

109TH CONGRESS
2^D SESSION

H. R. 5850

To increase the safety of swimming pools and spas by establishing a swimming pool safety grant program administered by the Consumer Product Safety Commission to encourage States to improve their pool and spa safety laws, to educate the public about pool and spa safety, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2006

Ms. WASSERMAN SCHULTZ (for herself, Mr. WOLF, Mr. MOORE of Kansas, Mr. WEXLER, Mrs. MCCARTHY, Mr. ENGEL, Mr. OWENS, Mr. HASTINGS of Florida, Mr. KING of New York, Mr. ALEXANDER, Mr. OLVER, and Mr. KLINE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To increase the safety of swimming pools and spas by establishing a swimming pool safety grant program administered by the Consumer Product Safety Commission to encourage States to improve their pool and spa safety laws, 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Pool and Spa Safety Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Recommended swimming pool safety standards.
- Sec. 4. State swimming pool safety grant program.
- Sec. 5. National education program.
- Sec. 6. Definitions.
- Sec. 7. CPSC reports.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) drowning is the leading cause of death in
9 children under 4 and the second leading cause of
10 death in children 14 and under in the United States;

11 (2) many children drown due to pool and spa
12 drowning and entrapment, such as Virginia Graeme
13 Baker, who at age 7 drowned by entrapment in a
14 residential spa, and Preston de Ibern, who at age 5
15 nearly drowned and was left permanently brain dam-
16 aged, finally succumbing to his catastrophic health
17 care issues when he was 12 years old;

18 (3) in 2003, 782 children ages 14 and under
19 died as a result of unintentional drowning;

20 (4) from 1985 to 2004, at least 33 children
21 ages 14 and under died as a result of pool and spa
22 entrapment;

1 (5) adult supervision at all aquatic venues is a
2 critical safety factor in preventing children from
3 drowning; and

4 (6) research studies show that the installation
5 and proper use of barriers or fencing, as well as ad-
6 ditional layers of protection, could substantially re-
7 duce the number of childhood residential swimming
8 pool drownings and near drownings.

9 **SEC. 3. RECOMMENDED SWIMMING POOL SAFETY STAND-**
10 **ARDS.**

11 (a) IN GENERAL.—

12 (1) SAFETY STANDARDS.—Within 90 days after
13 the date of enactment of this Act, the Commission
14 shall issue an advance notice of proposed rulemaking
15 to establish recommended minimum State law stand-
16 ards for swimming pools and spas with respect to—

17 (A) enclosure of the pool or spa by barriers
18 to entry that will effectively prevent small chil-
19 dren from gaining unsupervised access to the
20 pool or spa; and

21 (B) devices and systems designed to pre-
22 vent entrapment of children by pool or spa
23 drains.

24 (2) DEADLINE.—The Commission shall issue
25 the recommended minimum standards as a final rule

1 within 18 months after it issues the advance notice
2 of proposed rulemaking.

3 (3) STATUS OF STANDARDS.—

4 (A) IN GENERAL.—The standards promul-
5 gated by the Commission under this section—

6 (i) shall be advisory in nature;

7 (ii) shall not prevent the Commission
8 from subsequently promulgating standards
9 regulating pool and spa safety or from re-
10 lying on an applicable national perform-
11 ance standard;

12 (iii) shall not be promulgated as a
13 consumer product safety rule; and

14 (iv) shall be used by the Commission
15 solely for the purpose of determining the
16 eligibility of a State for a grant under sec-
17 tion 4 of this Act.

18 (B) ENFORCEMENT.—The Commission
19 may not enforce any standard promulgated
20 under this section except for the purpose of de-
21 termining the eligibility of a State for a grant
22 under section 4 of this Act.

23 (4) GUIDELINES.—In promulgating standards
24 under this Act, the Commission shall give strong
25 consideration to published Commission guidelines

1 and, where applicable, existing national performance
2 standards.

3 (b) MINIMUM STANDARDS FOR POOLS AND SPAS.—

4 In promulgating recommended minimum State law stand-
5 ards for swimming pools and spas under subsection (a),
6 the Commission, at a minimum, shall require that—

7 (1) any outdoor swimming pool or spa is en-
8 closed by an appropriate fence or other barrier;

9 (2) any swimming pool or spa with a main
10 drain is equipped, at a minimum, with a drain cover
11 that meets the requirements of subsection (d)(2)(A);
12 and

13 (3) new pools with a main drain are equipped
14 with at least 2 drains, or a single, unblockable drain,
15 and drain covers that meet the requirements of sub-
16 section (d)(2)(A).

17 (c) BASIC ACCESS-RELATED SAFETY DEVICES AND
18 EQUIPMENT.—In promulgating the swimming pool and
19 spa standard, the Commission shall require the following:

20 (1) BARRIER OR FENCE.—A requirement that
21 any outdoor swimming pool is to be protected by a
22 wall, fence, enclosure, or other natural or con-
23 structed barrier that—

24 (A) entirely encloses the pool by at least a
25 4-foot high wall, fence, enclosure, or other bar-

1 rier (which may include the wall or side of a
2 residence or other building, provided such wall
3 or side of a building does not contain a door or
4 a window);

5 (B) has no opening (other than a gate as
6 described in subparagraph (D)) through which
7 a spherical object 4 inches in diameter can
8 pass;

9 (C) has horizontal components spaced not
10 less than 36 inches apart measured vertically or
11 placed on the pool side of the wall, fence, enclo-
12 sure, or barrier and does not have any opening
13 greater than 2 inches measured horizontally
14 (including wire mesh or chain link fences that
15 have a maximum mesh size of 2 inches meas-
16 ured horizontally);

17 (D) has a gate that—

18 (i) is self-closing and self-latching;

19 and

20 (ii) opens outward from the pool;

21 (E) does not contain openings, handholds,
22 or footholds accessible from the exterior side of
23 the enclosure that can be used to climb the
24 wall, fence, screen enclosure, or barrier; and

1 (F) has a clearance at the bottom of not
2 more than 4 inches above the ground.

3 (2) ABOVE-GROUND POOLS.—A requirement
4 that any swimming pool that is an above-ground
5 swimming pool—

6 (A) has exterior sides that are non-
7 climbable and are at least 4 feet high, at a min-
8 imum; and

9 (B) if it has an access ladder or steps, the
10 ladder or steps are removable without tools or
11 able to be secured with a latching device when
12 the pool is not in use.

13 (3) EXEMPTION.—In promulgating the swim-
14 ming pool and spa safety standard, the Commission
15 shall provide an exemption from any such require-
16 ments for a hot tub, spa, or portable spa that has
17 a lockable cover that meets ASTM standard F1346
18 where such cover is in place and locked when the hot
19 tub, spa, or portable spa is not in use.

20 (d) ENTRAPMENT, ENTANGLEMENT, AND EVISCERA-
21 TION PREVENTION STANDARDS.—In promulgating the
22 swimming pool and spa standard, the Commission shall
23 require, at a minimum, the following:

1 (1) NEW POOLS.—For new swimming pools
2 constructed with a main drain, a requirement that
3 any such pool be equipped with—

4 (A) a drain system that contains at least
5 a single, unblockable drain, or 2 suction outlets
6 per pump, placed at least 3 feet apart or lo-
7 cated on 2 different planes or surfaces, that
8 prevent any single drain from becoming the sole
9 inlet to the suction side of the pump; or

10 (B) any other swimming pool drainage sys-
11 tem that meets the standards of the American
12 National Standards Institute (as published by
13 the American Society of Mechanical Engineers)
14 or the American Society for Testing and Mate-
15 rials.

16 (2) ALL POOLS.—For all swimming pools, re-
17 gardless of when constructed, a requirement that,
18 unless the pool is constructed without a main drain,
19 the pool be equipped with—

20 (A) a suction outlet drain cover that meets
21 ANSI/ASME standard A112.19.8M, is perma-
22 nently marked with a maximum flow rating,
23 and is anchored with non-corrosive fasteners,
24 unless the drain is a single, unblockable drain;
25 and

1 (B) 1 or more of the following:

2 (i) A safety vacuum release system
3 which ceases operation of the pump, re-
4 verses the circulation flow, or otherwise
5 provides a vacuum release at a suction out-
6 let when a blockage is detected, that has
7 been tested by an independent third party
8 and found to conform to ANSI/ASME
9 standard A112.19.17 or ASTM standard
10 F2387.

11 (ii) A suction-limiting vent system
12 with a tamper-resistant atmospheric open-
13 ing.

14 (iii) A gravity drainage system that
15 utilizes a collector tank.

16 (iv) Any other system that meets the
17 standards of the American National Stand-
18 ards Institute (as published by the Amer-
19 ican Society of Mechanical Engineers) or
20 the American Society for Testing and Ma-
21 terials.

22 **SEC. 4. STATE SWIMMING POOL SAFETY GRANT PROGRAM.**

23 (a) IN GENERAL.—Subject to the availability of ap-
24 propriations authorized by subsection (e), the Commission
25 shall establish a grant program to provide assistance to

1 States in hiring and training State and local government
2 employees in implementing and enforcing State swimming
3 pool safety standards enacted by the State, educating the
4 public about swimming pool and spa safety related to their
5 use by children, and administering swimming pool and spa
6 safety programs.

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

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

14 (A) applies to all swimming pools in the
15 State; and

16 (B) meets the minimum recommended
17 swimming pool and spa safety standards pro-
18 mulgated by the Commission under section 3;
19 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,

1 and shall consider the population and relative enforcement
2 needs of each qualifying State in awarding grants.

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

5 (1) at least 50 percent of amount made avail-
6 able to hire and train enforcement personnel for im-
7 plementation and enforcement of standards under
8 the State swimming pool and spa safety law; and

9 (2) the remainder—

10 (A) to educate pool owners and operators
11 about the standards under the swimming pool
12 and spa safety law and to educate such owners
13 and operators and the general public about the
14 prevention of children from drowning and en-
15 trapment in swimming pools and spas; and

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

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Commission for
21 each of fiscal years 2008 through 2012 \$10,000,000 to
22 carry out this section.

23 **SEC. 5. NATIONAL EDUCATION PROGRAM.**

24 (a) IN GENERAL.—The Commission shall establish
25 and carry out a national education program to inform the

1 public of methods to prevent drowning and entrapment in
2 swimming pools and spas. In carrying out the program,
3 the Commission shall develop—

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

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

9 (3) a national media campaign to promote
10 awareness of pool and spa safety and drowning pre-
11 vention.

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

17 **SEC. 6. DEFINITIONS.**

18 In this Act:

19 (1) ANSI/ASME STANDARD.—The term
20 “ANSI/ASME standard” means a safety standard
21 accredited by the American National Standards In-
22 stitute and published by the American Society of
23 Mechanical Engineers.

24 (2) ASTM STANDARD.—The term “ASTM
25 standard” means a safety standard issued by ASTM

1 International, formerly known as the American Soci-
2 ety for Testing and Materials.

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

5 (4) NEW POOL.—The term “new pool” means
6 any pool constructed more than 180 days after the
7 effective date of a State statute enacted or amended
8 after the date of enactment of this Act to establish
9 State minimum swimming pool and spa safety
10 standards that meet the recommended standards
11 promulgated by the Commission under section 3.

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) SINGLE, UNBLOCKABLE DRAIN.—The term
18 “single, unblockable drain” means a drain of any
19 size and shape that a human body cannot suffi-
20 ciently block to create a suction entrapment hazard.

21 (7) SUCTION OUTLET DRAIN COVER.—The term
22 “suction outlet drain cover” means a drain cover
23 which is designed to help prevent mechanical, body
24 and hair entrapment and evisceration.

1 (8) SWIMMING POOL; SPA.—The term “swim-
2 ming pool” or “spa” means any outdoor or indoor
3 structure intended for swimming or recreational
4 bathing, including in-ground and above-ground
5 structures, and includes hot tubs, spas, portable
6 spas, and non-portable wading pools.

7 **SEC. 7. CPSC REPORTS.**

8 (a) RULEMAKING PROGRESS.—The Commission shall
9 report to the Senate Committee on Commerce, Science,
10 and Transportation and the House of Representatives
11 Committee on Energy and Commerce within 1 year after
12 the date of enactment of this Act on its progress toward
13 issuing a final rule under section 3. The Commission shall
14 include in the report an explanation of its reason for rec-
15 ommending certain standards or safety devices over other,
16 alternative standards or safety devices.

17 (b) EFFICACY OF GRANT PROGRAM.—Within 1 year
18 after the close of each fiscal year for which grants are
19 made under section 4, the Commission shall submit a re-
20 port to the Congress evaluating the effectiveness of the
21 grant program authorized by that section.

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