

(1) by inserting "(or in the case of a facility with an annual budget of less than \$40,000,000, 15 percent of the annual budget of the facility)" after "equal to 5 percent of the annual budget of the facility"; and

(2) by inserting "(or in the case of a facility with an annual budget of less than \$40,000,000, 15 percent of the annual budget of the facility)" after "exceeds 5 percent of the annual budget of the facility".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. CANNON) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Utah.

GENERAL LEAVE

Mr. CANNON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 6427 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. CANNON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6427 and urge its adoption by the House.

The bill changes the way a particular royalty formula under the Bayh-Dole Act. This is the landmark 1980 law that governs protection of patented inventions developed with the assistance of Federal funding. In brief, H.R. 6427 allows small government-owned, contractor-operated laboratories and their affiliated universities or nonprofits to receive a fair percentage of revenue from a successful patent that they license. The bill produces an equitable result for small entities that perform important research in a number of scientific fields, all of which benefits the American people.

I commend the gentleman from Iowa (Mr. LATHAM) for his work on this issue; I urge the House to pass H.R. 6427 for expeditious consideration by the other body.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

Of course we support this legislation, because the bill merely amends the extent to which small nonprofits can keep the profits of inventions they develop in conjunction with the Federal Government.

Under the Bayh-Dole Act of 1980, the Federal Government will provide funds to nonprofits, including universities, for the purpose of conducting important research. Because the government is not equipped to do so, the nonprofits are allowed to patent any discoveries, sell and license the inventions, and keep a portion of the profits. Currently, the nonprofit can keep an amount of the profits up to 5 percent of its annual budget; the balance of the profits must be returned to the taxpayers.

Because of the unique situation of small universities, the bill would permit them to retain a higher percentage of the profits. While small universities may have small budgets, their research and development costs might not be small and can have a significant impact upon their budgets themselves. This legislation would permit small entities, those with a budget of less than \$40 million, could retain a higher portion of the profits, up to 15 percent of their budgets.

This is a simple, straightforward proposition, we have heard no objection to it, and I am pleased to urge that it be passed this evening.

Mr. Speaker, I yield back the balance of my time.

Mr. CANNON. Mr. Speaker, I am pleased to yield so much time as the gentleman from Iowa (Mr. LATHAM) may consume.

Mr. LATHAM. Mr. Speaker, I thank the gentleman from Utah and I also thank the gentleman from Michigan for supporting this legislation.

H.R. 6427 has no budgetary impact at all. This bill would raise from 5 percent to 15 percent the percentage of patent royalties that can be retained by the government-owned, contractor-operated labs and universities and nonprofits with annual budgets of \$40 million or less in any given fiscal year under the patent laws.

The bill would provide relief to smaller contracts, and incentivize these labs and universities to reinvest in their research and educational operations. The bill would only raise the ceiling for very small budgets. The majority of these contracts have much larger budgets of \$100 million or more, and for those current larger budgets the 5 percent threshold would remain.

This bill has no opposition, and ensures that these contracts have the necessary funding to continue their successful pursuit of revolutionary inventions by keeping a larger percentage of the patent royalty. The thrust of this bill is to give incentives for smaller institutions and labs to continue investing in research and development. These smaller contracts of \$40 million or less should not be penalized for their success just because they reach the current statutory 5 percent ceiling more quickly than the larger contracts in the hundreds of millions of dollars.

Raising the ceiling to 15 percent for these smaller contracts is fair. The bill makes the royalty regime more equitable for all.

Mr. Speaker, again I appreciate the support of both sides of the aisle.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CANNON. Mr. Speaker, I yield myself such time as I may consume.

I would just like to say that at an earlier phase of my life I had the great privilege of working with the people who helped develop these policies that allowed for the privatization of Federal R&D.

This is a simple bill that makes enormous sense and the underlying bill that it amends has resulted in massive improvements in the lives of all Americans. This is a sensible adjustment to that, and I suggest that all of our colleagues support this reasonable bill.

Mr. Speaker, I yield back the balance of my time.

□ 0030

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. CANNON) that the House suspend the rules and pass the bill, H.R. 6427.

The question was taken; and (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

POOL AND SPA SAFETY ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the Senate bill (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.

The Clerk read as follows:

S. 3718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(b) TABLE OF CONTENTS.—The table of contents for 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.

SEC. 2. FINDINGS.

The Congress finds that—

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

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

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

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

(5) research studies show that the installation and proper use of barriers or fencing, as well as additional layers of protection, could substantially reduce the number of childhood residential swimming pool drownings and near drownings.

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

(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule

issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

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

SEC. 4. STATE SWIMMING POOL SAFETY GRANT PROGRAM.

(a) **IN GENERAL.**—Subject to the availability of appropriations authorized by subsection (e), the Commission shall establish a grant program to provide assistance to eligible States.

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

(1) demonstrate to the satisfaction of the Commission that it has a State statute, or that, after the date of enactment of this Act, it has enacted a statute, or amended an existing statute, and provides for the enforcement of, a law that—

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

(B) meets the minimum State law requirements of section 5; and

(2) submit an application to the Commission at such time, in such form, and containing such additional information as the Commission may require.

(c) **AMOUNT OF GRANT.**—The Commission shall determine the amount of a grant awarded under this Act, and shall consider—

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

(2) allocation of grant funds in a manner designed to provide the maximum benefit from the program in terms of protecting children from drowning or entrapment, and, in making that allocation, shall give priority to States that have not received a grant under this Act in a preceding fiscal year.

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

(1) at least 50 percent of amount made available to hire and train enforcement personnel for implementation and enforcement of standards under the State swimming pool and spa safety law; and

(2) the remainder—

(A) to educate pool construction and installation companies and pool service companies about the standards;

(B) to educate pool owners, pool operators, and other members of the public about the standards under the swimming pool and spa safety law and about the prevention of drowning or entrapment of children using swimming pools and spas; and

(C) to defray administrative costs associated with such training and education programs.

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

SEC. 5. MINIMUM STATE LAW REQUIREMENTS.

(a) **IN GENERAL.**—

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

(A) the State requires by statute—

(i) the enclosure of all residential pools and spas by barriers to entry that will effectively prevent small children from gaining unsupervised and unfettered access to the pool or spa;

(ii) that all pools and spas be equipped with devices and systems designed to prevent entrapment by pool or spa drains;

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

(I) more than 1 drain;

(II) 1 or more unblockable drains; or

(III) no main drain; and

(iv) every swimming pool and spa that has a main drain, other than an unblockable drain, be equipped with a drain cover that meets the consumer product safety standard established by section 3; and

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

(2) **USE OF MINIMUM STATE LAW REQUIREMENTS.**—The Commission—

(A) shall use the minimum State law requirements under paragraph (1) solely for the purpose of determining the eligibility of a State for a grant under section 4 of this Act; and

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

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

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

(B) ensure that any such requirements are consistent with the guidelines contained in the Commission's publication 362, entitled "Safety Barrier Guidelines for Home Pools", the Commission's publication entitled "Guidelines for Entrapment Hazards: Making Pools and Spas Safer", and any other pool safety guidelines established by the Commission.

(b) **STANDARDS.**—Nothing in this section prevents the Commission from promulgating standards regulating pool and spa safety or from relying on an applicable national performance standard.

(c) **BASIC ACCESS-RELATED SAFETY DEVICES AND EQUIPMENT REQUIREMENTS TO BE CONSIDERED.**—In establishing minimum State law requirements for swimming pools and spas under subsection (a)(1), the Commission shall consider the following requirements:

(1) **COVERS.**—A safety pool cover.

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

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

(4) **POOL ALARM.**—A device designed to provide rapid detection of an entry into the water of a swimming pool or spa.

(d) **ENTRAPMENT, ENTANGLEMENT, AND EVISCERATION PREVENTION STANDARDS TO BE REQUIRED.**—

(1) **IN GENERAL.**—In establishing additional minimum State law requirements for swimming pools and spas under subsection (a)(1), the Commission shall require, at a minimum, 1 or more of the following (except for pools constructed without a single main drain):

(A) **SAFETY VACUUM RELEASE SYSTEM.**—A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387.

(B) **SUCTION-LIMITING VENT SYSTEM.**—A suction-limiting vent system with a tamper-resistant atmospheric opening.

(C) **GRAVITY DRAINAGE SYSTEM.**—A gravity drainage system that utilizes a collector tank.

(D) **AUTOMATIC PUMP SHUT-OFF SYSTEM.**—An automatic pump shut-off system.

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

(F) **OTHER SYSTEMS.**—Any other system determined by the Commission to be equally effective as, or better than, the systems described in subparagraphs (A) through (E) of this paragraph at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(2) **APPLICABLE STANDARDS.**—Any device or system described in subparagraphs (B) through (E) of paragraph (1) shall 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.

SEC. 6. EDUCATION PROGRAM.

(a) **IN GENERAL.**—The Commission shall establish and carry out an education program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas. In carrying out the program, the Commission shall develop—

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

(2) educational materials designed for pool owners and operators; and

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

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

SEC. 7. DEFINITIONS.

In this Act:

(1) **ASME/ANSI STANDARD.**—The term "ASME/ANSI standard" means a safety standard accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) **ASTM STANDARD.**—The term "ASTM standard" means a safety standard issued by ASTM International, formerly known as the American Society for Testing and Materials.

(3) **BARRIER.**—The term "barrier" includes a natural or constructed topographical feature that prevents unpermitted access by children to a swimming pool, and, with respect to a hot tub, a lockable cover.

(4) **COMMISSION.**—The term "Commission" means the Consumer Product Safety Commission.

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

(6) **SAFETY VACUUM RELEASE SYSTEM.**—The term "safety vacuum release system" means 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.

(7) **UNBLOCKABLE DRAIN.**—The term "unblockable drain" means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

(8) **SWIMMING POOL; SPA.**—The term "swimming pool" or "spa" means 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.

SEC. 8. CPSC REPORT.

Within 1 year after the close of each fiscal year for which grants are made under section 4, the Commission shall submit a report to

the Congress evaluating the effectiveness of the grant program authorized by that section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support tonight of S. 3718, the Pool and Spa Safety Act that has come to this body with the help and the leadership of the gentleman from Virginia (Mr. WOLF), the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), and Senator George Allen of Virginia.

This legislation, if the House and Senate pass it this evening, will help to ensure that backyard pools will no longer present an unexpected danger to American children and families.

I urge my colleagues to support this bill. I would point out to my Republican colleagues, there are no Federal mandates in this bill. There is a consumer product safety standard that would require new pool drain covers that are sold or entered into commerce and installed 1 year after date of enactment of this bill to meet certain safety standards. So there is a safety standard in the bill that is not in current law, but in terms of any mandates on swimming pools that are already in existence, there are no Federal mandates in this piece of legislation. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman from Texas's support and want to describe the legislation and tell Members that drowning is the second leading cause of accidental childhood deaths by injury in the United States. It is the number one killer of children under 5 years of age in America, and the number two killer of children under 14 years of age.

Mr. Speaker, 335 children across the Nation drowned in swimming pools or spas in 2002. That is 335 lives that were cut very short because we did not act quickly enough to address this problem.

This legislation is named in memory of Secretary of State James A. Baker's granddaughter, 7-year-old Graeme, who drowned in a spa entrapment accident a number of years ago.

Graeme and the roughly 300 children that died that year due to drain entrapment would be with us today if this commonsense legislation had been law.

The pool and spa safety legislation we are considering will encourage States to pass laws that prevent the tragic and preventable loss of children to accidental drowning.

This legislation provides Federal incentives, not mandates, as the gentleman from Texas indicated, for States, and provides layers of protection and puts obstacles in the path of a child when supervision lapses.

We all know when it comes to making sure that children don't drown in swimming pools that supervision is paramount. But as any parent can tell you, and I am a parent of three, we all know that supervision does lapse. Every year each of us across the country, each of us in our own districts, hear news reports and read the newspaper about tragic incidents that occur in swimming pools year after year.

Mr. Speaker, 65 percent of the drownings that occur in swimming pools occur when a child wanders out the back door of home they are in and drowns in the pool in the backyard; 35 percent of the drownings take place when a child from a neighbor's yard comes into the yard a couple of doors down and drowns in the pool. This is a tragedy that can happen in an instant.

When it comes to suction drain entrapment accidents, what happens is young children are actually pulled under because the suction from a single drain in a spa is so strong that the strength of several men cannot even pull the child off the drain. Children have been disemboweled. There are

children that because we don't have dual drains or spa drain covers, which this bill would incentivize, there are children drowning needlessly.

We have to make sure that we put obstacles in the path of children when, through no fault of their own, supervision lapses. I urge Members to vote to protect children from drowning and pass the Graeme Baker Pool and Spa Safety Act.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, this is a good piece of legislation. I have a 15-month-old son, Jack Kevin Barton. We have a hot tub in our back yard in Arlington, Texas. We keep it covered at all times unless one of the family is actually using it.

This type of legislation if passed and implemented will make it much more difficult for small children who are unattended and wander out and get into these pools and spas and drown because they are not as safe as they could be. I hope that the House will unanimously pass the legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the Senate bill, S. 3718.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those voting have responded in the affirmative.

Mr. WESTMORELAND. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

NOTICE

Today's House proceedings will be continued in Book II