

Calendar No. 381

110TH CONGRESS }
1st Session

SENATE

{ REPORT
110-182

VIRGINIA GRAEME BAKER POOL AND SPA
SAFETY ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1771



SEPTEMBER 20, 2007.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

59-010

WASHINGTON : 2007

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

DANIEL K. INOUE, Hawaii, *Chairman*

TED STEVENS, Alaska, *Vice-Chairman*

JOHN D. ROCKEFELLER IV, West Virginia	JOHN McCain, Arizona
JOHN F. KERRY, Massachusetts	TRENT LOTT, Mississippi
BYRON L. DORGAN, North Dakota	KAY BAILEY HUTCHISON, Texas
BARBARA BOXER, California	OLYMPIA J. SNOWE, Maine
BILL NELSON, Florida	GORDON H. SMITH, Oregon
MARIA CANTWELL, Washington	JOHN ENSIGN, Nevada
FRANK R. LAUTENBERG, New Jersey	JOHN E. SUNUNU, New Hampshire
MARK PRYOR, Arkansas	JIM DEMINT, South Carolina
THOMAS CARPER, Delaware	DAVID VITTER, Louisiana
CLAIRE McCASKILL, Missouri	JOHN THUNE, South Dakota
AMY KLOBUCHAR, Minnesota	

MARGARET CUMMISKY, *Staff Director and Chief Counsel*

LILA HELMS, *Deputy Staff Director and Policy Director*

JEAN TOAL EISEN, *Senior Advisor and Deputy Policy Director*

CHRISTINE KURTH, *Republican Staff Director and General Counsel*

PAUL J. NAGLE, *Republican Chief Counsel*

Calendar No. 381

110TH CONGRESS }
1st Session }

SENATE

{ REPORT
110-182

VIRGINIA GRAEME BAKER POOL AND SPA SAFETY ACT

SEPTEMBER 20, 2007.—Ordered to be printed

Mr. INOUE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1771]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1771) 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, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of the Virginia Graeme Baker Pool and Spa Safety Act, as reported, is to improve pool and spa safety through the use of anti-entrapment devices and to encourage State adoption of minimum mandatory swimming pool and spa safety laws incorporating several layers of protection.

BACKGROUND AND NEEDS

Recent pool and spa safety statistics indicate a need for action

Between 1990 and 2000, drowning was the second leading cause of unintentional death among children in the United States ages one to nineteen.¹ Furthermore, in 2004, there were 3,308 unintentional drownings in the United States, excluding boating-related incidents, an average of nine drownings a day.² The Centers for Dis-

¹ American Academy of Pediatrics, Policy Statement, "Prevention of Drowning in Infants, Children, and Adolescents," PEDIATRICS, Vol. 112, No. 2, August 2003.

² Centers for Disease Control, "Water-Related Injuries: Fact Sheet," www.cdc.gov/ncipc/factsheets/drown.htm, Accessed July 28, 2007.

ease Control and Prevention reported that 430 children ages one to four drowned in 2004, the majority of which occurred in pools.³ According to a 2002 Safe Kids Worldwide survey, 838 children ages 14 and under died in accidental drowning incidents. Many of these deaths occurred in residential and public swimming pools and hot tubs. As the popularity of pools and spas increase among consumers and large, above-ground pools become more affordable, the risk of death and injury due to accidental drowning increases each year. There are approximately 4.7 million in-ground pools in the United States, along with 3.6 million above-ground pools and 5.4 million portable hot tubs in use.

The Consumer Product Safety Commission (CPSC) has Federal jurisdiction to regulate swimming pools as a consumer product. To date, the CPSC has issued pool safety guidelines for owners popularly known as the “Layers of Protection.” The four “layers” recommended by the CPSC include: (1) education for children and parents on the risks that come with pools and spas; (2) installation of multiple drains that would lessen the suction force for each pool or spa drain; (3) installation of anti-entrapment/anti-entanglement drain covers; and (4) the installation of a gravity flow system or a Safety Vacuum Release System. The current “layers” are not a mandatory product safety standard. The American Society of Mechanical Engineers (ASME) and the American National Standards Institute (ANSI) have issued voluntary industry performance standards for anti-entrapment drain covers as well as anti-entrapment devices and drains. In light of the ongoing and increasing risks related to swimming pools, the Committee found that legislative action necessitating certain anti-entrapment technologies for pools as well as encouraging States to require the “four layer protection” concepts was prudent.

Submersion-related injuries and deaths, including suction entrapment, have become a focus of inquiry by the Consumer Product Safety Commission

The majority of child deaths that occur in pools and spas are accidental drownings that occur when the child is not being supervised. A smaller but significant cause of injuries and deaths in pools is related to the mechanics of filtration systems and pool architecture. One of the injury scenarios is called entrapment. Entrapment occurs when a child becomes stuck on a drain and is unable to escape due to the high velocity of the water column being sucked into the drain. Entrapment happens when pipes leading from the pool drain create a suction that increases due to the blockage, thereby creating enough force to hold the child underwater. The suction force can be as much as 700 pounds per square inch. In recorded incidents where a child has been entrapped, it has taken more than two adults to pull a child off of the drain. Another alarming scenario involving entrapment is when certain body parts get pulled onto the drain. In extreme cases, disembowelment and/or evisceration have occurred. Entanglement is the other cause of drowning, which can involve long hair, a bathing suit, or some type of jewelry that gets sucked into the drain and swirled around in

³Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, 2004, United States Unintentional Injuries-Drowning.

the vortex of the water column, making it almost impossible to pull the entangled item free.

CPSC officials have indicated that they are aware of 74 cases of body entrapment, including 13 deaths between 1990 and 2004. These incidents occurred when a person's entire body or individual limbs were held against, or sucked into, a pool or spa drain. The CPSC is also aware of 43 incidents of hair entanglement in the drains of pools, spas, and hot tubs between 1990 and 2004. Of this number, 12 resulted in drowning deaths. Medical costs stemming from a submersion-related injury are high. The CPSC estimates that an injury resulting in brain damage can cost \$160,000. Some injuries, due to an extended hospital stay, can exceed \$300,000.⁴ In a study conducted by the CPSC of drowning and submersion incidents in Arizona, Florida, and California, toddlers between the ages of one and three account for 75 percent of submersion victims. This is the case even though most of the victims were thought to have been supervised, with 69 percent of the victims reportedly not expected to be in or near the pool.⁵ The same study showed that 65 percent of injuries ensued from swimming in a pool owned by the victim's family.

Time is critical in preventing children from drowning. The CPSC has reported that three-quarters of all child victims were missing for five minutes or less. Supervision is also imperative in preventing submersion-related incidents, but an adult's presence around swimming children is only the first line of defense. In protecting children from drowning and entrapment, State laws, local building codes, and Federal guidelines have spawned requirements and recommendations for various "layers of protection" to be physically added to pools and spas as precautionary measures.

S. 1771 supplements current voluntary standards, State and local laws and regulations, and CPSC guidelines on pool and spa safety

Pool and spa safety has traditionally been governed by State law and local building codes which regulate the design, construction, and maintenance of swimming pools and spas. State and local regulations commonly find their origin in voluntary standards developed by the pool and spa industry, consumer safety groups, standards development organizations, and the CPSC. Consumer safety groups have also stressed precautionary measures to protect children from drowning, including such devices as barrier fencing, anti-entrapment drain covers, safety vacuum release systems, and anti-entrapment pool and spa designs, including multiple drains, to reduce the suction force of outlets.

The American Society for Testing and Materials (ASTM) International, ASME, and the Association of Pool and Spa Professionals, have developed standards that address various layers of protection intended to prevent submersion injuries and suction entrapment. These voluntary standards are primarily intended for use by designers, builders, equipment installers, manufacturers, and code officials. These standards are technical in nature, but serve as necessary guidance for those in the pool and spa industry, State and

⁴ Consumer Product Safety Commission website, "How to plan for the unexpected," www.cpsc.gov/cpscpub/pubs/359.pdf, Accessed July 22, 2007.

⁵ Id.

local governments, and consumers. New model residential building codes developed by the International Code Council in conjunction with ASME and adopted by various States and localities mandate the use of several devices, design standards, and performance standards to improve safety.

Similarly, the CPSC has developed guidelines that address pool and spa safety but are not enforced as mandatory standards. For instance, the recently updated “Guidelines for Entrapment Hazards” is a document used by many States and localities as a model in developing building codes and addressing entrapment risks. These guidelines focus on implementation of the “four layers of protection.”

SUMMARY OF PROVISIONS

The most significant provisions of S. 1771 would require the CPSC to adopt the current, or revised, ASME/ANSI standard on pool and spa drain covers as a consumer product safety rule. Effective one year after the date of enactment, all new drain covers manufactured, distributed, or sold in the stream of U.S. commerce would be made to comply with the relevant national performance standard, which is intended to reduce or eliminate pool and spa entrapment incidents. In addition, public pools and spas would be required to install appropriate anti-entrapment devices by one year after the date of enactment. A second aspect of the legislation would authorize a Federal grant program designed to encourage States to pass comprehensive mandatory pool and spa safety legislation. Finally, the bill would authorize funds for the CPSC to conduct a nationwide education campaign on pool and spa safety.

Federal Requirements for Pool and Spa Drain Covers. The bill would require that all new pools with main drains be fitted with drain covers that meet the current voluntary industry standards issued by the ASME and ANSI. This requirement would take effect one year after the date of enactment. Public pools and spas must be equipped with ASME/ANSI compliant devices or systems designed to prevent entrapment by one year after the date of enactment.

State Grant Program for Enacting Pool and Spa Safety Laws. The bill would establish a State swimming pool safety grant program to provide incentives for States to adopt pool and spa safety laws. The bill would authorize \$2 million per year for fiscal year (FY) 2009 and FY 2010 to provide these grants to eligible States. In order to be eligible, a State would be required to enact and enforce a law that applies universally to all pools in the State and meets the minimum recommended standards issued by the CPSC discussed below. The amount of a grant to any particular State would be determined by the CPSC, and disbursements would be based on population, enforcement needs, and maximum benefit per grant. States would be required to use at least half of awarded grants to hire and train enforcement personnel and the remainder for education programs and administrative costs related to training and education.

Minimum State Pool and Spa Safety Law Eligibility Requirements. For the purposes of the CPSC determining grant eligibility under the Act, a State would be required to mandate by statute that any pool be enclosed by fencing or another barrier and be

equipped with at least one anti-entrapment device. Pools and spas built one year after enactment must have more than one drain; have one or more unblockable drains; or have no main drain. Every pool and spa that has a main drain, other than an unblockable drain, must be equipped with a drain cover that complies with Section 4 of the Act. The CPSC would be required to consider additional barriers, pool covers, self-closing gates, and audible door alarms to prevent unsupervised access to pools. The CPSC also would be required to include in minimum State law standards at least one of five listed anti-entrapment devices.

National Education Program for Pool and Spa Safety. The bill requires the CPSC to establish and carry out a national education program to educate the public, pool manufacturers, pool retailers, pool servicing companies, and owners on the dangers of accidental drowning and entrapment. The bill authorizes \$5 million for each of FY 2008–2012 for this education campaign.

LEGISLATIVE HISTORY

The most recent hearing examining pool and spa safety was held on May 3, 2006, by the Subcommittee on Consumer Affairs, Product Safety, and Insurance. The Subcommittee heard testimony regarding methods for eliminating or reducing risks associated with pools and spas and provided a forum for increasing consumer awareness of various water-related hazards.

On July 11, 2007, Senator Mark Pryor introduced S. 1771, which was referred to the Committee on Commerce, Science and Transportation. Commerce Committee members that cosponsored the measure included Vice Chairman Stevens and Senators Klobuchar, Hutchison, and McCain. Senators Dodd, Warner, Durbin, and Coleman also cosponsored S. 1771.

On July 19, 2007, the Committee met in open executive session to consider S. 1771. Senator Pryor offered an amendment that made technical corrections to the legislation as introduced. Senator Klobuchar offered three amendments to the Act. The first amendment would allow the CPSC to use funds that were not distributed to the States via the pool safety grant program to be retained by the Commission for general enforcement of the Consumer Product Safety Act. The second Klobuchar amendment would mandate that, effective one year from the date of enactment, all public pools and spas must be equipped with devices or systems designed to prevent entrapment that are compliant with the ASME/ANSI performance standards. The third amendment, as modified by Vice Chairman Stevens, added a notice requirement for residential pool owners to the requirements of the grant program. To be eligible for a grant, a State pool safety law would be required to provide periodic notification about compliance with the ASME/ANSI anti-entrapment performance standards to residential swimming pool owners. The Vice Chairman's modification clarified that the notice provision would impart no liability onto the State. All four amendments to S. 1771 were accepted en bloc. The Virginia Graeme Baker Pool and Spa Safety Act, as amended, was accepted by voice vote and Chairman Inouye ordered the bill to be reported.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1771—Virginia Graeme Baker Pool and Spa Safety Act

Summary: S. 1771 would require the Consumer Product Safety Commission (CPSC) to undertake several initiatives intended to improve the safe use—especially among children—of swimming pools, spas, and similar products. It would require the agency to issue regulations designed to reduce the risk of entrapment in all pools and spas manufactured or distributed within the United States. It would establish a new grant program within the CPSC to assist states in enforcing pool and spa safety standards that meet certain federal guidelines. The bill also would authorize funding of a public education program about pool safety.

Assuming appropriation of the specified amounts, CBO estimates that implementing the bill would cost \$4 million in 2008 and \$28 million over the 2008–2012 period. Enacting S. 1771 would not affect direct spending or receipts.

S. 1771 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state and local standards governing the safety of public swimming pools and spas and require that all publicly owned swimming pools and spas be equipped with anti-entrapment devices. CBO concludes that while many local governments already meet the standards specified in the bill, some cities, counties, and public schools would incur costs to purchase equipment or modify pools. In aggregate, CBO estimates that the costs of complying with the intergovernmental mandates in the bill would total less than \$40 million in 2008 and thus would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation).

S. 1771 also contains private-sector mandates as defined in UMRA. The bill would prohibit the manufacture, sale or distribution of drain covers that do not meet certain entrapment protection safety standards. It also would require all public pools to be equipped with certain devices or systems designed to prevent entrapment by pool and spa drains. Because of uncertainty about the number of pools and spas that are already in compliance with the mandate, CBO cannot determine whether the aggregate direct cost of the mandates would exceed the annual threshold established in UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1771 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	5	7	7	5	5
Estimated Outlays	4	6	6	6	6

Basis of estimate: S.1771 would authorize the appropriation of \$2 million a year for fiscal years 2009 and 2010 for a new grant program to be administered by the CPSC. States that have laws governing pool and spa safety that meet certain requirements specified in the bill would be eligible for grants to enforce those laws and to educate pool builders, owners, and the public about pool safety. States would be required to use at least half of their grant funds to enforce their pool safety laws.

The bill also would authorize the appropriation of \$5 million annually over the 2008–2012 period for the CPSC to establish a program designed to educate the public about pool and spa safety.

Assuming appropriation of the specified amounts, CBO estimates that implementing these programs would cost \$4 million in 2008 and \$28 million over the 2008–2012 period.

Estimated impact on state, local, and tribal governments: Most state and local governments currently have laws governing the safety of swimming pools and spas, including standards for drainage systems. S. 1771 would preempt those standards and require that all public pools and spas comply with the standards specified in the bill. That preemption would be an intergovernmental mandate as defined in UMRA. However, because the preemption would simply limit the application of state and local laws, CBO estimates that it would not impose significant costs on state or local governments.

The bill also would require, within one year of enactment, that all publicly owned pools and spas be equipped with devices or systems to prevent entrapment in drainage systems. Equipment could include drain covers, vacuum release systems, or dual-drain systems. The requirement to install equipment or modify a pool or spa constitutes an intergovernmental mandate on city and county governments, including public school systems. While many state and local governments already have standards that are similar to the requirements in the bill, some of those laws and local ordinances exempt certain pools and spas. Local governments operating such exempt facilities would likely incur costs to purchase equipment or modify pools in order to comply with the new federal standards. According to industry and government officials, those costs would range from \$100 to \$4,000 per pool, depending on the pool's size, design, and age. Based on information from a survey of more than 40 city and school officials across the country, CBO estimates that, assuming S. 1771 is enacted near the start of fiscal year 2008, the cost to governmental entities to comply with this mandate would total less than \$40 million in that year. Thus, the estimated costs would not exceed the threshold established in UMRA for intergovernmental mandates (\$66 million in 2007, adjusted annually for inflation).

The bill also would provide grants to states for implementing and enforcing state laws that govern pool and spa safety. To receive the grants, states would have to have laws that comply with federal guidelines.

Estimated impact on the private sector: S. 1771 would impose private sector mandates as defined in UMRA. The bill would impose a mandate on manufacturers, distributors, and sellers of pool and spa drain covers by requiring that any swimming pool or spa drain cover manufactured, distributed, or entered into commerce in

the United States meet certain entrapment protection standards developed by the American Society of Mechanical Engineers and the American National Standards Institute (ASME/ANSI). Based on information from the CPSC and industry sources, CBO estimates that the incremental cost to comply with this mandate would not exceed the annual threshold established in UMRA (\$131 million in 2007, adjusted annually for inflation).

The bill also would require that public pools and spas—including pools and spas operated by hotels, organizations, and residential communities—be equipped with devices and systems designed to prevent entrapment by pool or spa drains that comply with the ASME/ANSI performance standard. Depending on the facility, such equipment could include drain covers, vacuum-release systems, or dual-drain systems. Because of uncertainty about the number of pools and spas already in compliance with the mandate, CBO cannot determine the incremental cost of the mandate. Consequently, CBO cannot determine whether the total direct cost of the mandates in the bill would exceed the annual threshold established by UMRA for private-sector mandates.

Estimate prepared by: Federal Spending: Geoffrey Gerhardt; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Amy Petz.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

Number of persons covered

Within one year of enactment, manufacturers, distributors, and retail sellers of pool and spa drain covers would be required to configure and or restock their drain cover product lines to comply with the ASME/ANSI anti-entrapment performance standards. The owners of public pools would be required to retrofit their pools with ASME/ANSI compliant drain covers or ASME/ANSI compliant anti-entrapment devices. Residential and public pool owners may face additional State pool and spa safety requirements depending on whether the States pass laws compliant with the State Swimming Pool Safety Grant Program.

Economic impact

S. 1771 is not expected to have an adverse impact on the Nation's economy. Rather, requiring new pool and spa drain covers to comply with the ASME/ANSI performance standard as well as requiring public pools to have ASME/ANSI compliant anti-entrapment devices or systems should reduce the societal cost stemming from significant brain or bodily injuries.

Privacy

S. 1771 would have no anticipated impact on the privacy rights of individuals.

Paperwork

The Committee does not anticipate a major increase in paperwork burdens for private industry resulting from the passage of this legislation. In those areas where the bill would require additional paperwork, the burden would rest upon the CPSC to submit a report describing the implementation of the grant program.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 cites the short title of the bill as the “Virginia Graeme Baker Pool and Spa Safety Act.”

Section 2. Findings

The section would establish drowning as the second leading cause of accidental death in children ages 14 and under. In addition, the section would establish the importance of parental supervision, barriers to entry, and other layers of protection in preventing child drownings.

Section 3. Definitions

The section defines certain provisions of the Act. Definitions of note include:

ASME/ANSI—The term ASME/ANSI as applied to a safety standard means the standard is accredited by the American Society of Mechanical Engineers and the American National Standards Institute.

Barrier—Natural or constructed topographical feature that prevents unpermitted access to a swimming pool, and, with respect to a hot tub, a lockable cover.

Main Drain—Submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a re-circulating pump.

Safety Vacuum Release System—A vacuum release system capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to a suction outlet flow blockage.

Unblockable Drain—A drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

Swimming Pool; Spa—Any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above ground structures, and includes hot tubs, spas, portable spas, and non-portable wading pools.

Section 4. Federal swimming pool and spa drain cover standard

One year after the date of enactment, the Act would require every pool or spa drain cover manufactured, distributed, or entering into the stream of commerce to conform to the ASME/ANSI Standard A112.19.8M or any successor standard regulating such covers. The standard would be treated as a consumer product safety rule issued by the CPSC under the Consumer Product Safety Act (15 U.S.C. 2051 et seq) (hereinafter known as CPSA).

Public Pools. Effective one year after the date of enactment, the Act would require each public pool and spa be equipped with devices or systems designed to prevent entrapment by pool or spa drains compliant with the ASME/ANSI performance standard, or

any successor standard. “Public pool and spa” would be defined as a pool or spa that is:

- Open to the public generally, whether for a fee or free of charge;
- Open exclusively to—
 - (i) Members of an organization and their guests;
 - (ii) Residents of a multi-unit apartment building, apartment complex, residential real estate development, or other multi-family residential area (other than a municipality, township, or other local government jurisdiction); or
 - (iii) Patrons of a hotel or other public accommodations facility; or
- Operated by the Federal Government (or by a concessionaire on behalf of the Federal Government) for the benefit of members of the Armed Forces and their dependents or employees of any department or agency and their dependents.

Public pools and spas that are not in compliance would be considered in violation of Section 19(a)(1) of the CPSC and may also be subject to enforcement under Section 17 of the CPSC.

Section 5. State swimming pool safety grant program

The section would authorize \$2 million per year for FY 2009 and FY 2010 for the CPSC to establish a grant program to provide incentives to States to enact pool and spa safety laws. The section would require States to enact State statutes that apply to all pools and spas in the State and meet the requirements of the minimum State law standards established by the CPSC under Section 6 to be eligible for a grant award. In providing a grant award to a State, the CPSC would consider population, enforcement needs, and maximum program benefit in allocating grant funds. States would be required to use at least 50 percent of grant funds made available under the Act to hire and train enforcement personnel for the State pool and spa safety law. The remainder of the funds would be used to educate pool owners, construction companies, servicing companies, and the general public about State pool and spa safety laws and the dangers associated with accidental drowning and entrapment. The funds also may be used for State administrative costs related to training and education. Unspent or unobligated funds would be retained by the CPSC.

Section 6. Minimum State law requirements

For the purposes of the CPSC determining grant eligibility under the Act, a State would need to require by statute that:

- The enclosure of all outdoor residential pools and spas by barriers to entry that will effectively prevent small children from gaining unsupervised and unfettered access to the outdoor pool or spa;
- All pools and spas be equipped with devices and systems designed to prevent entrapment by pool or spa drains;
- All pools and spas built more than one year after the date of enactment have either—
 - (i) More than one drain;
 - (ii) One or more unblockable drains; or
 - (iii) No main drain;

- All pools and spas that have a main drain that is not an unblockable drain be equipped with a drain cover that is compliant with Section 4 of this Act; and
- Periodic notification be provided to owners of residential swimming pools and spas about compliance with ASME/ANSI anti-entrapment performance standard. Such notice provided by the State would not impart or imply liability on the part of the State.

In addition, the State would need to meet any additional State law requirements for pools and spas that the CPSC may establish after public notice and a 30-day comment period.

The CPSC would use the minimum State law requirements only for determining a State's eligibility for a grant under Section 5 of this Act. The CPSC would not have the authority to enforce the requirements under this section except for the purpose of determining grant eligibility.

State Minimum Law Requirements to Reflect National Performance Standards and CPSC Guidelines. When establishing the requirements to evaluate state eligibility for a grant award under Section 5, the CPSC would be required to:

- Consider current or revised national performance standards for pool and spa barrier protection and entrapment prevention, such as the current ASME/ANSI standards on those subjects; and
- Ensure those requirements are consistent with the guidelines contained in the CPSC publication 362, entitled "Safety Barrier Guidelines for Home Pools," the CPSC publication entitled "Guidelines for Entrapment Hazards: Making Pools and Spas Safer," and any other pool safety guidelines established by the CPSC.

Nothing in Section 6 would prevent the CPSC from promulgating standards regulating pool and spa safety or from relying on an applicable national performance standard.

Access Related Safety Devices and Equipment Requirements to be Considered. In addition to the national performance standards and the CPSC pool and spa safety guidelines, the CPSC would consider the following device and equipment requirements for eligible State laws:

- Pool safety covers;
- A gate with direct access to a swimming pool or spa that is equipped with a self-closing, self-latching device;
- Any door with direct access to a swimming pool or spa be equipped with an audible alert device or alarm which sounds when the door is opened; and
- A device designed to provide rapid detection of an entry into the water of a swimming pool or spa.

Entrapment, Entanglement, and Evisceration Prevention Standards to be Required. In establishing additional minimum State law requirements for grant eligibility, the CPSC shall require, at a minimum, one or more of the following for State grant eligibility:

- Safety Vacuum Release System—The system must cease operation of the pump, reverse the circulation flow, or otherwise provide a vacuum release at the suction outlet when a blockage is detected. The system must be tested by an inde-

pendent third party and conform to the appropriate ASME/ANSI standard or its successor standard;

- Suction-Limiting Vent System—A suction limiting vent system with a tamper resistant atmospheric opening;
- Gravity Drainage System—A gravity drainage system that utilizes a collector tank;
- Automatic Pump Shut-Off System;
- Drain Disablement—A device or system that disables the drain; or
- Other Systems—Any other system determined by the CPSC to be equally effective or better than the systems described in this paragraph at preventing or eliminating the risk of injury or death associated with pool drainage systems.

States would not have to mandate these systems for pools constructed without a single main drain. Any device described in this paragraph would be required to meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

Section 7. Education program

This section would authorize \$5 million for each of FY 2008–2012 for the CPSC to carry out a national education campaign to help prevent drowning and entrapment in pools. The section also would require the CPSC to develop educational materials for pool manufacturers, pool service companies, pool retailers, and pool owners and operators, and would require the CPSC to conduct a national media campaign to promote awareness of pool and spa safety.

Section 8. CPSC report

The section would require the CPSC report to Congress each year a grant was made under Section 5 on the implementation of the grant program.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill, as reported, would make no change to existing law.