

(CORRECTED COPY)
CHAPTER 23

AN ACT concerning swimming pools and amending and supplementing P.L.1991, c.135.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1991, c.135 (C.26:4A-5) is amended to read as follows:

C.26:4A-5 Exemptions from mandatory compliance.

2. Notwithstanding the provisions of section 7 of P.L.1947, c.177 (C.26:1A-7) or any rules or regulations promulgated pursuant thereto to the contrary, a specially exempt facility shall be exempt from mandatory compliance with the first aid personnel and lifeguard requirements of N.J.A.C.8:26-5 et seq., except that:

a. A campground, private marina with a swimming pool, hotel, motel, mobile home park or retirement community which does not voluntarily comply with these requirements shall have a manager or owner on the premises when its swimming area or, in the case of a private marina, when its swimming pool is open for use;

b. A health club which does not voluntarily comply with these requirements shall have an owner or manager on the premises when its swimming pool is open for use. The provisions of this section shall not be construed to exempt a health club from the provisions of P.L.2005, c.346 (C.2A:62A-30 et seq.); and

c. A health club which would ordinarily qualify as a specially exempt facility, but no longer satisfies all of the requirements for exemption because it has elected to provide swimming lessons, classes, or instruction, either directly or through a third-party entity, to persons who are not members of the health club, or to persons who are under 16 years of age, shall continue to be deemed a specially exempt facility for the purposes of P.L.1991, c.135 (C.26:4A-4 et seq.), provided that the health club complies with the first aid personnel and lifeguard requirements of N.J.A.C.8:26-5 et seq. while the swimming lessons, classes or instruction are taking place.

No specially exempt facility shall be deemed ineligible for an exemption from mandatory compliance with the first aid personnel and lifeguard requirements of N.J.A.C.8:26-5 et seq., as provided in this section, solely on the basis that the facility has a functional diving board, water slide, or similar recreational appurtenance.

C.26:4A-5.1 Inspection of seasonal swimming pool; lifeguards; compliance with new requirements.

2. a. Each seasonal swimming pool shall be inspected by the health authority prior to its opening for public use, and each year-round swimming pool shall be inspected by the health authority at least two times in each calendar year. A seasonal swimming pool may, prior to opening for public use, elect to submit to the health authority a completed Checklist for Public Recreational Bathing Facilities developed by the Department of Health, which the health authority may choose to review in lieu of conducting an onsite inspection, except that the health authority shall be required to conduct an onsite inspection of each new swimming pool prior to its opening for public use for the first time. Nothing in this subsection shall be construed to require any swimming pool to complete the Checklist for Public Recreational Bathing Facilities developed by the Department of Health. As used in this subsection, "health authority" means the Department of Health or a municipal, county, or regional board of health.

b. Lifeguards who are on duty at a swimming pool shall not have duties or perform any activities that would distract them or intrude upon their attention from proper observation of persons in the swimming pool area or that prevent immediate assistance to persons in distress in the water; except that nothing in this subsection shall be construed to prevent any lifeguard from performing minor administrative tasks, such as checking pool passes, or from performing any routine testing required by the Department of Health by regulation, including, but not limited to, testing disinfectant levels and measuring the pH of the water during operational hours, provided that the lifeguard can perform these tasks and tests without causing an imminent, significant risk to bather safety.

c. No seasonal or year-round swimming pool that was in existence on January 1, 2018 shall be required to take any steps to comply with any new requirements concerning swimming pool circulation systems established by the Department of Health by regulation on or after January 1, 2018, until such time as alterations are made to any part of that swimming pool's circulation system. As used in this subsection, "alteration" means any modification or relocation of any structure or equipment, or change of water flow patterns in an existing swimming pool, such that the design, configuration, or operating characteristics of the circulation system are different from the original design, configuration, or operating characteristics of the circulation system. The term does not include normal maintenance, repair, or replacement of equipment with the same or a newer model.

C.26:4A-5.2 Rules, regulations.

3. The Commissioner of Health shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as shall be necessary to implement the provisions of this act.

4. This act shall take effect immediately.

Approved January 31, 2019.