

Calendar No. 381110TH CONGRESS
1ST SESSION**S. 1771****[Report No. 110-182]**

To increase the safety of swimming pools and spas by requiring the use of proper anti-entrapment drain covers and pool and spa drainage systems, to educate the public about pool and spa safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11, 2007

Mr. PRYOR (for himself, Mr. DODD, Mr. STEVENS, Mrs. HUTCHISON, Ms. KLOBUCHAR, Mr. WARNER, Mr. DURBIN, Mr. MCCAIN, Mr. COLEMAN, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 20, 2007

Reported by Mr. INOUE, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To increase the safety of swimming pools and spas by requiring the use of proper anti-entrapment drain covers and pool and spa drainage systems, to educate the public about pool and spa safety, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Virginia Graeme Baker
3 Pool and Spa Safety Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Of injury-related deaths, drowning is the
7 second leading cause of death in children aged 1 to
8 14 in the United States.

9 (2) In 2004, 761 children aged 14 and under
10 died as a result of unintentional drowning.

11 (3) Adult supervision at all aquatic venues is a
12 critical safety factor in preventing children from
13 drowning.

14 (4) Research studies show that the installation
15 and proper use of barriers or fencing, as well as ad-
16 ditional layers of protection, could substantially re-
17 duce the number of childhood residential swimming
18 pool drownings and near drownings.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) ASME/ANSI.—The term “ASME/ANSI”
22 as applied to a safety standard means such a stand-
23 ard that is accredited by the American National
24 Standards Institute and published by the American
25 Society of Mechanical Engineers.

1 (2) BARRIER.—The term “barrier” includes a
2 natural or constructed topographical feature that
3 prevents unpermitted access by children to a swim-
4 ming pool, and, with respect to a hot tub, a lockable
5 cover.

6 (3) COMMISSION.—The term “Commission”
7 means the Consumer Product Safety Commission.

8 (4) MAIN DRAIN.—The term “main drain”
9 means a submerged suction outlet typically located
10 at the bottom of a pool or spa to conduct water to
11 a re-circulating pump.

12 (5) SAFETY VACUUM RELEASE SYSTEM.—The
13 term “safety vacuum release system” means a vacu-
14 um release system capable of providing vacuum re-
15 lease at a suction outlet caused by a high vacuum
16 occurrence due to a suction outlet flow blockage.

17 (6) SWIMMING POOL; SPA.—The term “swim-
18 ming pool” or “spa” means any outdoor or indoor
19 structure intended for swimming or recreational
20 bathing, including in-ground and above-ground
21 structures, and includes hot tubs, spas, portable
22 spas, and non-portable wading pools.

23 (7) UNBLOCKABLE DRAIN.—The term
24 “unblockable drain” means a drain of any size and

1 shape that a human body cannot sufficiently block
2 to create a suction entrapment hazard.

3 **SEC. 4. FEDERAL SWIMMING POOL AND SPA DRAIN COVER**
4 **STANDARD.**

5 (a) CONSUMER PRODUCT SAFETY RULE.—The re-
6 quirements described in subsection (b) shall be treated as
7 a consumer product safety rule issued by the Consumer
8 Product Safety Commission under the Consumer Product
9 Safety Act (15 U.S.C. 2051 et seq.).

10 (b) DRAIN COVER STANDARD.—Effective 1 year
11 after the date of enactment of this Act, each swimming
12 pool or spa drain cover manufactured, distributed, or en-
13 tered into commerce in the United States shall conform
14 to the entrapment protection standards of the ASME/
15 ANSI A112.19.8 performance standard, or any successor
16 standard regulating such swimming pool or drain cover.

17 (c) *PUBLIC POOLS.*—

18 (1) *IN GENERAL.*—*Beginning 1 year after the*
19 *date of enactment of this Act, each public pool and*
20 *spa in the United States shall be equipped with de-*
21 *vices or systems designed to prevent entrapment by*
22 *pool or spa drains that comply with the ASME/ANSI*
23 *A112.19.8 performance standard, or any successor*
24 *standard.*

1 (2) *PUBLIC POOL AND SPA DEFINED.*—*In this*
2 *subsection, the term “public pool and spa” means a*
3 *swimming pool or spa that is—*

4 (A) *open to the public generally, whether for*
5 *a fee or free of charge;*

6 (B) *open exclusively to—*

7 (i) *members of an organization and*
8 *their guests;*

9 (ii) *residents of a multi-unit apart-*
10 *ment building, apartment complex, residen-*
11 *tial real estate development, or other multi-*
12 *family residential area (other than a mu-*
13 *nicipality, township, or other local govern-*
14 *ment jurisdiction); or*

15 (iii) *patrons of a hotel or other public*
16 *accommodations facility; or*

17 (C) *operated by the Federal Government (or*
18 *by a concessionaire on behalf of the Federal Gov-*
19 *ernment) for the benefit of members of the Armed*
20 *Forces and their dependents or employees of any*
21 *department or agency and their dependents.*

22 (3) *ENFORCEMENT.*—*Violation of paragraph (1)*
23 *shall be considered to be a violation of section*
24 *19(a)(1) of the Consumer Product Safety Act (15*

1 *U.S.C. 2068(a)(1)) and may also be enforced under*
2 *section 17 of that Act (15 U.S.C. 2066).*

3 **SEC. 5. STATE SWIMMING POOL SAFETY GRANT PROGRAM.**

4 (a) IN GENERAL.—Subject to the availability of ap-
5 propriations authorized by subsection (e), the Commission
6 shall establish a grant program to provide assistance to
7 eligible States.

8 (b) ELIGIBILITY.—To be eligible for a grant under
9 the program, a State shall—

10 (1) demonstrate to the satisfaction of the Com-
11 mission that it has a State statute, or that, after the
12 date of enactment of this Act, it has enacted a stat-
13 ute, or amended an existing statute, and provides for
14 the enforcement of, a law that—

15 (A) except as provided in section
16 6(a)(1)(A)(i), applies to all swimming pools in
17 the State; and

18 (B) meets the minimum State law require-
19 ments of section 6; and

20 (2) submit an application to the Commission at
21 such time, in such form, and containing such addi-
22 tional information as the Commission may require.

23 (c) AMOUNT OF GRANT.—The Commission shall de-
24 termine the amount of a grant awarded under this Act,
25 and shall consider—

1 (1) the population and relative enforcement
2 needs of each qualifying State; and

3 (2) allocation of grant funds in a manner de-
4 signed to provide the maximum benefit from the
5 program in terms of protecting children from drown-
6 ing or entrapment, and, in making that allocation,
7 shall give priority to States that have not received
8 a grant under this Act in a preceding fiscal year.

9 (d) USE OF GRANT FUNDS.—A State receiving a
10 grant under this section shall use—

11 (1) at least 50 percent of amounts made avail-
12 able to hire and train enforcement personnel for im-
13 plementation and enforcement of standards under
14 the State swimming pool and spa safety law; and

15 (2) the remainder—

16 (A) to educate pool construction and in-
17 stallation companies and pool service companies
18 about the standards;

19 (B) to educate pool owners, pool operators,
20 and other members of the public about the
21 standards under the swimming pool and spa
22 safety law and about the prevention of drown-
23 ing or entrapment of children using swimming
24 pools and spas; and

1 (C) to defray administrative costs associ-
 2 ated with such training and education pro-
 3 grams.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated to the Commission for
 6 each of fiscal years 2009 and 2010 \$2,000,000 to carry
 7 out this section, such sums to remain available until ex-
 8 pended. *Any amounts appropriated pursuant to this sub-*
 9 *section that remain unexpended and unobligated at the end*
 10 *of fiscal year 2010 shall be retained by the Commission and*
 11 *credited to the appropriations account that funds enforce-*
 12 *ment of the Consumer Product Safety Act.*

13 **SEC. 6. MINIMUM STATE LAW REQUIREMENTS.**

14 (a) IN GENERAL.—

15 (1) SAFETY STANDARDS.—A State meets the
 16 minimum State law requirements of this section if—

17 (A) the State requires by statute—

18 (i) the enclosure of all *outdoor* resi-
 19 dential pools and spas by barriers to entry
 20 that will effectively prevent small children
 21 from gaining unsupervised and unfettered
 22 access to the pool or spa;

23 (ii) that all pools and spas be
 24 equipped with devices and systems de-

1 signed to prevent entrapment by pool or
2 spa drains;

3 (iii) that pools and spas built more
4 than 1 year after the date of the enact-
5 ment of such statute have—

6 (I) more than 1 drain;

7 (II) 1 or more unblockable
8 drains; or

9 (III) no main drain; ~~and~~

10 (iv) every swimming pool and spa that
11 has a main drain, other than an
12 unblockable drain, be equipped with a
13 drain cover that meets the consumer prod-
14 uct safety standard established by section
15 4; and

16 *(v) that periodic notification is pro-*
17 *vided to owners of residential swimming*
18 *pools or spas about compliance with the en-*
19 *trapment protection standards of the*
20 *ASME/ANSI A112.19.8 performance stand-*
21 *ard, or any successor standard; and*

22 (B) the State meets such additional State
23 law requirements for pools and spas as the
24 Commission may establish after public notice
25 and a 30-day public comment period.

1 (2) *NO LIABILITY INFERENCE ASSOCIATED WITH*
 2 *STATE NOTIFICATION REQUIREMENT.—The minimum*
 3 *State law notification requirement under paragraph*
 4 *(1)(A)(v) shall not be construed to imply any liability*
 5 *on the part of a State related to that requirement.*

6 ~~(2)~~ (3) *USE OF MINIMUM STATE LAW REQUIRE-*
 7 *MENTS.—The Commission—*

8 (A) shall use the minimum State law re-
 9 quirements under paragraph (1) solely for the
 10 purpose of determining the eligibility of a State
 11 for a grant under section 5 of this Act; and

12 (B) may not enforce any requirement
 13 under paragraph (1) except for the purpose of
 14 determining the eligibility of a State for a grant
 15 under section 5 of this Act.

16 ~~(3)~~ (4) *REQUIREMENTS TO REFLECT NATIONAL*
 17 *PERFORMANCE STANDARDS AND COMMISSION*
 18 *GUIDELINES.—In establishing minimum State law*
 19 *requirements under paragraph (1), the Commission*
 20 *shall—*

21 (A) consider current or revised national
 22 performance standards on pool and spa barrier
 23 protection and entrapment prevention; and

24 (B) ensure that any such requirements are
 25 consistent with the guidelines contained in the

1 Commission’s publication 362, entitled “Safety
2 Barrier Guidelines for Home Pools”, the Com-
3 mission’s publication entitled “Guidelines for
4 Entrapment Hazards: Making Pools and Spas
5 Safer”, and any other pool safety guidelines es-
6 tablished by the Commission.

7 (b) STANDARDS.—Nothing in this section prevents
8 the Commission from promulgating standards regulating
9 pool and spa safety or from relying on an applica-
10 ble national performance standard.

11 (c) BASIC ACCESS-RELATED SAFETY DEVICES AND
12 EQUIPMENT REQUIREMENTS TO BE CONSIDERED.—In
13 establishing minimum State law requirements for swim-
14 ming pools and spas under subsection (a)(1), the Commis-
15 sion shall consider the following requirements:

16 (1) COVERS.—A safety pool cover.

17 (2) GATES.—A gate with direct access to the
18 swimming pool *or spa* that is equipped with a self-
19 closing, self-latching device.

20 (3) DOORS.—Any door with direct access to the
21 swimming pool *or spa* that is equipped with an audi-
22 ble alert device or alarm which sounds when the
23 door is opened.

1 (4) POOL ALARM.—A device designed to provide
 2 rapid detection of an entry into the water of a swim-
 3 ming pool or spa.

4 (d) ENTRAPMENT, ENTANGLEMENT, AND EIVISCERA-
 5 TION PREVENTION STANDARDS TO BE REQUIRED.—

6 (1) IN GENERAL.—In establishing additional
 7 minimum State law requirements for swimming
 8 pools and spas under subsection (a)(1), the Commis-
 9 sion shall require, at a minimum, 1 or more of the
 10 following (except for pools constructed without a sin-
 11 gle main drain):

12 (A) SAFETY VACUUM RELEASE SYSTEM.—

13 A safety vacuum release system which ceases
 14 operation of the pump, reverses the circulation
 15 flow, or otherwise provides a vacuum release at
 16 a suction outlet when a blockage is detected,
 17 that has been tested by an independent third
 18 party and found to conform to ASME/ANSI
 19 standard A112.19.17 or ASTM standard
 20 ~~F2387~~. *F2387, or any successor standard.*

21 (B) SUCTION-LIMITING VENT SYSTEM.—A

22 suction-limiting vent system with a tamper-re-
 23 sistant atmospheric opening.

1 (C) GRAVITY DRAINAGE SYSTEM.—A grav-
2 ity drainage system that utilizes a collector
3 tank.

4 (D) AUTOMATIC PUMP SHUT-OFF SYS-
5 TEM.—An automatic pump shut-off system.

6 (E) DRAIN DISABLEMENT.—A device or
7 system that disables the drain.

8 (F) OTHER SYSTEMS.—Any other system
9 determined by the Commission to be equally ef-
10 fective as, or better than, the systems described
11 in subparagraphs (A) through (E) of this para-
12 graph at preventing or eliminating the risk of
13 injury or death associated with pool drainage
14 systems.

15 (2) APPLICABLE STANDARDS.—Any device or
16 system described in subparagraphs (B) through (E)
17 of paragraph (1) shall meet the requirements of any
18 ASME/ANSI or ASTM performance standard if
19 there is such a standard for such a device or system,
20 or any applicable consumer product safety standard.

21 **SEC. 7. EDUCATION PROGRAM.**

22 (a) IN GENERAL.—The Commission shall establish
23 and carry out an education program to inform the public
24 of methods to prevent drowning and entrapment in swim-

1 ming pools and spas. In carrying out the program, the
2 Commission shall develop—

3 (1) educational materials designed for pool
4 manufacturers, pool service companies, and pool
5 supply retail outlets;

6 (2) educational materials designed for pool own-
7 ers and operators; and

8 (3) a national media campaign to promote
9 awareness of pool and spa safety.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Commission for
12 each of the fiscal years 2008 through 2012 \$5,000,000
13 to carry out the education program authorized by sub-
14 section (a).

15 **SEC. 8. CPSC REPORT.**

16 Not later than 1 year after the last day of each fiscal
17 year for which grants are made under section 5, the Com-
18 mission shall submit to Congress a report evaluating the
19 ~~effectiveness~~ *implementation* of the grant program author-
20 ized by that section.

Calendar No. 381

110TH CONGRESS
1ST Session

S. 1771

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