

MAINE STATE LEGISLATURE

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(New Draft of S.P. 425, L.D. 1287)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1528

S.P. 511

In Senate, April 28, 1983

Reported by Senator Charette of Androscoggin from the Committee on
Legal Affairs and printed under Joint Rule 2.

Original bill presented by Senator Wood of York.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Require Swimming Pools to be
Enclosed.

Be it enacted by the People of the State of Maine as
follows:

22 MRSA c. 266 is enacted to read:

CHAPTER 266

SWIMMING POOLS

§1631. Definitions

As used in this chapter, unless the context
otherwise indicates, the following terms have the
following meanings.

1. Fence. "Fence" means a good quality fence or
wall not less than 4 feet in height above ground sur-

1 face and of a character to exclude children. The
2 fence shall be so constructed as not to have open-
3 ings, holes or gaps larger than 4 square inches,
4 except for fences constructed of vertical posts or
5 louvers, in which case, the openings shall not be
6 greater than 4 inches in width with no horizontal
7 members between the top and bottom plates. Doors and
8 gates are excluded from the minimum dimension re-
9 quirements.

10 2. Swimming pool. "Swimming pool" means an out-
11 door body of water enclosed in an artificial recep-
12 table or other container, whether in or above the
13 ground, used or intended to be used for swimming or
14 bathing and designed for a water depth of 24 inches
15 or more.

16 §1632. Enclosure of swimming pool required

17 A fence shall be erected and maintained around
18 every swimming pool, except that portable above-
19 ground swimming pools with sidewalls of at least 24
20 inches in height are exempted. A dwelling house or
21 accessory building may be used as part of this enclo-
22 sure. All gates or doors opening through this enclo-
23 sure shall be capable of being securely fastened at
24 all times when not in actual use.

25 §1633. Penalty

26 Any person who does not comply with this chapter
27 within 30 days, after receiving written notice that
28 he is in violation of its provisions, commits a civil
29 violation for which a forfeiture of not more than
30 \$500 may be adjudged. Each day a violation continues
31 shall be a separate violation.

32 §1634. Municipal ordinances

33 Nothing in this chapter may be construed as a
34 preemption by the State. Municipalities may adopt
35 and enforce swimming pool enclosure ordinances that
36 are as stringent or more stringent than this chapter,
37 or that concern matters not dealt with by this chap-
38 ter.

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STATEMENT OF FACT

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This new draft adds a new chapter to Title 22 to require that all outdoor swimming pools with a water depth capacity of at least 24 inches be enclosed. This enclosure may be a fence or wall at least 4 feet tall and constructed to exclude children. Doors and gates are excluded from the minimum dimension requirements. The side of a house or accessory building may be used as part of the enclosure.

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The new draft requires that all gates or doors be capable of being securely fastened at all times when not in actual use, but eliminates the requirement that the gate be fastened whenever the pool is not in use.

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The new draft adds a provision allowing municipalities to adopt their own pool ordinances in place of this chapter, if the ordinances are at least as stringent or, if the ordinances concern matters not dealt with by this chapter.

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