

109TH CONGRESS
2D SESSION

S. 3718

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.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2006

Mr. ALLEN (for himself, Mr. STEVENS, Mr. DEWINE, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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, 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,*

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. Federal swimming pool and spa safety requirements.
- Sec. 4. Recommended State law standards.
- Sec. 5. State swimming pool safety grant program.
- Sec. 6. Education program.
- Sec. 7. Definitions.
- Sec. 8. CPSC reports.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) of injury-related deaths, drowning is the
9 leading cause of death in children under 4 and the
10 second leading cause of death in children 14 and
11 under in the United States;

12 (2) many children drown due to pool and spa
13 drowning and entrapment, such as Virginia Graeme
14 Baker, who at age 7 drowned by entrapment in a
15 residential spa;

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

18 (4) adult supervision at all aquatic venues is a
19 critical safety factor in preventing children from
20 drowning; and

21 (5) research studies show that the installation
22 and proper use of barriers or fencing, as well as ad-

1 ditional layers of protection, could substantially re-
 2 duce the number of childhood residential swimming
 3 pool drownings and near drownings.

4 **SEC. 3. FEDERAL SWIMMING POOL AND SPA SAFETY RE-**
 5 **QUIREMENTS.**

6 (a) ALL POOLS AND SPAS.—

7 (1) IN GENERAL.—Every swimming pool and
 8 spa in the United States that has a main drain,
 9 other than an unblockable drain, shall be equipped
 10 with a drain cover that meets the ASME/ANSI
 11 A112.19.8M performance standard, or any successor
 12 ASME/ANSI standard.

13 (2) EFFECTIVE DATE.—This subsection shall
 14 take effect 1 year after the date of enactment of this
 15 Act.

16 (b) POOLS AND SPAS BUILT AFTER DATE OF EN-
 17 ACTMENT.—Every swimming pool and spa built more than
 18 1 year after the date of enactment of this Act shall have—

- 19 (1) more than 1 drain;
- 20 (2) 1 or more unblockable drains; or
- 21 (3) no main drain.

22 (c) ENFORCEMENT.—This section may be enforced
 23 by State and local governments through building code in-
 24 spectors, pool and spa safety inspections, or otherwise, and

1 subject to the same penalties as would apply for violations
 2 of State or local laws in pari materia.

3 (d) NO PREEMPTION.—Nothing in this section pre-
 4 empts or supersedes any State or local law, regulation, or
 5 other requirement that imposes additional or more strin-
 6 gent standards for swimming pools or spas except to the
 7 extent that compliance with such law, regulation, or other
 8 requirement would violate the requirements of subsection
 9 (a) or (b).

10 **SEC. 4. RECOMMENDED STATE LAW STANDARDS.**

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 and unfettered
 20 access to the 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 5 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 5 of this Act.

23 (4) STANDARDS TO REFLECT NATIONAL PER-
24 FORMANCE STANDARDS AND COMMISSION GUIDE-

1 LINES.—In promulgating standards under this Act,
2 the Commission shall—

3 (A) consider current or revised national
4 performance standards on pool and spa barrier
5 protection and entrapment prevention; and

6 (B) ensure that any standards promul-
7 gated under this Act are consistent with the
8 guidelines contained in the Commission’s publi-
9 cation 362, entitled “Safety Barrier Guidelines
10 for Home Pools”, the Commission’s publication
11 entitled “Guidelines for Entrapment Hazards:
12 Making Pools and Spas Safer”, and any other
13 pool safety guidelines established by the Com-
14 mission.

15 (b) MINIMUM STANDARDS FOR POOLS AND SPAS.—
16 In promulgating recommended minimum State law stand-
17 ards for swimming pools and spas under subsection (a),
18 the Commission, at a minimum, shall require that—

19 (1) any outdoor swimming pool or spa is en-
20 closed by an appropriate fence or other barrier
21 (which may be an exterior wall of a residence or
22 other structure); and

23 (2) any swimming pool or spa with a main
24 drain is equipped, at a minimum, with at least 1 of

1 the anti-entrapment devices described in subsection
2 (d).

3 (c) BASIC ACCESS-RELATED SAFETY DEVICES AND
4 EQUIPMENT TO BE CONSIDERED.—In promulgating the
5 swimming pool and spa standard, the Commission shall
6 consider the following options:

7 (1) BARRIERS.—A wall, fence, enclosure, or
8 barrier between the swimming pool and the portion
9 of the building that forms part of the enclosure.

10 (2) COVERS.—A safety pool cover.

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

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

18 (d) ENTRAPMENT, ENTANGLEMENT, AND EVISCERA-
19 TION PREVENTION STANDARDS TO BE REQUIRED.—In
20 promulgating the swimming pool and spa standard, the
21 Commission shall require, at a minimum, 1 or more of
22 the following (except for pools constructed without a main
23 drain):

24 (1) SAFETY VACUUM RELEASE SYSTEM.—A
25 safety vacuum release system which ceases operation

1 of the pump, reverses the circulation flow, or other-
 2 wise provides a vacuum release at a suction outlet
 3 when a blockage is detected, that has been tested by
 4 an independent third party and found to conform to
 5 ASME/ANSI standard A112.19.17 or ASTM stand-
 6 ard F2387.

7 (2) SUCTION-LIMITING VENT SYSTEM.—A suc-
 8 tion-limiting vent system with a tamper-resistant at-
 9 mospheric opening.

10 (3) GRAVITY DRAINAGE SYSTEM.—A gravity
 11 drainage system that utilizes a collector tank.

12 (4) AUTOMATIC PUMP SHUT-OFF SYSTEM.—An
 13 automatic pump shut-off system.

14 (5) DRAIN DISABLEMENT.—A device or system
 15 that disables the drain.

16 (6) OTHER SYSTEMS.—Any other system deter-
 17 mined by the Commission to be equally effective as,
 18 or better than, the systems described in paragraphs
 19 (1) through (5) of this subsection at preventing or
 20 eliminating the risk of injury or death for children
 21 associated with pool drainage systems.

22 **SEC. 5. 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 4;
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,
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.

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

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

13 (2) the remainder—

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

17 (B) to educate pool owners, pool operators,
18 and other members of the public about the
19 standards under the swimming pool and spa
20 safety law and about the prevention of children
21 using swimming pools and spas from drowning
22 or becoming entrapped; and

23 (C) to defray administrative costs associ-
24 ated with such training and education pro-
25 grams.

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

5 **SEC. 6. EDUCATION PROGRAM.**

6 (a) IN GENERAL.—The Commission shall establish
7 and carry out an education program to inform the public
8 of methods to prevent drowning and entrapment in swim-
9 ming pools and spas. In carrying out the program, the
10 Commission shall develop—

11 (1) educational materials designed for pool
12 manufacturers, pool service companies, and pool
13 supply retail outlets;

14 (2) educational materials designed for pool own-
15 ers and operators; and

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

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

23 **SEC. 7. DEFINITIONS.**

24 In this Act:

1 (1) ASME/ANSI STANDARD.—The term
2 “ASME/ANSI standard” means a safety standard
3 accredited by the American National Standards In-
4 stitute and published by the American Society of
5 Mechanical Engineers.

6 (2) ASTM STANDARD.—The term “ASTM
7 standard” means a safety standard issued by ASTM
8 International, formerly known as the American Soci-
9 ety for Testing and Materials.

10 (3) BARRIER.—The term “barrier” includes a
11 natural or constructed topographical feature that
12 prevents unpermitted access to a swimming pool,
13 and, with respect to a hot tub, a lockable cover.

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

16 (5) MAIN DRAIN.—The term “main drain”
17 means a submerged suction outlet typically located
18 at the bottom of a pool or spa to conduct water to
19 a re-circulating pump.

20 (6) NEW POOL.—The term “new pool” means
21 a pool constructed more than 180 days after the ef-
22 fective date of a State statute enacted or amended
23 after the date of enactment of this Act to establish
24 State minimum swimming pool and spa safety

1 standards that meet the recommended standards
2 promulgated by the Commission under section 4.

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

8 (8) UNBLOCKABLE DRAIN.—The term
9 “unblockable drain” means a drain of any size and
10 shape that a human body cannot sufficiently block
11 to create a suction entrapment hazard.

12 (9) SUCTION OUTLET DRAIN COVER.—The term
13 “suction outlet drain cover” means a drain cover
14 which is designed to help prevent mechanical, body
15 and hair entrapment and evisceration.

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

22 **SEC. 8. CPSC REPORTS.**

23 (a) RULEMAKING PROGRESS.—The Commission shall
24 report to the Senate Committee on Commerce, Science,
25 and Transportation and the House of Representatives

1 Committee on Energy and Commerce within 1 year after
2 the date of enactment of this Act on its progress toward
3 issuing a final rule under section 4. The Commission shall
4 include in the report an explanation of its reason for rec-
5 ommending certain standards over other, alternative
6 standards.

7 (b) EFFICACY OF GRANT PROGRAM.—Within 1 year
8 after the close of each fiscal year for which grants are
9 made under section 5, the Commission shall submit a re-
10 port to the Congress evaluating the effectiveness of the
11 grant program authorized by that section.

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