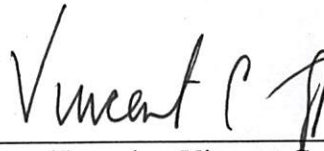




Councilmember Jack Evans



Councilmember Vincent C. Gray

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish standards, on an emergency basis, governing the presence of lifeguards at semi-public swimming pools; to exempt semi-public swimming pools from the requirement to provide shower facilities, toilet facilities, eye wash stations, and dressing rooms, if the facilities are restricted to residents and guests and are located within 300 feet of a dwelling unit; and to exempt cooperatives, condominiums, and apartment buildings operating semi-public swimming pools from requirements to provide a pool operator, water quality and safety logs, a fence around rooftop swimming pools, or a safety line.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Pools Without Penalties Emergency Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Bather" means any person using a swimming pool or spa pool and adjoining deck area for the purpose of water sports, recreation therapy or related activities.

(2) "Class C, semi-public swimming pool" or "swimming pool" means any swimming pool operated solely for and in conjunction with lodgings such as hotels, motels, cooperatives, apartments, and condominiums.

35 (3) "Diving board" means a recreational mechanism for entering a swimming pool,  
36 consisting of a semi-rigid board that derives its elasticity through the use of a fulcrum mounted  
37 below the board.

38 (4) "Lifeguard" means a person having the qualifications of and possessing a current  
39 American Red Cross, YMCA, or other Lifeguard Certifications, current First Aid Certificates,  
40 current CPR (which includes adult, child, and infant), Certificates issued by nationally  
41 recognized aquatic training organizations, such as the International Lifeguard Training Program,  
42 that are adopted and recognized by the Department of Health; and is responsible for the safety of  
43 the users of a public swimming pool or spa pool.

44 (5) "Sauna" means an aquatic feature including but not limited to the application of water  
45 vapor from hot water facilities such as Jacuzzis, hot tubs and steam baths.

46 (6) "Spa pool" means a structure intended for either warm or cold water where prolonged  
47 exposure is not intended. Spa structures are intended to be used for bathing or other recreational  
48 uses and are not usually drained and refilled after each use. It may include, but is not limited to,  
49 hydrotherapy, air induction bubbles, and recirculation.

50 Sec. 3. Lifeguards.

51 (a) Except as provided in subsection (b) of this section, a lifeguard shall not be required  
52 for a Class C, semi-public swimming pool that is:

53 (1) Open for use only to persons who hold membership or other paid association  
54 in the facility where the swimming pool is located;

55 (2) Open for use only to persons who are permanent or temporary residents or  
56 guests of residents at the facility where the swimming pool is located;

57 (3) Open for use to persons who are lodging for a fee at the facility where the  
58 swimming pool is located; or

59 (4) A spa pool or sauna.

60 (b) A lifeguard shall be required for a swimming pool that has:

61 (1) A diving board;

62 (2) A depth of at least 5 feet; provided, that the swimming pool is constructed  
63 after June 30, 2018; and

64 (3) An expected bather population of fifty percent or more children under the age  
65 of 15.

66 Sec. 3. Facilities.

67 An operator of a Class C, semi-public swimming pool shall not be required to provide  
68 shower facilities, toilet facilities, eye wash stations, and dressing rooms for swimming pool users  
69 where:

70 (1) Use of the swimming is restricted to residents and guests; and

71 (2) The farthest dwelling unit in the hotel, motel, cooperative, condominium, or  
72 apartment building is less than 300 feet from the swimming pool area, as measured along  
73 walkways provided for access by residents and guests to the swimming pool area.

74 Sec. 4. Operations.

75 A cooperative, condominium or apartment building operating a Class C, semi-public  
76 swimming pool shall not be required to provide:

77 (1) A swimming pool operator pursuant to section 300.1 of Title 25-C of the  
78 District of Columbia Municipal Regulations (25-C DCMR § 300.1);

79 (2) The information required pursuant to section 412 of Title 25-C of the District  
80 of Columbia Municipal Regulations (25-C DCMR § 412 *et seq.*);

81 (3) New construction of, or alterations to, a swimming pool beyond those required  
82 by the Americans with Disabilities Act, approved July 26, 1990 (104 Stat. 327; 42 U.S.C. §  
83 12183), and 28 C.F.R § 36.401;

84 (4) A fence around a rooftop swimming pool; or

85 (5) A safety line pursuant to section 505.4 of Title 25-C of the District of  
86 Columbia Municipal Regulations (25-C DCMR § 505.4).

87 Sec. 5. Fiscal impact statement.

88 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact  
89 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
90 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

91 Sec. 6. Effective date.

92 This act shall take effect following approval by the Mayor (or in the event of veto by the  
93 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than  
94 90 days, as provided for emergency acts of the Council of the District of Columbia in section  
95 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
96 D.C. Official Code § 1-204.12(a)).




**OFFICE OF THE GENERAL COUNSEL**

Council of the District of Columbia  
1350 Pennsylvania Avenue NW, Suite 4  
Washington, DC 20004  
(202) 724-8026

**MEMORANDUM**

**TO:** Councilmember Vincent Gray

**FROM:** John Hoellen, Deputy General Counsel 

**DATE:** February 6, 2018

**RE:** Legal Sufficiency Determination for Bill 22-\_\_\_\_, the  
Pools Without Penalties Emergency Act of 2018

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This emergency measure is legally and technically sufficient for Council consideration.

The Pools Without Penalties Emergency Act of 2018 would create standards governing when Class C, semi-public swimming pools ("swimming pools")<sup>1</sup> are required to have a lifeguard present. Further, the measure would exempt swimming pool operators from the requirement to provide shower facilities, toilet facilities, eye wash stations, and dressing rooms, if those facilities are restricted to residents and guests, and are located within 300 feet of a dwelling unit. Finally, the measure would exempt a cooperative, condominium, and apartment building operating a swimming pool from requirements to provide: (1) a pool operator; (2) water quality and safety logs; (3) new construction or alterations to a swimming pool beyond those already required by the Americans with Disabilities Act, approved July 26, 1990 (104 Stat. 327; 42 U.S.C. § 12183), and 28 C.F.R § 36.401; (4) a fence around rooftop swimming pools; or (5) a safety line.

I am available if you have any questions.

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<sup>1</sup> For the purposes of the act, a Class C, semi-public swimming pools is defined as "any swimming pool operated solely for and in conjunction with lodgings such as hotels, motels, cooperatives, apartments, and condominiums".

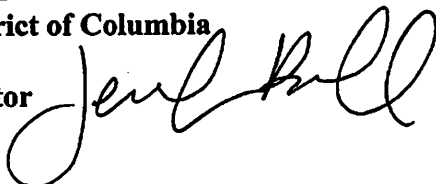
**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Office of the Budget Director**



Jennifer Budoff  
Budget Director

**FISCAL IMPACT STATEMENT**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jennifer Budoff, Budget Director 

**DATE:** February 5, 2018

**SHORT TITLE:** Pools Without Penalties Emergency/Temporary Act of 2018

**TYPE:** Emergency/Temporary

**REQUESTED BY:** Councilmember Vincent Gray

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**Conclusion**

Funds are sufficient to implement this proposed emergency/temporary legislation because there is no impact to the District's budget and financial plan.

**Background**

In October 2017, the Council introduced the Pools without Penalties Act of 2017 (B22-0511) to repeal the District of Columbia Department of Health regulations on semi-public pools. The "Pools Without Penalties Emergency Act of 2018" amends B22-0511 and establishes standards for semi-public pools that includes various exemptions, such as providing lifeguards, shower facilities, toilet facilities, eye wash stations, dressing rooms under certain criteria. Additionally, it includes exemptions for cooperatives, condominiums, and apartment buildings that operate semi-public pools. Exemptions for these building categories include requirements for pool operators, water quality and safety logs, fences around rooftop swimming pools, and safety lines.

This emergency legislation amends B22-0511 to include the exemptions mentioned above; include a lifeguard requirement for semi-public pools with a depth of at least five feet (5 ft.), constructed after June 30, 2018; removes the exemption of the facility license requirement from the Mayor per DCR § 700.1; and makes several technical corrections.

**Analysis of Impact on Spending**

This legislation would not impact spending.

#### **Analysis of Impact on Revenue**

This legislation may have a minor impact on revenue. As of February 2018, there are approximately 140 cooperatives and 6,009 apartment buildings with licensed, semi-public swimming pools in the District. There could be a minor revenue loss from a reduced number of fence permits for rooftop pools and a reduced number of Swimming Pool Operator (SPO) IDs. A building with a rooftop pool requires a fence permit. A swimming pool operator requires an SPO ID.

Fence permits cost approximately \$36.00, which includes new installations or existing repairs. The Office of the Budget Director did not receive a response from the District of Columbia Department of Consumer and Regulatory Affairs regarding the total number of rooftop pools among the 140 cooperatives and 6,009 apartment buildings. The Office of the Budget Director cannot estimate the potential revenue impact of fence permits without this information.

SPO IDs cost approximately \$10.00, which includes new IDs and renewals. SPO IDs are valid for three years from the date of examination. The swimming pool operator exemption for cooperatives, condominiums, and apartment buildings could potentially result in an approximate revenue loss of \$61,500 or more every three years, which would have a de minimis impact.