

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JUNE 8, 2016

AMENDED IN SENATE MAY 9, 2016

AMENDED IN ASSEMBLY JUNE 1, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 470**

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**Introduced by Assembly Member Chu**

February 23, 2015

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An act to amend Section 7195 of the Business and Professions Code, and to amend Sections 115922 and 115925 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 470, as amended, Chu. Public health: pools: drownings.

Existing law, the Swimming Pool Safety Act, provides that it does not apply to any pool within the jurisdiction of any political subdivision that adopts an ordinance for swimming pools, as specified. The act further requires, when a building permit is issued for construction of a new swimming pool or spa, or the remodeling of an existing pool or spa, at a private, single-family home, that the pool or spa be equipped with at least 1 of 7 drowning prevention safety features. The act requires the local building code official to inspect and approve the drowning safety prevention devices before the issuance of a final approval for the completion of permitted construction or remodeling work.

This bill would instead require, when a building permit is issued, that the pool or spa be equipped with at least 2 of the 7 drowning prevention safety features. By imposing additional duties on local officials, this

bill would impose a state-mandated local program. The bill would remove the exemption for the above-described political subdivisions.

Existing law defines terms related to paid home inspections, establishes a standard of care for home inspectors, and prohibits certain inspections in which the inspector or the inspector’s employer, as specified, has a financial interest.

This bill would require a home inspection for real property with a swimming pool or spa to include a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, of the specified 7 drowning prevention safety features the pool or spa is equipped with.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. This act shall be known, and may be cited, as the
- 2 Pool Safety Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) Swimming pools provide children and their families with a
- 5 wonderful opportunity for recreation, exercise, and fun. Keeping
- 6 children safe during this activity is supported by parents and
- 7 guardians, safety advocates, health providers, insurance companies,
- 8 and the swimming pool industry.
- 9 (b) According to both the federal Centers for Disease Control
- 10 and Prevention’s National Center for Injury Prevention and Control
- 11 and the State Department of Public Health’s EpiCenter data,
- 12 drowning is the leading cause of death for California children
- 13 ~~between~~ one to four years of age, inclusive.
- 14 (c) Additional children suffer near-drowning incidents and
- 15 survive, but many of those children suffer irreversible brain
- 16 injuries, which can lead to lifelong learning deficiencies that impact
- 17 not only the affected child and his or her family, but also the

1 resources and moneys available to California's ~~health~~ *health*  
2 *care* system, regional centers, and special education school  
3 programs.

4 (d) Close parental supervision of children with access to  
5 swimming pools is essential to providing pool safety for children.  
6 Barriers, such as those required pursuant to Section 115922 of the  
7 Health and Safety Code, can help to deter young children from  
8 gaining unsupervised access to pools. Swimming lessons are  
9 encouraged and can help children understand the importance of  
10 water safety.

11 (e) All water sports activities come with risk. Knowing the risks  
12 and having drowning prevention strategies in place before and  
13 during water sports activities reduce drowning incidents, and the  
14 installation of a residential pool barrier is a leading strategy to  
15 further California's goal of dramatically reducing unintentional  
16 injury.

17 SEC. 3. Section 7195 of the Business and Professions Code is  
18 amended to read:

19 7195. For purposes of this chapter, the following definitions  
20 apply:

21 (a) (1) "Home inspection" is a noninvasive, physical  
22 examination, performed for a fee in connection with a transfer, as  
23 defined in subdivision (e), of real property, of the mechanical,  
24 electrical, or plumbing systems or the structural and essential  
25 components of a residential dwelling of one to four units designed  
26 to identify material defects in those systems, ~~structures~~ *structures*,  
27 and components. "Home inspection" includes any consultation  
28 regarding the property that is represented to be a home inspection  
29 or any confusingly similar term.

30 (2) In connection with a transfer, as defined in subdivision (e),  
31 of real property with a swimming pool or spa, a "home inspection"  
32 shall include a noninvasive physical examination of the pool or  
33 spa and dwelling for the purpose of identifying which, if any, of  
34 the seven drowning prevention safety features listed in subdivision  
35 (a) of Section 115922 of the Health and Safety Code the pool or  
36 spa is equipped with.

37 (3) "Home inspection," if requested by the client, may include  
38 an inspection of energy efficiency . Energy efficiency items to be  
39 inspected may include the following:

1 (A) A noninvasive inspection of insulation R-values in attics,  
2 roofs, walls, floors, and ducts.

3 (B) The number of window glass panes and frame types.

4 (C) The heating and cooling equipment and water heating  
5 systems.

6 (D) The age and fuel type of major appliances.

7 (E) The exhaust and cooling fans.

8 (F) The type of thermostat and other systems.

9 (G) The general integrity and potential leakage areas of walls,  
10 window areas, doors, and duct systems.

11 (H) The solar control efficiency of existing windows.

12 (b) A “material defect” is a condition that significantly affects  
13 the value, desirability, habitability, or safety of the dwelling. Style  
14 or aesthetics shall not be considered in determining whether a  
15 system, structure, or component is defective.

16 (c) A “home inspection report” is a written report prepared for  
17 a fee and issued after a home inspection. The report clearly  
18 describes and identifies the inspected systems, structures, or  
19 components of the dwelling, any material defects identified, and  
20 any recommendations regarding the conditions observed or  
21 recommendations for evaluation by appropriate persons. In a  
22 dwelling with a pool or spa, the “home inspection report” shall  
23 identify which, if any, of the seven drowning prevention safety  
24 features listed in subdivision (a) of Section 115922 of the Health  
25 and Safety Code the pool or spa is equipped with and shall  
26 specifically state if the pool or spa has fewer than two of the listed  
27 drowning prevention safety features.

28 (d) A “home inspector” is any individual who performs a home  
29 inspection.

30 (e) “Transfer” is a transfer by sale, exchange, installment land  
31 sales contract, as defined in Section 2985 of the Civil Code, lease  
32 with an option to purchase, any other option to purchase, or ground  
33 lease coupled with improvements, of real property or residential  
34 stock cooperative, improved with or consisting of not less than  
35 one nor more than four dwelling units.

36 SEC. 4. Section 115922 of the Health and Safety Code is  
37 amended to read:

38 115922. (a) Except as provided in Section 115925, when a  
39 building permit is issued for the construction of a new swimming  
40 pool or spa or the remodeling of an existing swimming pool or spa

1 at a private single-family home, the swimming pool or spa shall  
2 be equipped with at least two of the following seven drowning  
3 prevention safety features:

4 (1) An enclosure that meets the requirements of Section 115923  
5 and isolates the swimming pool or spa from the private  
6 single-family home.

7 (2) Removable mesh fencing that meets American Society for  
8 Testing and Materials (ASTM) Specifications F 2286 standards  
9 in conjunction with a gate that is self-closing and self-latching and  
10 can accommodate a key lockable device.

11 (3) An approved safety pool cover, as defined in subdivision  
12 (d) of Section 115921.

13 (4) Exit alarms on the private single-family home's doors that  
14 provide direct access to the swimming pool or spa. The exit alarm  
15 may cause either an alarm noise or a verbal warning, such as a  
16 repeating notification that "the door to the pool is open."

17 (5) A self-closing, self-latching device with a release mechanism  
18 placed no lower than 54 inches above the floor on the private  
19 single-family home's doors providing direct access to the  
20 swimming pool or spa.

21 (6) An alarm that, when placed in a swimming pool or spa, will  
22 sound upon detection of accidental or unauthorized entrance into  
23 the water. The alarm shall meet and be independently certified to  
24 the ASTM Standard F 2208 "Standards Specification for Pool  
25 Alarms," which includes surface motion, pressure, sonar, laser,  
26 and infrared type alarms. A swimming protection alarm feature  
27 designed for individual use, including an alarm attached to a child  
28 that sounds when the child exceeds a certain distance or becomes  
29 submerged in water, is not a qualifying drowning prevention safety  
30 feature.

31 (7) Other means of protection, if the degree of protection  
32 afforded is equal to or greater than that afforded by any of the  
33 features set forth above and has been independently verified by  
34 an approved testing laboratory as meeting standards for those  
35 features established by the ASTM or the American Society of  
36 Mechanical Engineers (ASME).

37 (b) Before the issuance of a final approval for the completion  
38 of permitted construction or remodeling work, the local building  
39 code official shall inspect the drowning safety prevention features

1 required by this act and, if no violations are found, shall give final  
2 approval.

3 SEC. 5. Section 115925 of the Health and Safety Code is  
4 amended to read:

5 115925. The requirements of this article shall not apply to any  
6 of the following:

7 (a) Public swimming pools.

8 (b) Hot tubs or spas with locking safety covers that comply  
9 with the American Society for Testing ~~Materials-Emergency~~  
10 ~~Performance Specification (ASTM-ES 13-89)~~. *Materials (ASTM*  
11 *F1346)*.

12 (c) An apartment complex, or any residential setting other than  
13 a single-family home.

14 SEC. 6. If the Commission on State Mandates determines that  
15 this act contains costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.