

**MEMORANDUM**

May 11, 2017

TO: County Council

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

SUBJECT: **Introduction:** 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, is scheduled to be introduced on May 16, 2017. A public hearing is tentatively scheduled for June 20 at 1:30 p.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.

This packet contains:

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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

<b>Boldface</b>	<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:*

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

**51-1. Definitions.**

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

\* \* \*

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

\* \* \*

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

\* \* \*

(b) *Lifeguards.*

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

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

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

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

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

(A) number of persons using the pool;

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

(C) existence of obstructions to vision; or

(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*

<b>DESCRIPTION:</b>	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.
<b>PROBLEM:</b>	During the 2017 legislative session, the General Assembly enacted, and the Governor signed, House Bill 1234 which provides local government authority to expand the military retiree tax credit to include a retired member of the uniformed services, the military reserves, or the national guard.
<b>GOALS AND OBJECTIVES:</b>	Maintain economic competitiveness in the tourism industry without unduly jeopardizing the safety of our visitors.
<b>COORDINATION:</b>	Health and Human Services
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Amanda Mihill, Legislative Attorney, 240-777-7815
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Applies in municipalities
<b>PENALTIES:</b>	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 *SAK*  
DATE: May 9, 2017  
RE: Bill regarding Hotel Swimming Pools

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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.<sup>1</sup> 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.<sup>2</sup>

On Tuesday, May 16<sup>th</sup>, 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.

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<sup>1</sup> 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.

<sup>2</sup> 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.