

1 H.157

2 Introduced by Representative Nuovo of Middlebury

3 Referred to Committee on

4 Date:

5 Subject: Internal security and public safety; swimming pool enclosures

6 Statement of purpose: This bill proposes to require that each swimming pool
7 in the state be completely enclosed by a five-foot wall, fence, or barrier. A
8 person who violates the provisions of the bill would be subject to a civil
9 penalty.

10 An act relating to swimming pool enclosures

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 20 V.S.A. part 11, chapter 205 is added to read:

13 PART 11. SWIMMING POOLS

14 CHAPTER 205. SWIMMING POOL ENCLOSURES

15 § 4701. SWIMMING POOL ENCLOSURES; REQUIREMENTS;

16 EXCEPTIONS

17 (a)(1) A swimming pool shall be protected by an enclosure surrounding the
18 pool area as provided in this section.

19 (2) As used in this chapter, "swimming pool" means any in-ground
20 outdoor structure that is intended for swimming or recreational bathing, and

1 contains water over 24 inches deep, not including aboveground and on-ground
2 swimming pools, hot tubs, and nonportable spas.

3 (b)(1) A swimming pool required to be enclosed as provided in subsection
4 (a) of this section shall be entirely enclosed by at least a five-foot wall, fence,
5 or other barrier as measured on the exterior side of the wall, fence, or barrier.

6 (2) The wall, fence, or barrier must have no gaps, openings,
7 indentations, protrusions, or structural components that could allow a young
8 child to crawl under, squeeze through, or climb over the wall, fence, or barrier.

9 (3) The gates of the fence, wall, or barrier must open outward from the
10 pool and:

11 (A) be self-closing and self-latching with the latch located at least 54
12 inches above the underlying ground or on the pool side of the gate with a
13 release mechanism at least five inches below the top of the gate and no
14 opening greater than one-half inch within 24 inches of the release mechanism;
15 or

16 (B) be secured by a padlock or similar device which requires a key,
17 electric opener, or integral combination, in which case the latch may be placed
18 at any height.

19 (c) If a residence or living area constitutes part of the enclosure required in
20 subdivision (b)(1) of this section, in lieu of a wall, fence, or barrier between the

1 swimming pool and the residence or living area, there shall be one of the
2 following:

3 (1) a motorized safety pool cover; or

4 (2) a self-latching device on all ground-level doors with direct access to
5 the swimming pool.

6 (d) This section shall not apply to:

7 (1) a system of sumps, irrigation canals, irrigation, flood control, or
8 drainage works constructed or operated for the purpose of storing, delivering,
9 distributing, or conveying water;

10 (2) stock ponds, storage tanks, livestock operations, livestock watering
11 troughs, or other structures used in normal agricultural practices; or

12 (3) small, temporary pools without motors, which are commonly
13 referred to as “kiddie pools.”

14 (e) Municipalities may adopt and enforce swimming pool enclosure
15 ordinances or enforce existing ordinances which are equal to or more stringent
16 than the provisions of this chapter.

17 (f) All swimming pools built or installed on or after July 1, 2009 shall be in
18 compliance with the provisions of this chapter. Swimming pools built or
19 installed before July 1, 2009 shall be in compliance with the provisions of this
20 chapter by July 1, 2011.

1 § 4702. PENALTIES

2 A person who violates any provision of this chapter shall be assessed a civil
3 penalty of not more than \$100.00. Each day a violation continues may be
4 construed as a separate violation.

5 Sec. 2. 12 V.S.A. § 5793 is amended to read:

6 § 5793. LIABILITY LIMITED

7 (a) Land. An owner shall not be liable for property damage or personal
8 injury sustained by a person who, without consideration, enters or goes upon
9 the owner's land for a recreational use unless the damage or injury is the result
10 of the willful or wanton misconduct of the owner.

11 (b) Equipment, fixtures, machinery, swimming pools, or personal property.

12 (1) Unless the damage or injury is the result of the willful or wanton
13 misconduct of the owner, an owner shall not be liable for property damage or
14 personal injury sustained by a person who, without consideration and without
15 actual permission of the owner, enters or goes upon the owner's land for a
16 recreational use and proceeds to enter upon or use any of the following:

17 (A) ~~equipment~~ Equipment, machinery, or personal property; ~~or~~.

18 (B) ~~structures~~ Structures or fixtures not described in subdivision
19 5792(2)(A)(iii) or (iv) of this title.

20 (C) A swimming pool, provided that the swimming pool is in
21 compliance with the provisions of chapter 205 of Title 20.

