

110TH CONGRESS
1ST SESSION

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.

IN THE SENATE OF THE UNITED STATES

JULY 11, 2007

Mr. PRYOR (for himself, Mr. DODD, Mr. STEVENS, Mrs. HUTCHISON, Ms. KLOBUCHAR, Mr. WARNER, Mr. DURBIN, Mr. MCCAIN, and Mr. COLEMAN) 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, 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.**

4 This Act may be cited as the “Virginia Graeme Baker
5 Pool and Spa Safety Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Of injury-related deaths, drowning is the
2 second leading cause of death in children aged 1 to
3 14 in the United States.

4 (2) In 2004, 761 children aged 14 and under
5 died as a result of unintentional drowning.

6 (3) Adult supervision at all aquatic venues is a
7 critical safety factor in preventing children from
8 drowning.

9 (4) Research studies show that the installation
10 and proper use of barriers or fencing, as well as ad-
11 ditional layers of protection, could substantially re-
12 duce the number of childhood residential swimming
13 pool drownings and near drownings.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) ASME/ANSI.—The term “ASME/ANSI”
17 as applied to a safety standard means such a stand-
18 ard that is accredited by the American National
19 Standards Institute and published by the American
20 Society of Mechanical Engineers.

21 (2) BARRIER.—The term “barrier” includes a
22 natural or constructed topographical feature that
23 prevents unpermitted access by children to a swim-
24 ming pool, and, with respect to a hot tub, a lockable
25 cover.

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

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

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

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

18 (7) UNBLOCKABLE DRAIN.—The term
19 “unblockable drain” means a drain of any size and
20 shape that a human body cannot sufficiently block
21 to create a suction entrapment hazard.

22 **SEC. 4. FEDERAL SWIMMING POOL AND SPA DRAIN COVER**
23 **STANDARD.**

24 (a) CONSUMER PRODUCT SAFETY RULE.—The re-
25 quirements described in subsection (b) shall be treated as

1 a consumer product safety rule issued by the Consumer
2 Product Safety Commission under the Consumer Product
3 Safety Act (15 U.S.C. 2051 et seq.).

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

11 **SEC. 5. STATE SWIMMING POOL SAFETY GRANT PROGRAM.**

12 (a) IN GENERAL.—Subject to the availability of ap-
13 propriations authorized by subsection (e), the Commission
14 shall establish a grant program to provide assistance to
15 eligible States.

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

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

23 (A) except as provided in section
24 6(a)(1)(A)(i), applies to all swimming pools in
25 the State; and

1 (B) meets the minimum State law require-
2 ments of section 6; and

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

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

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

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

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

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

23 (2) the remainder—

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

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

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

13 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 14 are authorized to be appropriated to the Commission for
 15 each of fiscal years 2009 and 2010 \$2,000,000 to carry
 16 out this section, such sums to remain available until ex-
 17 pended.

18 **SEC. 6. MINIMUM STATE LAW REQUIREMENTS.**

19 (a) IN GENERAL.—

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

22 (A) the State requires by statute—

23 (i) the enclosure of all residential
 24 pools and spas by barriers to entry that
 25 will effectively prevent small children from

1 gaining unsupervised and unfettered access
2 to the pool or spa;

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

7 (iii) that pools and spas built more
8 than 1 year after the date of the enact-
9 ment of such statute have—

10 (I) more than 1 drain;

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

13 (III) no main drain; and

14 (iv) every swimming pool and spa that
15 has a main drain, other than an
16 unblockable drain, be equipped with a
17 drain cover that meets the consumer prod-
18 uct safety standard established by section
19 4; and

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

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

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

5 (B) may not enforce any requirement
6 under paragraph (1) except for the purpose of
7 determining the eligibility of a State for a grant
8 under section 5 of this Act.

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

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

17 (B) ensure that any such requirements are
18 consistent with the guidelines contained in the
19 Commission’s publication 362, entitled “Safety
20 Barrier Guidelines for Home Pools”, the Com-
21 mission’s publication entitled “Guidelines for
22 Entrapment Hazards: Making Pools and Spas
23 Safer”, and any other pool safety guidelines es-
24 tablished by the Commission.

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

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

10 (1) COVERS.—A safety pool cover.

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

14 (3) 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 (4) POOL ALARM.—A device designed to provide
19 rapid detection of an entry into the water of a swim-
20 ming pool or spa.

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

23 (1) IN GENERAL.—In establishing additional
24 minimum State law requirements for swimming
25 pools and spas under subsection (a)(1), the Commis-

1 sion shall require, at a minimum, 1 or more of the
2 following (except for pools constructed without a sin-
3 gle main drain):

4 (A) SAFETY VACUUM RELEASE SYSTEM.—

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

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

14 suction-limiting vent system with a tamper-re-
15 sistant atmospheric opening.

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

17 ity drainage system that utilizes a collector
18 tank.

19 (D) AUTOMATIC PUMP SHUT-OFF SYS-

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

21 (E) DRAIN DISABLEMENT.—A device or

22 system that disables the drain.

23 (F) OTHER SYSTEMS.—Any other system

24 determined by the Commission to be equally ef-
25 fective as, or better than, the systems described

1 in subparagraphs (A) through (E) of this para-
2 graph at preventing or eliminating the risk of
3 injury or death associated with pool drainage
4 systems.

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

11 **SEC. 7. EDUCATION PROGRAM.**

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

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

20 (2) educational materials designed for pool own-
21 ers and operators; and

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

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Commission for

1 each of the fiscal years 2008 through 2012 \$5,000,000
2 to carry out the education program authorized by sub-
3 section (a).

4 **SEC. 8. CPSC REPORT.**

5 Not later than 1 year after the last day of each fiscal
6 year for which grants are made under section 5, the Com-
7 mission shall submit to Congress a report evaluating the
8 effectiveness of the grant program authorized by that sec-
9 tion.

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