



# House of Representatives

General Assembly

**File No. 387**

January Session, 2015

Substitute House Bill No. 6969

*House of Representatives, April 1, 2015*

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING SWIMMING POOL SAFETY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section,  
2 (1) "swimming pool" means any structure intended for swimming that  
3 is installed above ground and is greater than twenty-four inches in  
4 depth, and (2) "swimming pool installer" means a person, who for  
5 financial compensation, installs a swimming pool.

6 (b) On and after the adoption of regulations required pursuant to  
7 subsection (c) of this section, no person shall install a swimming pool  
8 unless such person holds a swimming pool installer's license issued by  
9 the Commissioner of Consumer Protection.

10 (c) Not later than April 1, 2016, the Commissioner of Consumer  
11 Protection shall adopt regulations, in accordance with the provisions of  
12 chapter 54 of the general statutes, to implement the provisions of this  
13 section, including establishing the amount and type of experience,

14 training, continuing education and examination requirements for a  
15 person to obtain and renew a swimming pool installer's license.

16 (d) Any person who installs a swimming pool on residential  
17 property owned by such person shall be exempt from the provisions of  
18 this section.

19 (e) The holder of a swimming pool installer's license issued  
20 pursuant to this section shall comply with the provisions of chapter  
21 400 of the general statutes regarding registration as a home  
22 improvement contractor.

23 (f) A person licensed as a swimming pool installer pursuant to this  
24 section shall not perform electrical work, plumbing and piping work  
25 or heating, piping and cooling work, as defined in section 20-330 of the  
26 general statutes, unless such person is licensed to perform such work  
27 pursuant to chapter 393 of the general statutes.

28 (g) On and after the adoption of regulations required pursuant to  
29 subsection (c) of this section, any person applying to the Department  
30 of Consumer Protection for a swimming pool installer's license shall be  
31 issued such license without examination upon demonstration by the  
32 applicant of experience and training equivalent to the experience and  
33 training required to qualify for examination for such license, if such  
34 applicant makes such application to the department not later than  
35 January 1, 2017.

36 (h) The initial fee for a swimming pool installer's license shall be one  
37 hundred fifty dollars and the renewal fee for such license shall be one  
38 hundred dollars. Licenses shall be valid for a period of one year from  
39 the date of issuance.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

**PS**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 16 \$</b>	<b>FY 17 \$</b>
Consumer Protection, Dept.	GF - Cost	102,121	102,121
Comptroller- Fringe Benefits <sup>1</sup>	GF - Cost	37,537	37,537
Resources of the General Fund	GF - Revenue Gain	112,500	75,000

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill results in a state cost of \$139,658 in FY 16 and FY 17 and a revenue gain to the state of \$112,500 in FY 16 and \$75,000 in FY 17 by creating an above ground swimming pool installer license along with regulatory responsibility for such licensees within the Department of Consumer Protection.

It is estimated that as many as 2,500 above ground pools are installed in Connecticut each year. The bill would result in an estimated issuance of 750 licenses. The initial license fee is \$150 with a \$100 yearly renewal fee.

The volume of licensees and anticipated consumer complaints for faulty workmanship require a DCP Inspector (\$59,737) and a DCP Inspection Aide (\$37,384) along with associated Other Expenses/Equipment (\$5,000) and fringe benefits (\$37,537).

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.65% of payroll in FY 16 and FY 17.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of new and renewal licenses.

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**OLR Bill Analysis**

**sHB 6969**

***AN ACT CONCERNING SWIMMING POOL SAFETY.***

**SUMMARY:**

This bill creates a swimming pool installer license, generally subject to the same provisions governing the swimming pool builder license under existing law.

Under current law, anyone who, for financial compensation, builds or installs permanent spas or in-ground or partially above-ground swimming pools more than 24 inches deep must be licensed as a swimming pool builder and registered as a home improvement contractor with the Department of Consumer Protection (DCP). Once DCP adopts implementing regulations, this bill extends the license and registration requirements to anyone who, for financial compensation, installs above-ground swimming pools more than 24 inches deep. People building or installing pools on their own residential property are exempt from the requirements under the law and the bill.

As is currently the case for the swimming pool builder licensee, the bill prohibits the swimming pool installer licensee from performing electrical; plumbing and piping; or heating, piping, and cooling work without being licensed to perform this type of work.

As is the case for the swimming pool builder, the initial fee for the swimming pool installer license is \$150, and the annual renewal fee is \$100. The annual registration fee is \$120, and the required annual contribution to the Home Improvement Guaranty Fund is \$100.

The bill does not contain specific penalties for swimming pool installer license violations. But by law, DCP may impose penalties for violations, such as license revocation and suspension on DCP licenses.

Under the bill, a swimming pool installer licensee who violates the home improvement contractor registration provisions is also subject to a range of penalties.

EFFECTIVE DATE: Upon passage

### **POOL INSTALLER REGULATIONS**

By April 1, 2016, the bill requires the DCP commissioner to adopt implementing regulations establishing the amount and type of experience, training, continuing education, and examination requirements for getting and renewing a license.

Once DCP adopts regulations, the bill prohibits anyone from installing, for financial compensation, an above-ground swimming pool more than 24 inches deep, except on his or her own property, without first obtaining a DCP-license and registering with DCP as a home improvement contractor.

After DCP adopts regulations, anyone who applies for a pool installer's license, by January 1, 2017, does not have to take a license examination, provided his or her experience and training are equivalent to that required to qualify for the examination under DCP regulations.

### **HOME IMPROVEMENT REGISTRATION REQUIREMENTS**

The bill requires the swimming pool installer licensees to comply with the home improvement contractor registration requirements.

#### ***Fees***

By law, home improvement contractors must register with DCP and pay a \$220 annual fee, of which \$100 goes to the Home Improvement Guaranty Fund, which reimburses consumers (up to \$15,000 per claim) unable to recover losses suffered because the registered contractor failed to fulfill a contract valued over \$200 (CGS § 20-432).

#### ***Requirements***

Among other things, registered contractors must (1) include their

registration numbers in advertisements, (2) show their registration when asked to do so by “any interested party,” and (3) use written contracts that meet certain statutory requirements (CGS §§ 20-427(a) & 429).

### ***Violations and Penalties***

DCP may investigate, refuse, suspend, or revoke a contractor’s registration and impose fines. It may impose civil fines ranging from \$500 for a first offense to \$1,500 for third and subsequent offenses for such things as working without a required registration or willfully employing an unregistered individual (CGS § 20-427(d)).

In addition, by law, certain violations involving (1) an element of fraud are class B misdemeanors (punishable by a maximum of six months imprisonment, a fine of up to \$1,000 or both) and (2) over \$10,000 are class A misdemeanors (punishable by a maximum of one year imprisonment, a fine of up to \$2,000 or both). And the court may impose probation of up to five years if the contractor cannot pay the restitution in full (CGS § 20-427(c)).

Finally, a violation of the Home Improvement Act constitutes a violation under the Connecticut Unfair Trade Practices Act (CUTPA) (CGS § 20-427(c)).

## **BACKGROUND**

### ***Connecticut Unfair Trade Practices Act (CUTPA)***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining

order.

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable Substitute

Yea 17 Nay 6 (03/19/2015)