

AMENDED IN ASSEMBLY MAY 20, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1020

Introduced by Assembly Members Emmerson and Ma

February 27, 2009

An act to add Section 116064.1 to the Health and Safety Code, relating to swimming pools, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1020, as amended, Emmerson. Public swimming pools: anti-entrapment devices and systems.

Under existing law, public wading pools, as defined, are required to equip drain suction outlets with specified anti-entrapment grates to prevent physical entrapment of the bathers. Under existing law, the Swimming Pool Safety Act, public swimming pools are exempted from that act's requirements that newly constructed pools be equipped with specified safety features, including anti-entrapment grates for drain suction outlets.

This bill would require a public swimming pool, as defined, to be equipped with anti-entrapment devices or systems that meet ASME/ANSI or ASTM performance standards, as specified. It would also require a public swimming pool with a single main drain that is not an unblockable drain to meet at least one of the specified standards. The bill would impose timeframes by which its requirements must be met.

The bill would also specify that any amendments or successors to, or later published editions of, ASME/ANSI or ASTM performance standards relating to anti-entrapment devices or systems would become the applicable standard in California 90 days after publication by ASME/ANSI or ASTM, respectively, provided that the amendments, successors, or later published editions are approved by the department within that 90-day period. The bill would require that if the department approves an amendment or successor to, or later published edition of, a performance standard, the department would be required to adopt and file with the Secretary of State a regulation to that effect.

The bill would require the department to develop, and public swimming pool owners and operators to file, a form to indicate compliance with the requirements of the bill, as specified. The form would be required to include a certification, signed under penalty of perjury, by either a state-licensed contractor or professional engineer that the information provided on the form is true, thereby constituting a violation of the existing crime of perjury.

Violation of the requirements of the bill would constitute a misdemeanor. By creating new crimes, the bill would impose a state-mandated local program.

By imposing new duties on local building officials, the bill would impose a state-mandated local program.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 116064.1 is added to the Health and
- 2 Safety Code, to read:

116064.1. (a) As used in this section, the following words have the following meanings:

(1) “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.

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

(3) “Main drain” means a submerged suction outlet typically located at the bottom of a swimming pool that conducts water to a recirculating pump.

(4) “Public swimming pool” means ~~any~~ *an outdoor or indoor structure intended for swimming or recreational bathing, whether in-ground or above-ground, intended for swimming or recreational bathing, including a hot tub, spa, or portable spa*, that is open to the public generally, whether for a fee or free of charge, 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.

(5) “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.

(6) “Unblockable drain” means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

(b) Any amendments or successors to, or later published editions of, ASME/ANSI or ASTM performance standards relating to anti-entrapment devices or systems shall become the applicable standard in California 90 days after publication by ASME/ANSI or ASTM, respectively, provided that the amendments, successors, or later published editions are approved by the department within 90 days of the publication of the performance standards by ASME/ANSI or ASTM, respectively. Notwithstanding any other law, the adoption of rules and regulations pursuant to this section shall not be subject to the rulemaking requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that, if the department approves an amendment or successor to, or later published edition of, a performance standard,

1 the department shall adopt and file with the Secretary of State a
2 regulation to that effect.

3 (c) Subject to subdivisions (e) to (g), inclusive, every public
4 swimming pool shall be equipped with anti-entrapment devices
5 or systems that comply with ASME/ANSI performance standard
6 A112.19.8, as in effect on the date immediately prior to the
7 effective date of this section, or any applicable ASME/ANSI
8 performance standard that has been adopted by the department
9 pursuant to subdivision (b).

10 (d) Subject to subdivisions (e) to (g), inclusive, every public
11 swimming pool with a single main drain that is not an unblockable
12 drain shall be equipped with at least one or more of the following
13 devices or systems that are designed to prevent physical entrapment
14 by pool drains:

15 (1) A safety vacuum release system that has been tested by a
16 department-approved independent third party and found to conform
17 to ASME/ANSI performance standard A112.19.17, as in effect on
18 the date immediately prior to the effective date of this section, or
19 any applicable ASME/ANSI performance standard that has been
20 adopted by the department pursuant to subdivision (b), or ASTM
21 performance standard F2387, as in effect on the date immediately
22 prior to the effective date of this section, or any applicable ASTM
23 performance standard that has been adopted by the department
24 pursuant to subdivision (b).

25 (2) A suction-limiting vent system with a tamper-resistant
26 atmospheric opening, provided that it conforms to any applicable
27 ASME/ANSI or ASTM performance standard that has been
28 adopted by the department pursuant to subdivision (b).

29 (3) A gravity drainage system that utilizes a collector tank,
30 provided that it conforms to any applicable ASME/ANSI or ASTM
31 performance standard that has been adopted by the department
32 pursuant to subdivision (b).

33 (4) An automatic pump shut-off system tested by a
34 department-approved independent third party and found to conform
35 to any applicable ASME/ANSI or ASTM performance standard
36 that has been adopted by the department pursuant to subdivision
37 (b).

38 (5) Any other system that is deemed, in accordance with federal
39 law, to be equally effective as, or more effective than, the systems
40 described in paragraphs (1) to (4), inclusive, at preventing or

1 eliminating the risk of injury or death associated with pool drainage
2 systems.

3 (e) Subdivisions (c) and (d) shall apply to every public
4 swimming pool constructed on or after December 19, 2009.

5 (f) Commencing December 19, 2009, whenever a construction
6 permit is issued for the alteration of an existing public swimming
7 pool, that public swimming pool shall be retrofitted so as to be in
8 compliance with this section.

9 (g) A public swimming pool constructed prior to December 19,
10 2009, shall be retrofitted to comply with subdivisions (c) and (d)
11 by no later than December 19, 2011.

12 (h) Within 90 days of the effective date of this act, the
13 department shall issue a form for use by owners and operators of
14 public swimming pools to indicate compliance with this section.
15 The department shall consult with county health officers and
16 directors of departments of environmental health in developing
17 the form and shall post the form on the department's Internet Web
18 site. The form shall include, but not be limited to, the following
19 information:

20 (1) A statement of whether the pool operates with a single or
21 split main drain.

22 (2) Identification of the type of anti-entrapment device or system
23 that has been installed and the date of installation.

24 (3) Identification of the type of device or system designed to
25 prevent physical entrapment that has been installed and the date
26 of installation.

27 (4) A signature and license number of either a state-licensed
28 contractor whose license permits the contractor to work on
29 swimming pools and related equipment or a state-licensed
30 professional engineer with experience with public swimming pools
31 who certifies under penalty of perjury that the information provided
32 on the form is true.

33 (i) Each public swimming pool owner or operator shall file a
34 completed copy of the form issued by the department pursuant to
35 this section with the city or county department of environmental
36 health in the city or county in which the swimming pool is located.
37 The form shall be filed within 30 days following the completion
38 of the swimming pool construction or installation required pursuant
39 to subdivisions (e) to (g), inclusive. The public swimming pool
40 owner or operator shall not make a false statement, representation,

1 certification, record, report, or otherwise falsify information that
2 he or she is required to file or maintain pursuant to this section.

3 (j) In enforcing this section, health officers and directors of city
4 or county departments of environmental health shall consider
5 documentation filed on or with the form issued pursuant to this
6 section by the owners and operators of public swimming pools as
7 evidence of compliance with this section. A city or county
8 department of environmental health may verify the accuracy of
9 the information filed on or with the form.

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution for certain
12 costs that may be incurred by a local agency or school district
13 because, in that regard, this act creates a new crime or infraction,
14 eliminates a crime or infraction, or changes the penalty for a crime
15 or infraction, within the meaning of Section 17556 of the
16 Government Code, or changes the definition of a crime within the
17 meaning of Section 6 of Article XIII B of the California
18 Constitution.

19 However, if the Commission on State Mandates determines that
20 this act contains other costs mandated by the state, reimbursement
21 to local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.

24 SEC. 3. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety within
26 the meaning of Article IV of the Constitution and shall go into
27 immediate effect. The facts constituting the necessity are:

28 In order to conform state law with federal requirements for the
29 prevention of drowning, at the earliest possible time, it is necessary
30 that this act take effect immediately.