

LOCAL LAW INTRO. NO. -2007

A Local Law adding a new Article XVII to Chapter 863 of the Laws of Westchester County entitled "Portable/Inflatable Swimming Pool Advisory."

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Article XVII is hereby added to Chapter 863 of the Laws of Westchester County to read as follows:

**ARTICLE XVII  
PORTABLE/INFLATABLE SWIMMING POOL ADVISORY**

- Sec. 863.1401. Legislative Intent.**
- Sec. 863.1402. Definitions.**
- Sec. 863.1403. Duty to post.**
- Sec. 863.1404. Placement.**
- Sec. 863.1405. Enforcement and penalties.**
- Sec. 863.1406. Severability.**

**Sec. 863.1401. Legislative Intent.**

There are approximately 280 drowning deaths of children under the age of five each year in swimming pools, and an estimated 2,100 children were treated in hospital emergency rooms for pool submersion injuries in 2005. Most of these deaths and injuries occurred in residential pools. Reports indicate that in 2005, 17 drowning deaths involved inflatable pools, up from nine in 2004 and ten in 2003. Since portable/inflatable pools are inexpensive, they are often purchased by consumers who may be unaware of the safety precautions necessary to help protect young children from the dangers of pools. Portable/inflatable pools are particularly dangerous because adults often are not aware of the serious drowning hazards that they pose to children. It is vital, therefore, that at the time of purchase, consumers be informed of the increasing number of deaths related to inexpensive portable/inflatable pools.

Accordingly, this law requires the posting of an advisory at retail establishments selling portable/inflatable pools to provide notice to consumers of the potential drowning hazards of such pools.

The intent of this legislation is to require an advisory in order to inform the residents of Westchester County of the dangers of portable/inflatable pools in furtherance of the goal of protecting the health, safety and welfare of Westchester families. Nothing contained herein is designed, nor shall be construed as, to interfere with or to supersede any other existing State or local law regulating swimming pools.

**Sec. 863.1402. Definitions.**

For the purposes of this Chapter, the following words and phrases shall have the meanings indicated.

1. “Portable/Inflatable pool” means any body of water or receptacle for water, including but not limited to, inflatable pools and soft-sided pools, having a depth at any point greater than two feet, used or intended to be used for swimming, wading or recreational bathing.
2. “Point of display” means the counter, shelf or any location at which portable/inflatable pools are displayed for sale.
3. “Retail establishment” shall mean all sales outlets, stores, shops or other places of business located within the County of Westchester which operate to sell household products directly to the ultimate consumer.

**Sec. 863.1403. Duty to post.**

1. A retail establishment that sells portable/inflatable pools shall cause an advisory to be posted or displayed on the premises as provided in this Article. The advisory shall read as follows:

PORTABLE POOL/INFLATABLE POOL SAFETY WARNING:  
AN AVERAGE OF 280 CHILDREN UNDER THE AGE OF 5  
DROWN EACH YEAR IN SWIMMING POOLS, AND THERE  
ARE AN INCREASING NUMBER OF DEATHS IN  
INEXPENSIVE, PORTABLE/INFLATABLE POOLS. THE  
SIDES OF A PORTABLE/INFLATABLE POOL CAN BE  
FLEXIBLE AND SOMETIMES SLANTED OR LOW, SO IT  
MAY BE EASIER FOR A CHILD TO CLIMB INSIDE.  
PARENTS NEED TO BE AWARE THAT ANY POOL POSES A  
RISK TO YOUNG CHILDREN.  
NEVER LEAVE A CHILD UNSUPERVISED OR OUT OF SIGHT IN OR  
NEAR A POOL - NOT EVEN FOR A SECOND. THERE IS NO SUBSTITUTE  
FOR CONSTANT PARENTAL SUPERVISION.

2. Such sign shall be designed, produced and distributed by the Department of Weights and Measures at no cost to the retail establishment and shall be printed in English and Spanish and, at a minimum, be in 14 point bold type on a placard measuring 8.5 inches in height by 11 inches in width.

3. The Department of Weights and Measures shall update the content of the advisory as necessary.

**Sec. 863.1404. Placement.**

The advisory required by section 864.1403 above shall be conspicuously posted at the point of display. The advisory shall be protected from tampering, damage, removal or concealment.

**Sec. 863.1405. Enforcement and penalties.**

1. For the first violation of the provisions of this Chapter, a notice of violation shall be issued to the offending party. For a second violation, a civil penalty not exceeding one hundred and fifty dollars (\$150.00) shall be imposed. For the third and succeeding violations, a civil penalty not exceeding two hundred and fifty dollars (\$250.00) shall be imposed for each single violation.

2. The County Department of Weights and Measures shall have sole jurisdiction to enforce the provisions of this chapter. The penalty provided for by this chapter may be sued for and recovered by the County Department of Weights and Measures through the County Attorney in the name of the County of Westchester in any court of competent jurisdiction. The penalties imposed herein are the sole penalties to be imposed for a violation of this chapter. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice of the charge against him and has had an opportunity to be heard.

**Sec. 863.1406. Severability.**

If any clause, sentence, paragraph, subdivision, section, rule or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, rule or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. This local law shall take effect thirty (30) days after its enactment.