

1 AN ACT relating to swimming pool operational standards.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Barrier" means a fence, dwelling wall, or non-dwelling wall, or any*  
7 *combination thereof, which completely surrounds the swimming pool and*  
8 *obstructs access to the swimming pool, especially access from the residence*  
9 *or from the yard outside the barrier;*

10 *(b) "Portable swimming pool" means any structure, located in a residential*  
11 *area, that is intended for swimming or recreational bathing and contains*  
12 *water less than twenty-four(24) inches deep;*

13 *(c) "Residential" means situated on the premises of a detached one (1) family*  
14 *or two (2) family dwelling or a one (1) family townhouse not more than*  
15 *three (3) stories high; and*

16 *(d) "Swimming pool" means any structure, located in a residential area, that is*  
17 *intended for swimming or recreational bathing and contains water over*  
18 *twenty-four (24) inches deep, including but not limited to in-ground,*  
19 *aboveground, and on-ground swimming pools; hot tubs; portable swimming*  
20 *pools; and non-portable spas.*

21 *(2) Every residential swimming pool shall be enclosed by a barrier. A residential*  
22 *swimming pool barrier shall:*

23 *(a) Be at least four (4) feet high on the outside;*

24 *(b) Not have any gaps, openings, indentations, protrusions, or structural*  
25 *components that could allow a child to crawl under, squeeze through, or*  
26 *climb over the barrier;*

27 *(c) Be placed around the perimeter of the swimming pool and be separate from*

- 1           any fence, wall, or other enclosure surrounding the yard unless the fence,  
2           wall, or other enclosure or portion thereof is situated on the perimeter of the  
3           swimming pool, is being used as part of the barrier, and meets the barrier  
4           requirements of this section;
- 5           (d) Be placed sufficiently away from the water's edge to prevent a child or  
6           medically frail person who may have managed to penetrate the barrier from  
7           immediately falling into the water; and
- 8           (e) Be installed within one hundred twenty (120) days of the effective date of  
9           this Act for existing residential swimming pools and at the time of  
10           completion for newly installed or constructed residential swimming pools.
- 11       (3) The structure of an aboveground swimming pool may be used as its barrier or the  
12       barrier for such a pool may be mounted on top of its structure; however, such  
13       structure or separately mounted barrier shall meet all barrier requirements  
14       established in subsection (2) of this section. In addition, any ladder or steps that  
15       are the means of access to an aboveground swimming pool shall be capable of  
16       being secured, locked, or removed to prevent access or shall be surrounded by a  
17       barrier that meets the requirements of this section.
- 18       (4) Gates that provide access to swimming pools shall open outward away from the  
19       pool and be self-closing and equipped with a self-latching locking device, the  
20       release mechanism of which shall be located on the pool side of the gate and so  
21       placed that it cannot be reached by a child over the top or through any opening or  
22       gap.
- 23       (5) A wall of a dwelling may serve as part of the barrier.
- 24       (6) All portable swimming pools shall be emptied after each use.
- 25       (7) Swimming pools shall have a pool cover that is compliant with the American  
26       Society for Testing and Materials (ASTM) standard F1346-91 for when the pool  
27       is not in seasonal operation.

1 (8) All swimming pools operating off of a single main drain, other than an  
2 unlockable drain, shall be compliant with the Virginia Graeme Baker Pool and  
3 Spa Safety Act, 15 U.S.C. sec. 8001 et seq. Any swimming pool installed or  
4 constructed before 2008 shall obtain a drain adaptor within one hundred twenty  
5 (120) days of the effective date of this Act.

6 (9) A residential swimming pool currently located, or newly installed or constructed  
7 in the future, on ten (10) or more acres of continuously owned land, shall be  
8 exempt from this section.

9 ➔Section 2. KRS 212.990 is amended to read as follows:

10 (1) Any owner or occupant who fails to comply with an order made under the  
11 provisions of subsection (1) of KRS 212.210 shall be fined not less than ten dollars  
12 (\$10) nor more than one hundred dollars (\$100) and each day's continuance of the  
13 nuisance, source of filth, or cause of sickness, after the owner or occupant has been  
14 notified to remove it, shall be a separate offense.

15 (2) Any person who violates KRS 212.715 or any rule or regulation adopted by any  
16 consolidated local government, city, county, or city-county board of health, except  
17 as otherwise provided by subsection (3) of this section for counties containing cities  
18 of the first class or consolidated local government, shall be fined not less than ten  
19 dollars (\$10) nor more than one hundred dollars (\$100) for each day the violation  
20 continues.

21 (3) The violation of any health regulation promulgated by the city-county board of  
22 health or of any order made by the board under KRS 212.350 to 212.620, directing  
23 the abatement of a nuisance, source of filth, or cause or probable cause of sickness,  
24 is hereby declared to be a misdemeanor, and any person, firm, or corporation, or  
25 member of a firm or officer or director of a corporation, upon conviction thereof  
26 shall be fined not less than five dollars (\$5) nor more than one hundred dollars  
27 (\$100) for each such offense. If any offense is continued for more than one (1) day,

1 each day upon which such offense occurs or is continued shall be considered and  
2 constitute a separate offense and a separate fine may be imposed therefor.

3 (4) Any physician who fails to comply with the provisions of KRS 212.343, upon  
4 conviction thereof shall be fined not more than five hundred dollars (\$500).

5 (5) Failure to procure the informed consent of those required to give their consent  
6 pursuant to KRS 212.345, prior to performing a nontherapeutic sterilization shall be  
7 punishable by imprisonment in the county jail not to exceed one (1) year or a fine  
8 not to exceed one thousand dollars (\$1,000), or both.

9 (6) Any physician violating KRS 212.347 shall be imprisoned in the county jail not to  
10 exceed one (1) year or shall pay a fine not to exceed one thousand dollars (\$1,000),  
11 or both.

12 **(7) Any individual or entity that fails to comply with Section 1 of this Act shall be**  
13 **fined not less than fifty (\$50) nor more than one hundred dollars (\$100) for each**  
14 **day the violation occurs or remains in effect.**

15 ➔Section 3. This Act may be cited as the "Ava Grace Jenkins Law."