

HEALTH AND SAFETY CODE

SECTION 116025-116068

116025. "Public swimming pool," as used in this article, means any public swimming pool, bathhouse, public swimming and bathing place and all related appurtenances.

116028. "Lifeguard service," as used in this article, means the attendance at a public swimming pool, during periods of use, of one or more lifeguards who possess, as minimum qualifications, current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or have equivalent qualifications, as determined by the department, and who are trained to administer first aid, including, but not limited to, cardiopulmonary resuscitation in conformance with Section 123725 and the regulations adopted thereunder, and who have no duties to perform other than to supervise the safety of participants in water-contact activities. "Lifeguard services" includes the supervision of the safety of participants in water-contact activities by lifeguards who are providing swimming lessons, coaching or overseeing water-contact sports, or providing water safety instructions to participants when no other persons are using the facilities unless those persons are supervised by separate lifeguard services.

116030. (a) The construction standards as set forth in this article and the regulations adopted pursuant thereto, shall not apply to any artificially constructed swimming facility in excess of 20,000 square feet of surface area, including, but not limited to, a manmade lake or swimming lagoon with sand beaches.

(b) The requirements of this article and regulations adopted pursuant thereto, pertaining to the operation, maintenance, and use of a public swimming pool, including the quality and purity of the water, lifesaving and other measures to ensure the safety of bathers, and measures to ensure personal cleanliness of bathers shall apply to the swimming facilities described in subdivision (a).

116033. Persons providing aquatic instruction, including, but not limited to, swimming instruction, water safety instruction, water contact activities, and competitive aquatic sports, at a public swimming pool shall possess current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or have equivalent qualifications, as determined by the department. In addition, these persons shall be certified in standard first aid and cardiopulmonary resuscitation (CPR). All these persons shall meet these qualifications by January 1, 1991. Persons who only disseminate written materials relating to water safety are not persons providing aquatic instruction within the meaning of this section.

The requirements of this section shall be waived under either of

the following circumstances: (a) when one or more aquatic instructors possessing the current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or the equivalent, are in attendance continuously during periods of aquatic instruction, or (b) when one or more lifeguards meeting the requirements of Section 116028 are in attendance continuously during periods of aquatic instruction.

116035. The department has supervision of sanitation, healthfulness, and safety of public swimming pools.

116038. Every person proposing to construct a public swimming pool shall file a copy of the plans therefor, prior to construction, with the local health officer having jurisdiction for approval.

116040. Every person operating or maintaining a public swimming pool must do so in a sanitary, healthful and safe manner.

116043. Every public swimming pool, including swimming pool structure, appurtenances, operation, source of water supply, amount and quality of water recirculated and in the pool, method of water purification, lifesaving apparatus, measures to insure safety of bathers, and measures to insure personal cleanliness of bathers shall be such that the public swimming pool is at all times sanitary, healthful and safe.

116045. (a) Lifeguard service shall be provided for any public swimming pool that is of wholly artificial construction and for the use of which a direct fee is charged. For all other public swimming pools, lifeguard service shall be provided or signs shall be erected clearly indicating that the service is not provided.

(b) "Direct fee," as used in this section, means a separately stated fee or charge for the use of a public swimming pool to the exclusion of any other service, facility, or amenity.

116048. (a) On or after January 1, 1987, for public swimming pools in any common interest development, as defined in Section 1351 of the Civil Code, that consists of fewer than 25 separate interests, as defined in subdivision (1) of Section 1351 of the Civil Code, the person operating each such pool open for use shall be required to keep a record of the information required by subdivision (a) of Section 65523 of Title 22 of the California Administrative Code, except that the information shall be recorded at least two times per week and at intervals no greater than four days apart.

(b) On or after January 1, 1987, any rule or regulation of the

department that is in conflict with subdivision (a) is invalid.

116049. (a) "Public swimming pool," as used in this section, means any public swimming pool defined in Section 116025 that is owned or operated by the state or any local governmental entity, including, but not limited to, any city, county, city and county, charter city, charter county, or charter city and county.

(b) All dry-niche light fixtures, and all underwater wet-niche light fixtures operating at more than 15 volts in public swimming pools shall be protected by a ground-fault circuit interrupter in the branch circuit, and all light fixtures in public swimming pools shall have encapsulated terminals. This subdivision is declaratory of existing law.

(c) Any public swimming pools that do not meet the requirements specified in subdivision (b) by January 1, 1995, shall be retrofitted to comply with these requirements by January 1, 1996.

(d) The ground-fault circuit interrupter required pursuant to this section shall comply with Underwriter's Laboratory standards.

(e) Any state or local governmental entity that owns or operates a public swimming pool shall have its public swimming pool inspected by a qualified inspector prior to July 1, 1996, to determine compliance with this section.

(f) A public swimming pool may charge a fee, or increase its fee charged, to the public for use of the pool, for the purpose of recovering the administrative and other costs of retrofitting pools in compliance with this section. The charge or increase due to this section shall terminate when funds sufficient to cover these costs are collected.

(g) All electrical work required for compliance with this section shall be performed by an electrician licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

116049.1. (a) "Public swimming pool," as used in this section, means any 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, including any swimming pool located on the grounds of a hotel, motel, inn, an apartment complex, or any residential setting other than a single-family home. For purposes of this section, public swimming pool shall not include a swimming pool located on the grounds of a private single-family home.

(b) The design and installation of all underwater lighting systems, operating at more than 15 volts, supplied from a branch circuit either directly or by way of a transformer, shall be installed in a public swimming pool, as defined in this section, so that there is no shock hazard with any likely combination of fault conditions during normal use, and shall comply with both of the following requirements:

(1) An approved ground-fault circuit interrupter shall be installed in the branch circuit that supplies all fixtures operating at more than 15 volts.

(2) Only approved underwater lighting fixtures shall be used and

no lighting fixtures shall be installed for operations at more than 150 volts between conductors.

(c) Any public swimming pool that does not meet the requirements specified in subdivision (b), shall be retrofitted to comply with these requirements by May 1, 1999.

(d) The ground-fault circuit interrupter required pursuant to this section shall comply with standards acceptable to the authority having jurisdiction.

(e) The owner or operator of a public swimming pool shall, on or before May 1, 1999, comply with both of the following:

(1) Obtain an inspection of its public swimming pool by the local health officer or a qualified contractor as set forth in subdivision (f).

(2) Certify to the local health officer as set forth in Section 116053 that the public swimming pool facility is in compliance with this section.

(f) All electrical work required for compliance with this section shall be performed by a person licensed to perform electrical work within his or her general, specialty, or limited specialty contractor's licensed scope of practice pursuant to Section 7059 of the Business and Professions Code.

(g) This section shall be known and may be cited as the Yasmin Paleso'o Memorial Swimming Pool Safety Law.

116050. Except as provided in Section 18930, the department shall make and enforce regulations pertaining to public swimming pools as it deems proper and shall enforce building standards published in the State Building Standards Code relating to public swimming pools; provided, that no rule or regulation as to design or construction of pools shall apply to any pool that has been constructed before the adoption of the regulation, if the pool as constructed is reasonably safe and the manner of the construction does not preclude compliance with the requirements of the regulations as to bacteriological and chemical quality and clarity of the water in the pool. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section.

116053. Every health officer shall enforce the building standards published in the State Building Standards Code relating to swimming pools and the other regulations adopted by the department pursuant to this article in his or her jurisdiction.

116055. For the purposes of this article, any health officer, or any inspector of the department, may at all reasonable times enter all parts of the premises of a public swimming pool to make examination and investigation to determine the sanitary condition and whether this article, building standards published in the State Building Standards Code relating to swimming pools, or the other regulations adopted by the department pursuant to this article are being violated.

116058. The department may publish the reports of inspections.

116060. Any public swimming pool constructed, operated, or maintained contrary to the provisions of this article is a public nuisance, dangerous to health.

116063. Any nuisance maintained in violation of this article may be abated or enjoined in an action brought by a local health officer, or the department, or it may be summarily abated in the manner provided by law for the summary abatement of other public nuisances dangerous to health.

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.

(b) A public wading pool shall have at least two circulation drains 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 drains.

(c) All public wading pool main drain suction outlets that are under 12 inches across shall be covered with antivortex grates or similar protective devices. All main drain 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 main drain system and any main drain suction fitting 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.

116064.1. The Legislature finds and declares that the public health interest requires that there be uniform statewide health and safety standards for public swimming pools to prevent physical entrapment and serious injury to children and adults. It is the intent of the Legislature to occupy the whole field of health and safety standards for public swimming pools and the requirements established in this article and the regulations adopted pursuant to this article shall be exclusive of all local health and safety standards relating to public swimming pools.

116064.2. (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 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 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 main drain.

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

(b) Subject to subdivision (c), an ASME/ANSI or ASTM performance standard relating to anti-entrapment devices or systems or an amendment or successor to, or later published edition of an ASME/ANSI or ASTM performance standard 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 performance standard or amendment or successor to, or later published edition is 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 anti-entrapment devices or systems that comply with ASME/ANSI performance standard A112.19.8, as in effect December 31, 2009, or any applicable ASME/ANSI 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 main drain that is not an unblockable drain 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 that has been adopted by the department pursuant to subdivision (b).

(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 paragraphs (1) to (4), inclusive, at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(e) Every public swimming pool constructed on or after January 1, 2010, shall have at least two main 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 three feet in any dimension between the drains. 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 (d).

(f) A public swimming pool constructed prior to January 1, 2010, shall be retrofitted to comply with subdivisions (c) and (d) 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 (g), 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.

(g) 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 or split main drain.

(2) Identification of the type of anti-entrapment devices or systems that have been installed pursuant to subdivision (c) 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 (d) in a public swimming pool with a single main drain that is not an unblockable drain 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.

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

(i) Except as provided in subdivision (f), 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.

(j) 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.

(k) 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.

(1) (1) Until January 1, 2014, the department may assess an annual fee on the owners of each public swimming pool, to be collected by the applicable local health department, in an amount not to exceed the amount necessary to defray the department's costs of carrying out

its duties under Section 116064.1 and this section but in no case shall this fee exceed six dollars (\$6).

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

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

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

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

116065. Every person who violates any provision of this article, building standards published in the State Building Standards Code relating to swimming pools, or the rules and regulations adopted pursuant to the provisions of this article, is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or by imprisonment for not more than six months, or both.

116068. Each day that a violation of this article continues is a separate offense.