the form pursuant to this section, within 30 days of the date that the department issues the form. The public swimming pool owner or operator shall not make a false statement, representation, certification, record, report, or otherwise falsify information that he or she is required to file or maintain pursuant to this section.

(i) In enforcing this section, health officers and directors of city, county, or city and county departments of environmental health shall consider documentation filed on or with the form issued pursuant to this section by the owner of a public swimming pool as evidence of compliance with this section. A city, county, or city and county department of environmental health may verify the accuracy of the information filed on or with the form.

(j) To the extent that the requirements for public wading pools imposed by Section 116064 conflict with this section, the requirements of this section shall prevail.

(k) The department shall have no authority to take any enforcement action against any person for violation of this section and has no responsibility to administer or enforce the provisions of this section.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 116064 of the Health and Safety Code proposed by both this bill and Senate Bill 1099. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 116064 of the Health and Safety Code, and (3) this bill is enacted after

Senate Bill 1099, in which case Section 4 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.