

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1341
94TH GENERAL ASSEMBLY

3266L.06T

2008

AN ACT

To amend chapter 316, RSMo, by adding thereto one new section relating to liability insurance of a for-profit private swimming pool or facility, with a penalty provision and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 316, RSMo, is amended by adding thereto one new section, to be known as section 316.250, to read as follows:

- 316.250. 1. This section shall be known and may be cited as "Ethan's Law".**
- 2. Every owner of a for-profit private swimming pool or facility shall maintain adequate insurance coverage in an amount of not less than one million dollars per occurrence for any liability incurred in the event of injury or death of a patron to such swimming pool or facility, including any liability incurred under paragraph (b) of subdivision (3) of section 537.348, RSMo. Such owners shall be required to register with the department of public safety and provide proof of such insurance coverage at the time of registration and when requested by any state or local governmental agency responsible for the enforcement of this section.**
- 3. As used in this section, the following terms shall mean:**
- (1) "Owner", the owner of the land, including but not limited to a lessee, tenant, mortgagee in possession and the person in charge of the land on which a swimming pool is located;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (2) "Swimming pool or facility", any for-profit privately-owned tank or body of
15 water with a capacity of less than five hundred patrons which charges a fee per admission
16 and is used and maintained for swimming or bathing purposes which has a maximum
17 depth of greater than twenty-four inches. Swimming pool or facility shall include, but not
18 be limited to, a swimming pool on lands in connection with the operation of any type of for-
19 profit privately-owned amusement or recreational park. Swimming pool or facility does
20 not include a swimming pool or facility owned by a hotel, motel, public or governmental
21 body, agency, or authority, a naturally occurring body of water or stream, or a body of
22 water established by a person or persons and used for watering livestock, irrigation, or
23 storm water management.

24 4. Any owner who violates the provisions of this section shall not be permitted to
25 remain in operation until such owner meets the requirements of this section. Any such
26 owner who allows operation of a swimming pool or facility in violation of this section shall
27 be subject to a civil penalty of two hundred fifty dollars per day for each day of continued
28 violation up to a maximum of ten thousand dollars and may be subject to liability for the
29 costs incurred by the state or a political subdivision for enforcing the provisions of this
30 section. In a separate court action, the attorney general may seek reimbursement on behalf
31 of the state and a political subdivision may seek reimbursement on behalf of the political
32 subdivision for costs incurred as a result of enforcing the provisions of this section. For
33 purposes of this section, "each day of the violation" means each day that the swimming
34 pool is operational and open for business and remains in violation of this section. It shall
35 not include days that the swimming pool is not operational and open for business.

36 5. In addition, any owner who intentionally violates the provisions of this section
37 is guilty of a class A misdemeanor. It shall be the duty of each prosecuting attorney and
38 circuit attorney in their respective jurisdictions to commence any criminal actions under
39 this section, and the attorney general shall have concurrent original jurisdiction to
40 commence such criminal actions throughout the state where such violations have occurred.

41 6. The department of public safety shall implement and, with the assistance of local
42 law enforcement agencies, enforce the provisions of this section.

43 7. An insurance company providing insurance coverage under this section shall
44 notify the department of public safety if any owner of a swimming pool or facility as
45 defined in this section terminates, cancels, or fails to renew such coverage. The department
46 may utilize local law enforcement agencies to enforce the provisions of this section.

Section B. Because immediate action is necessary to ensure public safety, section A of
2 this act is deemed necessary for the immediate preservation of the public health, welfare, peace,
3 and safety, and is hereby declared to be an emergency act within the meaning of the constitution,
4 and section A of this act shall be in full force and effect upon its passage and approval.

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