

Public Hearing

MEMORANDUM

June 16, 2017

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Public Hearing:** Expedited Bill 16-17, Swimming Pools – Lifeguards – Amendments

Expedited Bill 16-17, Swimming Pools – Lifeguards – Amendments, sponsored by Lead Sponsor Councilmember Katz and Co-Sponsors Councilmembers Floreen and Elrich and Council President Berliner, was introduced on May 16, 2017. A Health and Human Services Committee worksession is tentatively scheduled for June 26 at 9:30 a.m.

Expedited Bill 16-17 would exempt certain public pools at certain facilities from the requirement to have a lifeguard on duty present when the pool is open for use; require exempted public pools to meet certain criteria, including posting certain warning signs; and require exempted pools to have an emergency alert system. A memorandum from the lead sponsor is attached on ©6.

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Expedited Bill No. 16-17
Concerning: Swimming Pools –
Lifeguards – Amendments
Revised: 5/4/2017 Draft No. 2
Introduced: May 16, 2017
Expires: November 16, 2018
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Katz
Co-Sponsors: Councilmembers Floreen and Elrich and Council President Berliner

AN EXPEDITED ACT to:

- (1) exempt certain public pools at certain facilities from the requirement to have a lifeguard on duty present when the pool is open for use;
- (2) require exempted public pools to meet certain criteria, including posting certain warning signs;
- (3) require exempted pools to have an emergency alert system; and
- (4) generally amend County law relating to swimming pools.

By amending

Montgomery County Code
Chapter 51, Swimming Pools
Sections 51-1 and 51-10

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 51-1 and 51-10 are amended as follows:**

2 **51-1. Definitions.**

3 In this Chapter, the following words have the following meanings:

4 * * *

5 Hostel has the same meaning as in Code §54-1.

6 * * *

7 **51-10. Safety standards; lifeguards and spa guards.**

8 * * *

9 (b) *Lifeguards.*

10 (1) Except for public spas and as provided in paragraph (d), every
11 public swimming pool must have at least one lifeguard with a valid
12 infant/child/adult cardiopulmonary resuscitation (CPR) certificate
13 from the American Red Cross, the American Heart Association,
14 the National Safety Council, or a comparable program approved
15 by the state Department of Health and Mental Hygiene, present
16 when the pool is open for use.

17 (2) Whenever any person is in the water, a lifeguard must:

18 (A) be on the deck and observing the pool; and

19 (B) not leave the deck for any reason unless all persons are out
20 of the water.

21 (3) The approving authority may require additional lifeguards to be on
22 the deck at any public swimming pool if the approving authority
23 finds that the pool is inadequately guarded because of the:

24 (A) number of persons using the pool;

25 (B) shape, dimensions, or layout of the pool;

26 (C) existence of obstructions to vision; or

27 (D) capabilities of the persons using the pool.

- 28 (c) *Public spas.* A public spa must have at least one spa guard present when
 29 the spa is open for use. The spa guard must be available immediately to
 30 help in an emergency.
- 31 (d) *Hostels.* Paragraph (b) does not apply to a pool that has a water surface
 32 area less than 2,500 square feet located on the grounds of a hostel for the
 33 exclusive use of its registered guests if:
- 34 (1) the hostel is properly licensed under Chapter 54;
 - 35 (2) the hostel posts warning signs that meet the following:
 - 36 (A) the size, color, design, application, symbol, and visual
 37 layout of a safety sign is in compliance with the ANSI Z-535
 38 series of standards for Safety Signs and Colors as referenced
 39 in American National Standard for Public Spas;
 - 40 (B) a safety sign is posted in a permanent location adjacent to a
 41 hostel in compliance with the American National Standard
 42 for Public Spas;
 - 43 (C) the safety sign includes the user load of the pool;
 - 44 (D) a chemical warning sign is posted at the entrance door to a
 45 chemical storage area and includes the text "Caution!
 46 Chemical Storage Area";
 - 47 (E) a chemical vat, feeder, pump, and line is labeled to identify
 48 the chemical in use;
 - 49 (F) a chlorine gas warning sign reading "Danger—Chlorine
 50 Gas" is posted at the entrance to a chlorine gas feed room
 51 and storage area;
 - 52 (G) other warning, health advisory, and safety signs are posted,
 53 as required by Executive Regulation, if necessary to protect
 54 the public health and safety; and

55 (H) a pool that does not have a lifeguard on duty has a
56 conspicuous sign posted adjacent to entrances to the pool
57 reading "Warning: No lifeguard on duty. SWIM AT YOUR
58 OWN RISK. Children under the age of 15 are not permitted
59 to use the pool without adult supervision"; and

60 (3) the pool area has a functional and visible emergency alert system
61 approved by the Director of the Department of Health and Human
62 Services that:

63 (A) connects directly to 9-1-1; and

64 (B) notifies an employee of the hostel when activated.

65 **Sec. 2. Expedited Effective Date.**

66 The Council declares that this legislation is necessary for the immediate
67 protection of the public interest. This Act takes effect on the date that it becomes law.

68 *Approved:*

69 _____
Roger Berliner, President, County Council Date

70 *Approved:*

71 _____
Isiah Leggett, County Executive Date

72 *This is a correct copy of Council action.*

73 _____
Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 16-17 *Swimming Pools – Lifeguards – Amendments*

DESCRIPTION: Expedited Bill 16-17 would exempt certain public pools at certain facilities from the requirement to have a lifeguard on duty present when the pool is open for use; require exempted public pools to meet certain criteria, including posting certain warning signs; and require exempted pools to have an emergency alert system.

PROBLEM: County hotel pools can only be open for swimming if a lifeguard is present. This is a costly burden for the hotel industry that is not faced in neighboring jurisdictions.

GOALS AND OBJECTIVES: Maintain economic competitiveness in the tourism industry without unduly jeopardizing the safety of our visitors.

COORDINATION: Health and Human Services

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Amanda Mihill, Legislative Attorney, 240-777-7815

APPLICATION WITHIN MUNICIPALITIES: Applies in municipalities

PENALTIES: A violation of Chapter 54 is a Class A violation.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

SIDNEY A. KATZ
COUNCILMEMBER - DISTRICT 3

MEMORANDUM

TO: County Council
FROM: Councilmember Sidney Katz *SK*
DATE: May 9, 2017
RE: Bill regarding Hotel Swimming Pools

Presently, in Montgomery County, our 36 hotel pools may only be open for swimming if a qualified lifeguard is present and on duty. This presents a costly burden for our hospitality industry that is not faced by our jurisdictional neighbors. That's because Montgomery County is one of only two jurisdictions in Maryland that impose this requirement.¹ Local hotels are choosing to close their pools altogether rather than upset patrons with limited hours and, when tourists are choosing where to stay, this can put our county at a disadvantage whenever guests are seeking this important amenity.²

On Tuesday, May 16th, my office will introduce the attached legislation which allows registered guests to use their hotel pool when a lifeguard is not present, as long as there is (1) appropriately posted signage that swimming is at one's own risk and (2) an emergency alert system installed in the pool area to summon help. All hotel properties must have a CPR and First-Aid certified employee on-site at all times to provide quick intervention while awaiting rescue authorities. This proposal enhances measures that have recently passed in Anne Arundel and Prince George's Counties and the bill that is pending in Baltimore County right now.

Nearby jurisdictions that allow hotel guests to swim at their own risk have reported no increase in pool-related injuries, even in our tourist hotspot of Ocean City. Our goal with this proposal is to strike a better balance without jeopardizing the safety of our visitors. We hope you will support this sensible measure.

¹ The other jurisdiction is Baltimore County where Bill 22-17 (<http://resources.baltimorecountymd.gov/Documents/CountyCouncil/bills%202017/b02217.pdf>) is currently pending to change this rule. The District of Columbia also allows hotel guests to swim at their own risk.

² Local hotels pay lifeguards several thousand dollars per year to staff potentially empty pools. Please ask our office for more data on local pool operations and costs.