

Department of Legislative Services  
Maryland General Assembly  
2002 Session

FISCAL NOTE

House Bill 940 (Delegate Kach)  
Environmental Matters

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Maryland Swimming Pool and Spa Safety Act of 2002

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This bill allows an owner of a private pool or spa to equip the pool and/or spa with a manual or power-operated safety cover with tracks that meets the American Society for Testing and Materials standards instead of or in addition to any other safety enclosures required by State law or regulation, beginning January 1, 2003. The bill also allows an owner to cover one or multiple pools or spas with one barrier instead of separate barriers. This bill preempts a county or municipality's authority to regulate any private pool that is equipped in accordance with this bill. The Department of Health and Mental Hygiene (DHMH) must adopt regulations to implement the bill.

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Fiscal Summary

**State Effect:** The bill would not directly affect governmental operations or finances.

**Local Effect:** None.

**Small Business Effect:** Potential significant. This bill could encourage private pool and spa owners to purchase a manual or power-operated safety cover from small businesses that sell the covers.

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Analysis

**Current Law:** DHMH does not regulate private pools or spas. Generally, counties and municipalities require individuals to obtain building permits to install a pool or spa and require that a pool or spa be enclosed with a fence. Individuals are charged a fee for the

permit, which covers the administrative costs of issuing the permit and inspecting the construction, including the fence.

**State Expenditures:** DHMH advises that the Office of Food Control and Consumer Protection would be required to hire five additional sanitarians to review new private pool and/or spa construction plans that include the safety cover allowed under this bill, if the regulations were written to require them to do so. The Department of Legislative Services (DLS) disagrees. The bill does not require the office to review private pool construction plans and the regulations should not require that either. It is assumed that the bill is simply establishing standards to be followed by existing regulatory authorities.

**Local Expenditures:** Dorchester County advises that its health department would be required to hire five additional sanitarians if DHMH wrote its regulations requiring DHMH to enforce and monitor compliance with the bill's provisions through the local health departments. DLS disagrees. The bill does not require DHMH to enforce and monitor compliance with the bill's provisions and the regulations should not require them to do so. Local zoning boards are already monitoring compliance with pool and spa safety requirements when the pools and spas are built.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Dorchester County, Kent County, Prince George's County, Washington County, Worcester County, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2002  
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Analysis by: Lisa A. Daigle

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510