

By: Representative Franks

To: Judiciary A

HOUSE BILL NO. 723

1 AN ACT TO CREATE THE MISSISSIPPI POOL SAFETY ACT; TO PROVIDE
2 DEFINITIONS FOR SUCH ACT; TO PROVIDE THAT ALL RESIDENTIAL POOLS
3 MUST BE COMPLETELY SURROUNDED BY A BARRIER MEETING THE
4 REQUIREMENTS AND CHARACTERISTICS OF THIS ACT; TO PROVIDE
5 EXEMPTIONS TO THESE REQUIREMENTS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** This act shall be known and may be cited as the
8 "Mississippi Pool Safety Act."

9 **SECTION 2.** The following words and phrases shall have the
10 meanings as defined in this section unless the context clearly
11 indicates otherwise:

12 (a) "Aquatic slide" means a recreational slide,
13 abutting a swimming pool, which exits into the water of that pool.

14 (b) "Barrier" means a fence, dwelling wall, or
15 nondwelling wall, or any combination thereof, which completely
16 surrounds the swimming pool and obstructs access to the swimming
17 pool, from the yard outside the barrier.

18 (c) "Enclosure" means a fence, wall, or other barrier
19 that isolates a swimming pool from access from the yard outside
20 the barrier.

21 (d) "Medically frail elderly person" means any person
22 who is at least sixty-five (65) years of age and has a medical
23 problem that affects balance, vision, or judgment, including, but
24 not limited to, a heart condition, diabetes, Alzheimer's disease
25 or any related disorder.

26 (e) "Residential" means situated on the premises of a
27 detached one-family or two-family dwelling or a one-family
28 townhouse not more than three (3) stories high.

29 (f) "Swimming pool" means any structure, located in a
30 residential area, that is intended for swimming or recreational
31 bathing and contains water over eighteen (18) inches deep.

32 "Swimming pool" includes, but is not limited to, in-ground and
33 aboveground structures and includes hot tubs, spas, portable spas
34 and nonportable wading pools.

35 (g) "Young child" means any person under the age of six
36 (6) years, for purposes of this section only.

37 **SECTION 3.** (1) All residential pools must be completely
38 surrounded by a barrier meeting the requirements and
39 characteristics of this section.

40 (2) A residential swimming pool barrier must have all of the
41 following characteristics:

42 (a) The barrier must be at least four (4) feet high on
43 the outside, with a maximum vertical clearance from the ground to
44 the bottom of the enclosure of two (2) inches. Where the pool
45 includes an aquatic slide measuring over six (6) feet in height,
46 the barrier must be at least six (6) feet high.

47 (b) Any portion of the barrier, which does not
48 constitute a portion of the residential dwelling itself, may not
49 have any gaps, openings, indentations, protrusions, or structural
50 components that could allow a young child to crawl under, squeeze
51 through, or climb over the barrier. Gaps or voids, if any, must
52 not allow passage of a sphere equal to or greater than four (4)
53 inches in diameter.

54 (c) The barrier must be placed sufficiently away from
55 the water's edge to prevent a young child or medically frail
56 elderly person who may have managed to penetrate the barrier from
57 immediately falling into the water.

58 (3) The structure of an aboveground swimming pool may be
59 used as its barrier or the barrier for such a pool may be mounted
60 on top of its structure; however, such structure or separately
61 mounted barrier must meet all barrier requirements of this

62 section. In addition, any ladder or steps that are the means of
63 access to an aboveground pool must be capable of being secured,
64 locked, or removed to prevent access or must be surrounded by a
65 barrier that meets the requirements of this section.

66 (4) Gates that provide access to swimming pools must be
67 self-closing and equipped with a self-latching locking device, the
68 release mechanism of which must be located on the pool side of the
69 gate and so placed that it cannot be reached by a young child over
70 the top or through any opening or gap. All gates located within
71 six (6) feet of the pool's edge must open outward from the pool.

72 (5) A barrier may not be located in a way that allows any
73 permanent structure, equipment, or similar object to be used for
74 climbing the barrier.

75 **SECTION 4.** The requirements of this article shall not apply
76 to any of the following:

77 (a) Public swimming pools.

78 (b) Hot tubs or spas with locking safety covers that
79 comply with the American Society for Testing Materials-Emergency
80 Performance Specification, ASTM-ES 13-89.

81 (c) Any pool within the jurisdiction of any political
82 subdivision that adopts an ordinance for swimming pool safety that
83 includes requirements that are at least as stringent as this
84 article.

85 (d) An apartment complex.

86 **SECTION 5.** (1) In order to pass final inspection and
87 receive a certificate of completion, a residential swimming pool
88 must meet the requirements of this section.

89 (2) Any person or entity entering into an agreement to build
90 a swimming pool shall give the consumer notice of the requirements
91 of this section.

92 (3) The provisions of this section may be enforced by
93 private action or any public entity of the county where the
94 residence is located.

95 **SECTION 6.** This act shall take effect and be in force from
96 and after July 1, 2007.