

[Committee Print]

(SHOWING THE TEXT OF H.R. 1721 AS REPORTED BY THE SUBCOMMITTEE
ON COMMERCE, TRADE, AND CONSUMER PROTECTION, JULY 31, 2007)

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 “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

1 Baker, who at age 7 drowned by entrapment in a
2 residential spa, and Preston de Ibern, who at age 5
3 nearly drowned and was left permanently brain dam-
4 aged, finally succumbing to his catastrophic
5 healthcare issues when he was 12 years old;

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

9 (5) 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. FEDERAL SWIMMING POOL AND SPA DRAIN COVER**
15 **STANDARD.**

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

21 (b) **DRAIN COVER STANDARD.**—Effective 1 year
22 after the date of enactment of this Act, each swimming
23 pool or spa drain cover manufactured, distributed, or en-
24 tered into commerce in the United States shall conform

1 to the entrapment protection standards of the ASME/
2 ANSI A112.19.8 performance standard.

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

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

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

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

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

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

6 (A) except as provided in section
7 5(a)(1)(A)(i), applies to all swimming pools in
8 the State; and

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

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

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

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

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

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

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

7 (2) the remainder—

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

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

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

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

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

2 (a) IN GENERAL.—

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

5 (A) the State requires by statute—

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

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

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

18 (I) more than 1 drain per cir-
19 culation pump;

20 (II) 1 or more unblockable drains
21 per circulation pump; or

22 (III) no main drain; and

23 (iv) every swimming pool and spa that
24 has a main drain, other than an
25 unblockable drain, be equipped with a
26 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.