

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1721

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## 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 “Virginia Graeme Baker Pool and Spa Safety Act”.

6        (b) TABLE OF CONTENTS.—The table of contents for  
 7 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.

8 **SEC. 2. FINDINGS.**

9        The Congress finds that—

10            (1) of injury-related deaths, drowning is the  
 11 second leading cause of death in children aged 1 to  
 12 14 in the United States;

13            (2) there are approximately 260 drowning  
 14 deaths of children younger than age 5 each year in  
 15 swimming pools, and an estimated 2,725 children  
 16 are treated annually in hospital emergency rooms for  
 17 pool submersion injuries, mostly in residential pools;

18            (3) many children die due to pool and spa  
 19 drowning and entrapment, such as Virginia Graeme  
 20 Baker, who at age 7 drowned by entrapment in a  
 21 residential spa, and Preston de Ibern, who at age 5

1 nearly drowned and was left permanently brain dam-  
2 aged, finally succumbing to his catastrophic  
3 healthcare issues when he was 12 years old;

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

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

12 **SEC. 3. FEDERAL SWIMMING POOL AND SPA DRAIN COVER**  
13 **STANDARD.**

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

19 (b) DRAIN COVER STANDARD.—Effective 1 year  
20 after the date of enactment of this Act, each swimming  
21 pool or spa drain cover manufactured, distributed, or en-  
22 tered into commerce in the United States shall conform  
23 to the entrapment protection standards of the ASME/  
24 ANSI A112.19.8 performance standard.

1           (c) REVISION OF RULE.—If, after the enactment of  
2 this Act, ANSI proposes to revise the entrapment protec-  
3 tion requirements of ASME/ANSI A112.19.8, ANSI shall  
4 notify the Consumer Product Safety Commission of the  
5 proposed revision and the proposed revision shall be incor-  
6 porated in the consumer product safety rule under sub-  
7 section (a) unless, within 60 days of such notice, the Com-  
8 mission notifies ANSI that the Commission has deter-  
9 mined that such revision does not carry out the purposes  
10 of subsection (b).

11           (d) IMPLEMENTING REGULATIONS.—Section 553 of  
12 title 5, United States Code, shall apply with respect to  
13 the issuance of any regulations by the Consumer Product  
14 Safety Commission to implement the requirements of this  
15 section, and sections 7 and 9 of the Consumer Product  
16 Safety Act shall not apply to such issuance.

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

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

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

24                   (1) demonstrate to the satisfaction of the Com-  
25 mission that it has a State statute, or that, after the

1 date of enactment of this Act, it has enacted a statute,  
2 ute, or amended an existing statute, that provides  
3 for the enforcement of a law that—

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

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

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

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

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

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

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

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

5 (2) the remainder—

6 (A) to educate pool construction and in-  
7 stallation companies and pool service companies  
8 about the standards;

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

15 (C) to defray administrative costs associ-  
16 ated with such training and education pro-  
17 grams.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to the Commission for  
20 each of fiscal years 2009 through 2013 \$5,000,000 to  
21 carry out this section, such sums to remain available until  
22 expended.

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

24 (a) IN GENERAL.—

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

3                   (A) the State requires by statute—

4                           (i) the enclosure of all outdoor resi-  
5                           dential pools and spas by barriers to entry  
6                           that will effectively prevent small children  
7                           from gaining unsupervised and unfettered  
8                           access to the pool or spa;

9                           (ii) that all pools and spas be  
10                          equipped with devices and systems de-  
11                          signed to prevent entrapment by pool or  
12                          spa drains;

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

16                                   (I) more than 1 drain per cir-  
17                                   culation pump;

18                                   (II) 1 or more unblockable drains  
19                                   per circulation pump; or

20                                   (III) no main drain; and

21                           (iv) every swimming pool and spa that  
22                           has a main drain, other than an  
23                           unblockable drain, be equipped with a  
24                           drain cover that meets the consumer prod-

1           uct safety standard established by section  
2           3; and

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

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

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

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

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

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

1 (B) ensure that any such requirements are  
2 consistent with the guidelines contained in the  
3 Commission’s publication 362, entitled “Safety  
4 Barrier Guidelines for Home Pools”, the Com-  
5 mission’s publication entitled “Guidelines for  
6 Entrapment Hazards: Making Pools and Spas  
7 Safer”, and any other pool safety guidelines es-  
8 tablished by the Commission.

9 (b) STANDARDS.—Nothing in this section prevents  
10 the Commission from promulgating standards regulating  
11 pool and spa safety or from relying on an applicable na-  
12 tional performance standard.

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

18 (1) COVERS.—A safety pool cover.

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

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

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

4 (d) ENTRAPMENT, ENTANGLEMENT, AND EIVISCERA-  
5 TION PREVENTION STANDARDS TO BE REQUIRED.—

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

12 (A) SAFETY VACUUM RELEASE SYSTEM.—

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

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

22 suction-limiting vent system with a tamper-re-  
23 sistant atmospheric opening.

1 (C) GRAVITY DRAINAGE SYSTEM.—A grav-  
2 ity drainage system that utilizes a collector  
3 tank.

4 (D) AUTOMATIC PUMP SHUT-OFF SYS-  
5 TEM.—An automatic pump shut-off system.

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

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

19 **SEC. 6. EDUCATION PROGRAM.**

20 (a) IN GENERAL.—The Commission shall establish  
21 and carry out an education program to inform the public  
22 of methods to prevent drowning and entrapment in swim-  
23 ming pools, spas, and ornamental pools. In carrying out  
24 the program, the Commission shall develop—

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

4           (2) educational materials designed for pool own-  
5 ers and operators;

6           (3) educational materials designed for orna-  
7 mental pool owners and operators, including munici-  
8 palities; and

9           (4) a national media campaign to promote  
10 awareness of pool and spa safety.

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

16 **SEC. 7. DEFINITIONS.**

17       In this Act:

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

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

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

3 (3) BARRIER.—The term “barrier”, with re-  
4 spect to a swimming pool, means a fence, dwelling  
5 wall, or nondwelling wall, or any combination there-  
6 of, which completely surrounds the swimming pool  
7 and obstructs access to the swimming pool, espe-  
8 cially access from the residence or from the yard  
9 outside the barrier. In the case where a wall of a  
10 dwelling that contains a door or window serves as  
11 part of the barrier, all doors and windows providing  
12 direct access from the home to the pool must be  
13 equipped with an exit alarm that has a minimum  
14 sound pressure rating of 85 dB A at 10 feet. Alarms  
15 should meet the requirements of UL 2017 General-  
16 Purpose Signaling Devices and Systems, section 77.  
17 All doors providing direct access from the home to  
18 the pool must be equipped with a self-closing, self-  
19 latching device with a release mechanism placed no  
20 lower than 54 inches above the floor. The term “bar-  
21 rier” means, with respect to a portable hot tub, a  
22 lockable cover.

23 (4) COMMISSION.—The term “Commission”  
24 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) ORNAMENTAL POOL.—The term “orna-  
6 mental pool” means a man-made structure de-  
7 signed to contain water such as a decorative foun-  
8 tain or reflecting pool in the ground, partially in the  
9 ground, or in a building, intended primarily for aes-  
10 thetic value and not intended for swimming or wad-  
11 ing.

12           (7) 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           (8) UNBLOCKABLE DRAIN.—The term  
18 “unblockable drain” means a drain of any size and  
19 shape that a human body cannot sufficiently block  
20 to create a suction entrapment hazard.

21           (9) SWIMMING POOL; SPA.—The term “swim-  
22 ming pool” or “spa” means any outdoor or indoor  
23 structure intended for swimming or recreational  
24 bathing, including in-ground and above-ground

1 structures, and includes hot tubs, spas, portable  
2 spas, and non-portable wading pools.

3 **SEC. 8. CPSC REPORT.**

4 Within 1 year after the close of each fiscal year for  
5 which grants are made under section 4, the Commission  
6 shall submit a report to the Congress evaluating the effec-  
7 tiveness of the grant program authorized by that section.

Passed the House of Representatives October 9,  
2007.

Attest:

*Clerk.*

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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# H. R. 1721

## 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.