

Sec. 23. EFFECTIVE DATE.

Sections 1 to 22 are effective January 1, 2003.

Presented to the governor April 9, 2002

Signed by the governor April 10, 2002, 3:10 p.m.

CHAPTER 333—H.F.No. 1517

An act relating to human services; establishing requirements for swimming pools at family day care or group family day care homes; making municipalities immune from liability for claims based upon a provider's failure to comply with requirements for swimming pools at family day care or group family day care homes; amending Minnesota Statutes 2000, sections 144.1222, by adding a subdivision; 245A.14, by adding a subdivision; 466.03, subdivision 6d.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2000, section 144.1222, is amended by adding a subdivision to read:

Subd. 2b. POOLS AT FAMILY DAY CARE OR GROUP FAMILY DAY CARE HOMES. Notwithstanding Minnesota Rules, part 4717.0250, subpart 8, a swimming pool that is located at a family day care or group family day care home licensed under Minnesota Rules, chapter 9502, shall not be considered a public pool, and is exempt from the requirements for public pools in Minnesota Rules, parts 4717.0150 to 4717.3975. If the provider chooses to allow children cared for at the family day care or group family day care home to use the swimming pool located at the home, the provider must satisfy the requirements in section 245A.14, subdivision 11.

Sec. 2. Minnesota Statutes 2000, section 245A.14, is amended by adding a subdivision to read:

Subd. 11. SWIMMING POOLS; FAMILY DAY CARE AND GROUP FAMILY DAY CARE PROVIDERS. (a) This subdivision governs swimming pools located at family day care or group family day care homes licensed under Minnesota Rules, chapter 9502. This subdivision does not apply to portable wading pools or whirlpools located at family day care or group family day care homes licensed under Minnesota Rules, chapter 9502. For a provider to be eligible to allow a child cared for at the family day care or group family day care home to use the swimming pool located at the home, the provider must not have had a licensing sanction under section 245A.07 or a correction order or conditional license under section 245A.06 relating to the supervision or health and safety of children during the prior 24 months, and must satisfy the following requirements:

(1) notify the county agency before initial use of the swimming pool and annually, thereafter;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) obtain written consent from a child's parent or legal guardian allowing the child to use the swimming pool, and renew the parent or legal guardian's written consent at least annually. The written consent must include a statement that the parent or legal guardian has received and read materials provided by the department of health to the department of human services for distribution to all family day care or group family day care homes and the general public on the human services Internet web site related to the risk of disease transmission as well as other health risks associated with swimming pools. The written consent must also include a statement that the department of health, department of human services, and county agency will not monitor or inspect the provider's swimming pool to ensure compliance with the requirements in this subdivision;

(3) enter into a written contract with a child's parent or legal guardian, and renew the written contract annually. The terms of the written contract must specify that the provider agrees to perform all of the requirements in this subdivision;

(4) attend and successfully complete a swimming pool operator training course once every five years. Acceptable training courses are:

(i) the National Swimming Pool Foundation Certified Pool Operator course;

(ii) the National Spa and Pool Institute Tech I and Tech II courses (both required);

or

(iii) the National Recreation and Park Association Aquatic Facility Operator course;

(5) require a caregiver trained in first aid and adult and child cardiopulmonary resuscitation to supervise and be present at the swimming pool with any children in the pool;

(6) toilet all potty-trained children before they enter the swimming pool;

(7) require all children who are not potty-trained to wear swim diapers while in the swimming pool;

(8) if fecal material enters the swimming pool water, add three times the normal shock treatment to the pool water to raise the chlorine level to at least 20 parts per million, and close the pool to swimming for the 24 hours following the entrance of fecal material into the water or until the water pH and disinfectant concentration levels have returned to the standards specified in clause (10), whichever is later;

(9) prevent any person from entering the swimming pool who has an open wound or any person who has or is suspected of having a communicable disease;

(10) maintain the swimming pool water at a pH of not less than 7.2 and not more than 8.0, maintain the disinfectant concentration between two and five parts per million for chlorine or between 2.3 and 4.5 parts per million for bromine, and maintain a daily record of the swimming pool's operation with pH and disinfectant concentration readings on days when children cared for at the family day care or group family day care home are present;

New language is indicated by underline, deletions by ~~strikeout~~.

- (11) have a disinfectant feeder or feeders;
- (12) have a recirculation system that will clarify and disinfect the swimming pool volume of water in ten hours or less;
- (13) maintain the swimming pool's water clarity so that an object on the pool floor at the pool's deepest point is easily visible;
- (14) have two or more suction lines in the swimming pool;
- (15) have in place and enforce written safety rules and swimming pool policies;
- (16) have in place at all times a safety rope that divides the shallow and deep portions of the swimming pool;
- (17) satisfy any existing local ordinances regarding swimming pool installation, decks, and fencing;
- (18) maintain a water temperature of not more than 104 degrees Fahrenheit and not less than 70 degrees Fahrenheit; and
- (19) for lifesaving equipment, have a United States Coast Guard-approved life ring attached to a rope, an exit ladder, and a shepherd's hook available at all times to the caregiver supervising the swimming pool.

The requirements of clauses (5), (16), and (18) only apply at times when children cared for at the family day care or group family day care home are present.

(b) A violation of paragraph (a), clauses (1) to (3), is grounds for a sanction under section 245A.07, or a correction order or conditional license under section 245A.06.

(c) If a provider under this subdivision receives a licensing sanction under section 245A.07 or a correction order or a conditional license under section 245A.06 relating to the supervision or health and safety of children, the provider is prohibited from allowing a child cared for at the family day care or group family day care home to continue to use the swimming pool located at the home.

Sec. 3. Minnesota Statutes 2000, section 466.03, subdivision 6d, is amended to read:

Subd. 6d. **LICENSING OF PROVIDERS.** A claim against a municipality based on the failure of a provider to meet the standards needed for a license to operate a day care facility under chapter 245A for children, unless the municipality had actual knowledge of a failure to meet licensing standards that resulted in a dangerous condition that foreseeably threatened the plaintiff. A municipality shall be immune from liability for a claim arising out of a provider's use of a swimming pool located at a family day care or group family day care home under section 245A.14, subdivision 10, unless the municipality had actual knowledge of a provider's failure to meet the licensing standards under section 245A.14, subdivision 10, paragraph (a), clauses (1) to (3), that resulted in a dangerous condition that foreseeably threatened the plaintiff.

Presented to the governor April 9, 2002

Signed by the governor April 12, 2002, 1:36 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.