

Union Calendar No. 226

110TH CONGRESS
1ST SESSION

H. R. 1721

[Report No. 110-365]

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

OCTOBER 9, 2007

Additional sponsors: Mr. HILL, Mr. BARROW, Mr. CARTER, Mrs. MCCARTHY of New York, Ms. JACKSON-LEE of Texas, Mr. MATHESON, Mr. BUTTERFIELD, Mr. WEINER, Mr. RAMSTAD, Mr. PAYNE, Mr. KENNEDY, Ms. MCCOLLUM of Minnesota, Mr. GORDON of Tennessee, Mr. COOPER, Mr. BUCHANAN, Mr. BURGESS, and Mr. DELAHUNT

OCTOBER 9, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 27, 2007]

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 “Vir-*
 5 *ginia 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—*

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

4 (2) there are approximately 260 drowning deaths
5 of children younger than age 5 each year in swim-
6 ming pools, and an estimated 2,725 children are
7 treated annually in hospital emergency rooms for pool
8 submersion injuries, mostly in residential pools;

9 (3) many children die due to pool and spa
10 drowning and entrapment, such as Virginia Graeme
11 Baker, who at age 7 drowned by entrapment in a res-
12 idential spa, and Preston de Ibern, who at age 5
13 nearly drowned and was left permanently brain dam-
14 aged, finally succumbing to his catastrophic
15 healthcare issues when he was 12 years old;

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

19 (5) research studies show that the installation
20 and proper use of barriers or fencing, as well as addi-
21 tional layers of protection, could substantially reduce
22 the number of childhood residential swimming pool
23 drownings and near drownings.

1 **SEC. 3. FEDERAL SWIMMING POOL AND SPA DRAIN COVER**
2 **STANDARD.**

3 (a) *CONSUMER PRODUCT SAFETY RULE.*—The provi-
4 sions of subsection (b) shall be considered to be a consumer
5 product safety rule issued by the Consumer Product Safety
6 Commission under section 9 of the Consumer Product Safe-
7 ty Act (15 U.S.C. 2058).

8 (b) *DRAIN COVER STANDARD.*—Effective 1 year after
9 the date of enactment of this Act, each swimming pool or
10 spa drain cover manufactured, distributed, or entered into
11 commerce in the United States shall conform to the entrap-
12 ment protection standards of the ASME/ANSI A112.19.8
13 performance standard.

14 (c) *REVISION OF RULE.*—If, after the enactment of this
15 Act, ANSI proposes to revise the entrapment protection re-
16 quirements of ASME/ANSI A112.19.8, ANSI shall notify
17 the Consumer Product Safety Commission of the proposed
18 revision and the proposed revision shall be incorporated in
19 the consumer product safety rule under subsection (a) un-
20 less, within 60 days of such notice, the Commission notifies
21 ANSI that the Commission has determined that such revi-
22 sion does not carry out the purposes of subsection (b).

23 (d) *IMPLEMENTING REGULATIONS.*—Section 553 of
24 title 5, United States Code, shall apply with respect to the
25 issuance of any regulations by the Consumer Product Safety
26 Commission to implement the requirements of this section,

1 *and sections 7 and 9 of the Consumer Product Safety Act*
2 *shall not apply to such issuance.*

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

4 *(a) IN GENERAL.—Subject to the availability of appro-*
5 *priations authorized by subsection (e), the Commission shall*
6 *establish a grant program to provide assistance to eligible*
7 *States.*

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

10 *(1) demonstrate to the satisfaction of the Com-*
11 *mission that it has a State statute, or that, after the*
12 *date of enactment of this Act, it has enacted a statute,*
13 *or amended an existing statute, that provides for the*
14 *enforcement of a law that—*

15 *(A) except as provided in section*
16 *5(a)(1)(A)(i), applies to all swimming pools in*
17 *the State; and*

18 *(B) meets the minimum State law require-*
19 *ments of section 5; 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 deter-*
24 *mine the amount of a grant awarded under this Act, and*
25 *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 pro-*
5 *gram in terms of protecting children from drowning*
6 *or entrapment, and, in making that allocation, shall*
7 *give priority to States that have not received a grant*
8 *under this Act in a preceding fiscal year.*

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

11 (1) *at least 50 percent of amount made available*
12 *to hire and train enforcement personnel for imple-*
13 *mentation and enforcement of standards under the*
14 *State swimming pool and spa safety law; and*

15 (2) *the remainder—*

16 (A) *to educate pool construction and instal-*
17 *lation companies and pool service companies*
18 *about the standards;*

19 (B) *to educate pool owners, pool operators,*
20 *and other members of the public about the stand-*
21 *ards under the swimming pool and spa safety*
22 *law and about the prevention of drowning or en-*
23 *trapment of children using swimming pools and*
24 *spas; and*

1 (C) to defray administrative costs associ-
2 ated with such training and education programs.

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

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

8 (a) *IN GENERAL.*—

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

11 (A) the State requires by statute—

12 (i) the enclosure of all outdoor residen-
13 tial pools and spas by barriers to entry that
14 will effectively prevent small children from
15 gaining unsupervised and unfettered access
16 to the pool or spa;

17 (ii) that all pools and spas be equipped
18 with devices and systems designed to pre-
19 vent entrapment by pool or spa drains;

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

23 (I) more than 1 drain per circula-
24 tion pump;

1 (ii) 1 or more unblockable drains
2 per circulation pump; or

3 (iii) no main drain; and

4 (iv) every swimming pool and spa that
5 has a main drain, other than an
6 unblockable drain, be equipped with a drain
7 cover that meets the consumer product safe-
8 ty standard established by section 3; and

9 (B) the State meets such additional State
10 law requirements for pools and spas as the Com-
11 mission may establish after public notice and a
12 30-day public comment period.

13 (2) *USE OF MINIMUM STATE LAW REQUIRE-*
14 *MENTS.—The Commission—*

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

19 (B) may not enforce any requirement under
20 paragraph (1) except for the purpose of deter-
21 mining the eligibility of a State for a grant
22 under section 4 of this Act.

23 (3) *REQUIREMENTS TO REFLECT NATIONAL PER-*
24 *FORMANCE STANDARDS AND COMMISSION GUIDE-*

1 *LINES.—In establishing minimum State law require-*
2 *ments under paragraph (1), 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 such requirements are*
7 *consistent with the guidelines contained in the*
8 *Commission’s publication 362, entitled “Safety*
9 *Barrier Guidelines for Home Pools”, the Com-*
10 *mission’s publication entitled “Guidelines for*
11 *Entrapment Hazards: Making Pools and Spas*
12 *Safer”, and any other pool safety guidelines es-*
13 *tablished by the Commission.*

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

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

23 *(1) COVERS.—A safety pool cover.*

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

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

8 (4) *POOL ALARM.*—*A device designed to provide*
9 *rapid detection of an entry into the water of a swim-*
10 *ming pool or spa.*

11 (d) *ENTRAPMENT, ENTANGLEMENT, AND EVISCERA-*
12 *TION PREVENTION STANDARDS TO BE REQUIRED.*—

13 (1) *IN GENERAL.*—*In establishing additional*
14 *minimum State law requirements for swimming pools*
15 *and spas under subsection (a)(1), the Commission*
16 *shall require, at a minimum, 1 or more of the fol-*
17 *lowing (except for pools constructed without a single*
18 *main drain):*

19 (A) *SAFETY VACUUM RELEASE SYSTEM.*—*A*
20 *safety vacuum release system which ceases oper-*
21 *ation of the pump, reverses the circulation flow,*
22 *or otherwise provides a vacuum release at a suc-*
23 *tion outlet when a blockage is detected, that has*
24 *been tested by an independent third party and*

1 *found to conform to ASME/ANSI standard*
2 *A112.19.17 or ASTM standard F2387.*

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

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

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

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

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

23 **SEC. 6. EDUCATION PROGRAM.**

24 *(a) IN GENERAL.—The Commission shall establish and*
25 *carry out an education program to inform the public of*

1 *methods to prevent drowning and entrapment in swimming*
2 *pools, spas, and ornamental pools. In carrying out the pro-*
3 *gram, the Commission shall develop—*

4 *(1) educational materials designed for pool man-*
5 *ufacturers, pool service companies, and pool supply*
6 *retail outlets;*

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

9 *(3) educational materials designed for orna-*
10 *mental pool owners and operators, including municipi-*
11 *palities; and*

12 *(4) a national media campaign to promote*
13 *awareness of pool and spa safety.*

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

18 **SEC. 7. DEFINITIONS.**

19 *In this Act:*

20 *(1) ASME/ANSI STANDARD.—The term “ASME/*
21 *ANSI standard” means a safety standard accredited*
22 *by the American National Standards Institute and*
23 *published by the American Society of Mechanical En-*
24 *gineers.*

1 (2) *ASTM STANDARD.*—*The term “ASTM stand-*
2 *ard” means a safety standard issued by ASTM Inter-*
3 *national, formerly known as the American Society for*
4 *Testing and Materials.*

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

24 (4) *COMMISSION.*—*The term “Commission”*
25 *means the Consumer Product Safety Commission.*

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

5 (6) *ORNAMENTAL POOL.*—*The term “ornamental*
6 *pool” means a man-made structure designed to*
7 *contain water such as a decorative fountain or re-*
8 *flecting pool in the ground, partially in the ground,*
9 *or in a building, intended primarily for aesthetic*
10 *value and not intended for swimming or wading.*

11 (7) *SAFETY VACUUM RELEASE SYSTEM.*—*The*
12 *term “safety vacuum release system” means a vacuum*
13 *release system capable of providing vacuum release at*
14 *a suction outlet caused by a high vacuum occurrence*
15 *due to a suction outlet flow blockage.*

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

20 (9) *SWIMMING POOL; SPA.*—*The term “swim-*
21 *ming pool” or “spa” means any outdoor or indoor*
22 *structure intended for swimming or recreational bath-*
23 *ing, including in-ground and above-ground struc-*
24 *tures, and includes hot tubs, spas, portable spas, and*
25 *non-portable wading pools.*

1 **SEC. 8. CPSC REPORT.**

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

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