

AMENDED IN SENATE JULY 2, 2012

AMENDED IN SENATE JUNE 15, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2114

Introduced by Assembly Members Smyth and Hill

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2114, as amended, 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.

(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.

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.

Vote: majority. 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 115921 of the Health and Safety Code
- 2 is amended to read:
- 3 115921. As used in this article the following terms have the
- 4 following meanings:
- 5 (a) "Swimming pool" or "pool" means any structure intended
- 6 for swimming or recreational bathing that contains water over 18
- 7 inches deep. "Swimming pool" includes in-ground and
- 8 above-ground structures and includes, but is not limited to, hot
- 9 tubs, spas, portable spas, and nonportable wading pools.
- 10 (b) "Public swimming pool" means a swimming pool operated
- 11 for the use of the general public with or without charge, or for the
- 12 use of the members and guests of a private club. Public swimming
- 13 pool does not include a swimming pool located on the grounds of
- 14 a private single-family home.
- 15 (c) "Enclosure" means a fence, wall, or other barrier that isolates
- 16 a swimming pool from access to the home.
- 17 (d) "Approved safety pool cover" means a manually or
- 18 power-operated safety pool cover that meets all of the performance
- 19 standards of the American Society for Testing and Materials
- 20 (ASTM), in compliance with standard F1346-91.

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

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

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

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

16 115928. Whenever a building permit is issued for the
17 construction of a new swimming pool or spa, the pool or spa shall
18 meet all of the following requirements:

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

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

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

34 (b) Suction outlets shall be covered with antientrapment grates,
35 as specified in the ANSI/APSP-16 performance standard or
36 successor standard designated by the federal Consumer Product
37 Safety Commission, that cannot be removed except with the use
38 of tools. Slots or openings in the grates or similar protective devices
39 shall be of a shape, area, and arrangement that would prevent

1 physical entrapment and would not pose any suction hazard to
2 bathers.

3 (c) Any backup safety system that an owner of a new swimming
4 pool or spa may choose to install in addition to the requirements
5 set forth in subdivisions (a) and (b) shall meet the standards as
6 published in the document, "Guidelines for Entrapment Hazards:
7 Making Pools and Spas Safer," Publication Number 363, March
8 2005, United States Consumer Product Safety Commission.

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

11 115928.5. Whenever a building permit is issued for the remodel
12 or modification of an existing swimming pool, toddler pool, or
13 spa, the permit shall require that the suction outlet or outlets of the
14 existing swimming pool, toddler pool, or spa be upgraded so as to
15 be equipped with ~~an antientrapment cover meeting current~~
16 ~~standards of the American Society for Testing and Materials~~
17 ~~(ASTM) or the American Society of Mechanical Engineers~~
18 ~~(ASME) grates, as specified in the ANSI/APSP-16 performance~~
19 ~~standard or a successor standard designated by the federal~~
20 ~~Consumer Product Safety Commission.~~

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

23 116064. (a) As used in this section the following words have
24 the following meanings:

25 (1) (A) "Public wading pool" means a pool that meets all of
26 the following criteria:

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

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

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

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

37 (2) "Alteration" means any of the following:

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

40 (B) To enlarge.

1 (C) To move the location of.

2 (D) To install a new water circulation system.

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

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

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

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

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

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

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

32 (3) Regulations adopted pursuant to this section constitute
33 building standards and shall be forwarded pursuant to subdivision
34 (e) of Section 11343 of the Government Code to the California
35 Building Standards Commission for approval as set forth in Section
36 18907 of the Health and Safety Code.

37 (e) The California Building Standards Commission shall approve
38 the building standards as set forth in this section and publish them
39 in the California Building Standards Code by November 1, 1999.
40 The commission shall publish the text of this section in Title 24

1 of the California Code of Regulations, Part 2, Chapter 31B,
2 requirements for public swimming pools, with the following note:
3 “NOTE: These building standards are in statute but have not been
4 adopted through the regulatory process.” Enforcement of the
5 standards set forth in this section does not depend upon adoption
6 of regulations, therefore, enforcement agencies shall enforce the
7 standards pursuant to the timeline set forth in this section prior to
8 adoption of related regulations.

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

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

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

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

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

23 116064.2. (a) As used in this section, the following words
24 have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

32 (b) Subject to subdivision (c), an ASME/ANSI or ASTM
33 performance standard relating to antientrapment devices or systems
34 or an amendment or successor to, or later published edition of an
35 ASME/ANSI or ASTM performance standard relating to
36 antientrapment devices or systems shall become the applicable
37 standard in California 90 days after publication by ASME/ANSI
38 or ASTM, respectively, provided that the performance standard
39 or amendment or successor to, or later published edition is
40 approved by the department within 90 days of the publication of

the performance standard by ASME/ANSI or ASTM, respectively. Notwithstanding any other law, the department may implement, interpret, or make specific the provisions of this section by means of a policy letter or similar instruction and this action by the department 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).

(c) Subject to subdivision (f), 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 or any applicable ASME/ANSI or ANSI/APSP performance standard that has been adopted by the department pursuant to subdivision (b).

(d) Subject to subdivisions (e) and (f), 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 department-approved independent third party and found to conform to ASME/ANSI performance standard A112.19.17, as in effect on December 31, 2009, or any applicable ASME/ANSI performance standard that has been adopted by the department pursuant to subdivision (b), or ASTM performance standard F2387, as in effect on December 31, 2009, or any applicable ASTM performance standard that has been adopted by the department pursuant to subdivision (b).

(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 that has been adopted by the department pursuant to subdivision (b).

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

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

1 that has been adopted by the department pursuant to subdivision
2 (b).

3 (5) Any other system that is deemed, in accordance with federal
4 law, to be equally effective as, or more effective than, the systems
5 described in paragraphs (1) to (4), inclusive, at preventing or
6 eliminating the risk of injury or death associated with the
7 circulation system of the pool and suction outlets.

8 (e) Every public swimming pool constructed on or after January
9 1, 2010, shall have at least two suction outlets per pump that are
10 hydraulically balanced and symmetrically plumbed through one
11 or more “T” fittings, and that are separated by a distance of at least
12 three feet in any dimension between the suction outlets. A public
13 swimming pool constructed on or after January 1, 2010, that meets
14 the requirements of this subdivision, shall be exempt from the
15 requirements of subdivision (d).

16 (f) A public swimming pool constructed prior to January 1,
17 2010, shall be retrofitted to comply with subdivisions (c) and (d)
18 by no later than July 1, 2010, except that no further retrofitting is
19 required for a public swimming pool that completed a retrofit
20 between December 19, 2007, and January 1, 2010, that complied
21 with the Virginia Graeme Baker Pool and Spa Safety Act (15
22 U.S.C. Sec. 8001 et seq.) as in effect on the date of issue of the
23 construction permit, or for a nonportable wading pool that
24 completed a retrofit prior to January 1, 2010, that complied with
25 state law on the date of issue of the construction permit. A public
26 swimming pool owner who meets the exception described in this
27 subdivision shall do one of the following prior to September 30,
28 2010:

29 (1) File the form issued by the department pursuant to
30 subdivision (g), as otherwise provided in subdivision (i).

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

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

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

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

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

4 (g) Prior to March 31, 2010, the department shall issue a form
5 for use by an owner of a public swimming pool to indicate
6 compliance with this section. The department shall consult with
7 county health officers and directors of departments of
8 environmental health in developing the form and shall post the
9 form on the department's Internet Web site. The form shall be
10 completed by the owner of a public swimming pool prior to filing
11 the form with the appropriate city, county, or city and county
12 department of environmental health. The form shall include, but
13 not be limited to, the following information:

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

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

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

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

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

33 (i) Except as provided in subdivision (f), each public swimming
34 pool owner shall file a completed copy of the form issued by the
35 department pursuant to this section with the city, county, or city
36 and county department of environmental health in the city, county,
37 or city and county in which the swimming pool is located. The
38 form shall be filed within 30 days following the completion of the
39 swimming pool construction or installation required pursuant to
40 this section or, if the construction or installation is completed prior

1 to the date that the department issues the form pursuant to this
2 section, within 30 days of the date that the department issues the
3 form. The public swimming pool owner or operator shall not make
4 a false statement, representation, certification, record, report, or
5 otherwise falsify information that he or she is required to file or
6 maintain pursuant to this section.

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

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

17 (l) (1) Until January 1, 2014, the department may assess an
18 annual fee on the owners of each public swimming pool, to be
19 collected by the applicable local health department, in an amount
20 not to exceed the amount necessary to defray the department's
21 costs of carrying out its duties under Section 116064.1 and this
22 section but in no case shall this fee exceed six dollars (\$6).

23 (2) The local health department may retain a portion of the fee
24 collected pursuant to paragraph (1) in an amount necessary to cover
25 the administrative costs of collecting the fee, but in no case to
26 exceed one dollar (\$1).

27 (3) The local health department shall bill the owner of each
28 public swimming pool in its jurisdiction for the amount of the state
29 fee. The local health department shall transmit the collected state
30 fee to the Controller for deposit into the Recreational Health Fund,
31 which is hereby created in the State Treasury. The local health
32 department shall not be required to take action to collect an unpaid
33 state fee, but shall submit to the department, every six months, a
34 list containing the name and address of the owner of each public
35 swimming pool who has failed to pay the state fee for more than
36 90 days after the date that the bill was provided to the owner of
37 the public swimming pool.

38 (4) Owners that are exempt from local swimming pool permit
39 fees shall also be exempt from the fees imposed pursuant to this
40 subdivision.

1 (5) Except as provided in paragraph (2), all moneys collected
2 by the department pursuant to this section shall be deposited into
3 the Recreational Health Fund. Notwithstanding Section 16305.7
4 of the Government Code, interest and dividends on moneys in the
5 Recreational Health Fund shall also be deposited in the fund.
6 Moneys in the fund shall, upon appropriation by the Legislature,
7 be available to the department for carrying out its duties under
8 Section 116064.1 and this section and shall not be redirected for
9 any other purpose.

10 SEC. 6. 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.