

110TH CONGRESS
1ST SESSION

H. R. 1721

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 HOUSE OF REPRESENTATIVES

MARCH 27, 2007

Ms. WASSERMAN SCHULTZ (for herself, Mr. WOLF, Mr. CLYBURN, Mr. GRIJALVA, Mr. WEXLER, Mr. SCHIFF, Mr. MOORE of Kansas, Mr. HASTINGS of Florida, Mr. KING of New York, Ms. BEAN, Mr. KLEIN of Florida, Mr. MAHONEY of Florida, Mr. BISHOP of New York, Mr. KLINE of Minnesota, Mr. THOMPSON of California, and Mr. CANNON) introduced the following bill; which was referred to the Committee on Energy and Commerce

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,*

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”.

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) many children die due to pool and spa
 14 drowning and entrapment, such as Virginia Graeme
 15 Baker, who at age 7 drowned by entrapment in a
 16 residential spa, and Preston de Ibern, who at age 5
 17 nearly drowned and was left permanently brain dam-
 18 aged, finally succumbing to his catastrophic
 19 healthcare issues when he was 12 years old;

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

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

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

9 **SEC. 3. FEDERAL SWIMMING POOL AND SPA DRAIN COVER**
 10 **STANDARD.**

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

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

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

24 (a) IN GENERAL.—Subject to the availability of ap-
 25 propriations authorized by subsection (e), the Commission

1 shall establish a grant program to provide assistance to
2 eligible States.

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

5 (1) demonstrate to the satisfaction of the Com-
6 mission that it has a State statute, or that, after the
7 date of enactment of this Act, it has enacted a stat-
8 ute, or amended an existing statute, that provides
9 for the enforcement of a law that—

10 (A) except as provided in section
11 5(a)(1)(A)(i), applies to all swimming pools in
12 the State; and

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

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

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

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

23 (2) allocation of grant funds in a manner de-
24 signed to provide the maximum benefit from the
25 program in terms of protecting children from drown-

1 ing or entrapment, and, in making that allocation,
2 shall give priority to States that have not received
3 a grant under this Act in a preceding fiscal year.

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

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

10 (2) the remainder—

11 (A) to educate pool construction and in-
12 stallation companies and pool service companies
13 about the standards;

14 (B) to educate pool owners, pool operators,
15 and other members of the public about the
16 standards under the swimming pool and spa
17 safety law and about the prevention of drown-
18 ing or entrapment of children using swimming
19 pools and spas; and

20 (C) to defray administrative costs associ-
21 ated with such training and education pro-
22 grams.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Commission for
25 each of fiscal years 2008 through 2012 \$10,000,000 to

1 carry out this section, such sums to remain available until
2 expended.

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

4 (a) IN GENERAL.—

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

7 (A) the State requires by statute—

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

13 (ii) that all pools and spas be
14 equipped with devices and systems de-
15 signed to prevent entrapment by pool or
16 spa drains;

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

20 (I) more than 1 drain per cir-
21 culation pump;

22 (II) 1 or more unblockable drains
23 per circulation pump; or

24 (III) no main drain; and

1 (iv) every swimming pool and spa that
2 has a main drain, other than an
3 unblockable drain, be equipped with a
4 drain cover that meets the consumer prod-
5 uct safety standard established by section
6 3; and

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

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

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

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

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

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

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

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

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

21 (1) COVERS.—A safety pool cover.

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

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

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

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

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

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

1 (B) SUCTION-LIMITING VENT SYSTEM.—A
 2 suction-limiting vent system with a tamper-re-
 3 sistant atmospheric opening.

4 (C) GRAVITY DRAINAGE SYSTEM.—A grav-
 5 ity drainage system that utilizes a collector
 6 tank.

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

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

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

22 **SEC. 6. EDUCATION PROGRAM.**

23 (a) IN GENERAL.—The Commission shall establish
 24 and carry out an education program to inform the public
 25 of methods to prevent drowning and entrapment in swim-

1 ming pools and spas. In carrying out the program, the
2 Commission shall develop—

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

6 (2) educational materials designed for pool own-
7 ers and operators; and

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

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

15 **SEC. 7. DEFINITIONS.**

16 In this Act:

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

22 (2) ASTM STANDARD.—The term “ASTM
23 standard” means a safety standard issued by ASTM
24 International, formerly known as the American Soci-
25 ety for Testing and Materials.

1 (3) BARRIER.—The term “barrier” means a
2 fence, dwelling wall, or nondwelling wall, or any
3 combination thereof, which completely surrounds the
4 swimming pool and obstructs access to the swim-
5 ming pool, especially access from the residence or
6 from the yard outside the barrier. A wall of a dwell-
7 ing may service as part of the barrier if it does not
8 contain any door or window that opens to provide
9 access to the swimming pool.

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

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

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

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

1 (8) SWIMMING POOL; SPA.—The term “swim-
2 ming pool” or “spa” means any outdoor or indoor
3 structure intended for swimming or recreational
4 bathing, including in-ground and above-ground
5 structures, and includes hot tubs, spas, portable
6 spas, and non-portable wading pools.

7 **SEC. 8. CPSC REPORT.**

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

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