

109TH CONGRESS
2D SESSION

S. 3718

AN ACT

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, 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 and 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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 ``Pool and Spa Safety Act``.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Federal swimming pool and spa drain cover standard.
- Sec. 4. State swimming pool safety grant program.
- Sec. 5. Minimum State law requirements.
- Sec. 6. Education program.
- Sec. 7. Definitions.
- Sec. 8. CPSC report.

3 **SEC. 2. FINDINGS.**

4 The Congress finds that—

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

8 (2) many children die due to pool and spa
9 drowning and entrapment, such as Virginia Graeme
10 Baker, who at age 7 drowned by entrapment in a
11 residential spa;

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

14 (4) adult supervision at all aquatic venues is a
15 critical safety factor in preventing children from
16 drowning; and

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

1 **SEC. 3. FEDERAL SWIMMING POOL AND SPA DRAIN COVER**

2 **STANDARD.**

3 (a) CONSUMER PRODUCT SAFETY RULE.—The pro-
4 visions of subsection (b) shall be considered to be a con-
5 sumer product safety rule issued by the Consumer Product
6 Safety Commission under section 9 of the Consumer Prod-
7 uct Safety Act (15 U.S.C. 2058).

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

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

16 (a) IN GENERAL.—Subject to the availability of ap-
17 propriations authorized by subsection (e), the Commission
18 shall establish a grant program to provide assistance to
19 eligible States.

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

22 (1) demonstrate to the satisfaction of the Com-
23 mission that it has a State statute, or that, after the
24 date of enactment of this Act, it has enacted a stat-
25 ute, or amended an existing statute, and provides for
26 the enforcement of, a law that—

1 (A) except as provided in section
2 5(a)(1)(A)(i), applies to all swimming pools in
3 the State; and

4 (B) meets the minimum State law require-
5 ments of section 5; and

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

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

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

14 (2) allocation of grant funds in a manner de-
15 signed to provide the maximum benefit from the
16 program in terms of protecting children from drown-
17 ing or entrapment, and, in making that allocation,
18 shall give priority to States that have not received
19 a grant under this Act in a preceding fiscal year.

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

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

1 (2) the remainder—

2 (A) to educate pool construction and in-
3 stallation companies and pool service companies
4 about the standards;

5 (B) to educate pool owners, pool operators,
6 and other members of the public about the
7 standards under the swimming pool and spa
8 safety law and about the prevention of drown-
9 ing or entrapment of children using swimming
10 pools and spas; and

11 (C) to defray administrative costs associ-
12 ated with such training and education pro-
13 grams.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Commission for
16 each of fiscal years 2008 through 2012 \$10,000,000 to
17 carry out this section, such sums to remain available until
18 expended.

19 **SEC. 5. MINIMUM STATE LAW REQUIREMENTS.**

20 (a) IN GENERAL.—

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

23 (A) the State requires by statute—

24 (i) the enclosure of all residential
25 pools and spas by barriers to entry that

1 will effectively prevent small children from
2 gaining unsupervised and unfettered access
3 to the pool or spa;

4 (ii) that all pools and spas be
5 equipped with devices and systems de-
6 signed to prevent entrapment by pool or
7 spa drains;

8 (iii) that pools and spas built more
9 than 1 year after the date of enactment of
10 such statute have—

11 (I) more than 1 drain;

12 (II) 1 or more unblockable
13 drains; or

14 (III) no main drain; and

15 (iv) every swimming pool and spa that
16 has a main drain, other than an
17 unblockable drain, be equipped with a
18 drain cover that meets the consumer prod-
19 uct safety standard established by section
20 3; and

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

1 (2) USE OF MINIMUM STATE LAW REQUIRE-
2 MENTS.—The Commission—

3 (A) shall use the minimum State law re-
4 quirements under paragraph (1) solely for the
5 purpose of determining the eligibility of a State
6 for a grant under section 4 of this Act; and

7 (B) may not enforce any requirement
8 under paragraph (1) except for the purpose of
9 determining the eligibility of a State for a grant
10 under section 4 of this Act.

11 (3) REQUIREMENTS TO REFLECT NATIONAL

12 PERFORMANCE STANDARDS AND COMMISSION

13 GUIDELINES.—In establishing minimum State law
14 requirements under paragraph (1), the Commission
15 shall—

16 (A) consider current or revised national
17 performance standards on pool and spa barrier
18 protection and entrapment prevention; and

19 (B) ensure that any such requirements are
20 consistent with the guidelines contained in the
21 Commission's publication 362, entitled ``Safety
22 Barrier Guidelines for Home Pools'', the Com-
23 mission's publication entitled ``Guidelines for
24 Entrapment Hazards: Making Pools and Spas

1 Safer'' , and any other pool safety guidelines es-
2 tablished by the Commission.

3 (b) STANDARDS.—Nothing in this section prevents
4 the Commission from promulgating standards regulating
5 pool and spa safety or from relying on an applicable na-
6 tional performance standard.

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

12 (1) COVERS.—A safety pool cover.

13 (2) GATES.—A gate with direct access to the
14 swimming pool that is equipped with a self-closing,
15 self-latching device.

16 (3) DOORS.—Any door with direct access to the
17 swimming pool that is equipped with an audible alert
18 device or alarm which sounds when the door is
19 opened.

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

23 (d) ENTRAPMENT, ENTANGLEMENT, AND EVISCERA-
24 TION PREVENTION STANDARDS TO BE REQUIRED.—

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

7 (A) SAFETY VACUUM RELEASE SYSTEM.—

8 A safety vacuum release system which ceases
9 operation of the pump, reverses the circulation
10 flow, or otherwise provides a vacuum release at
11 a suction outlet when a blockage is detected,
12 that has been tested by an independent third
13 party and found to conform to ASME/ANSI
14 standard A112.19.17 or ASTM standard
15 F2387.

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

17 suction-limiting vent system with a tamper-re-
18 sistant atmospheric opening.

19 (C) GRAVITY DRAINAGE SYSTEM.—A grav-

20 ity drainage system that utilizes a collector
21 tank.

22 (D) AUTOMATIC PUMP SHUT-OFF SYS-

23 TEM.—An automatic pump shut-off system.

24 (E) DRAIN DISABLEMENT.—A device or

25 system that disables the drain.

1 (F) OTHER SYSTEMS.—Any other system
2 determined by the Commission to be equally ef-
3 fective as, or better than, the systems described
4 in subparagraphs (A) through (E) of this para-
5 graph at preventing or eliminating the risk of
6 injury or death associated with pool drainage
7 systems.

8 (2) APPLICABLE STANDARDS.—Any device or
9 system described in subparagraphs (B) through (E)
10 of paragraph (1) shall meet the requirements of any
11 ASME/ANSI or ASTM performance standard if
12 there is such a standard for such a device or system,
13 or any applicable consumer product safety standard.

14 **SEC. 6. EDUCATION PROGRAM.**

15 (a) IN GENERAL.—The Commission shall establish
16 and carry out an education program to inform the public
17 of methods to prevent drowning and entrapment in swim-
18 ming pools and spas. In carrying out the program, the
19 Commission shall develop—

20 (1) educational materials designed for pool
21 manufacturers, pool service companies, and pool
22 supply retail outlets;

23 (2) educational materials designed for pool own-
24 ers and operators; and

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

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

8 **SEC. 7. DEFINITIONS.**

9 In this Act:

10 (1) ASME/ANSI STANDARD.—The term
11 ``ASME/ANSI standard'' means a safety standard
12 accredited by the American National Standards In-
13 stitute and published by the American Society of
14 Mechanical Engineers.

15 (2) ASTM STANDARD.—The term ``ASTM
16 standard'' means a safety standard issued by ASTM
17 International, formerly known as the American Soci-
18 ety for Testing and Materials.

19 (3) BARRIER.—The term ``barrier'' includes a
20 natural or constructed topographical feature that
21 prevents unpermitted access by children to a swim-
22 ming pool, and, with respect to a hot tub, a lockable
23 cover.

24 (4) COMMISSION.—The term ``Commission''
25 means the Consumer Product Safety Commission.

1 (5) MAIN DRAIN.—The term ‘‘main drain’’
2 means a submerged suction outlet typically located
3 at the bottom of a pool or spa to conduct water to
4 a re-circulating pump.

5 (6) SAFETY VACUUM RELEASE SYSTEM.—The
6 term ‘‘safety vacuum release system’’ means a vacu-
7 um release system capable of providing vacuum re-
8 lease at a suction outlet caused by a high vacuum
9 occurrence due to a suction outlet flow blockage.

10 (7) UNBLOCKABLE DRAIN.—The term
11 ‘‘unblockable drain’’ means a drain of any size and
12 shape that a human body cannot sufficiently block
13 to create a suction entrapment hazard.

14 (8) SWIMMING POOL; SPA.—The term ‘‘swim-
15 ming pool’’ or ‘‘spa’’ means any outdoor or indoor
16 structure intended for swimming or recreational
17 bathing, including in-ground and above-ground
18 structures, and includes hot tubs, spas, portable
19 spas, and non-portable wading pools.

20 **SEC. 8. CPSC REPORT.**

21 Within 1 year after the close of each fiscal year for
22 which grants are made under section 4, the Commission

1 shall submit a report to the Congress evaluating the effec-
2 tiveness of the grant program authorized by that section.

Passed the Senate December 6, 2006.

Attest:

Secretary.

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