

Congress of the United States
Washington, DC 20515

June 10, 2010

The Honorable Robert Adler
Consumer Product Safety Commission
4300 East West Highway
Suite 817
Bethesda, Maryland 20814-4408

RE: Unblockable Drains Provision of the *Virginia Graeme Baker Pool & Spa Safety Act*

Dear Commissioner Adler,

We are writing to express our extreme dissatisfaction with the recent actions by the Consumer Product Safety Commission (CPSC) to interpret the Virginia Graeme Baker Pool and Spa Act (VGB). Congress passed VGB in response to a number of horrific incidents in which children and adults were entrapped by drains in pools and spas, resulting in serious injuries and deaths. The Act is intended to reduce, and even eliminate, these preventable tragedies.

When Congress passed VGB, the intention was to require layers of protection to prevent pool and spa entrapments and deaths, ensure that the CPSC was adequately responding to the deadly hazards that were present in too many public pools and spas, and send a strong signal that Congress intended the law to be carried out with public safety as the central and overriding priority.

We were sorely disappointed to learn that CPSC has chosen to interpret the law in the most egregious and narrow way possible, eliminating the requirement for pools and spas to be equipped with back-up systems. In addition, the Commission has exempted a number of facilities from the requirements of the law that we believe may result in unnecessary deaths and injuries. We understand that the interpretation that CPSC adopted is the same one that the pool and spa industry endorsed, and is ***not the interpretation that public interest groups and victims' families had urged the Commission to adopt.***

Specifically, in the past several months, the CPSC has taken the following actions when implementing the VGB Act:

- Removed the “layers of protection” requirement in Section 1404(c)(1)(A)(ii) and voted to allow pools and spas with a single main drain to have no back-up system, as long as that drain is deemed to be “unblockable.” According to the Commission’s vote, a drain is

“unblockable” if it is equipped with a drain cover that will prevent entrapment. This vote is an affront to the numerous real life examples brought before Congress and the Commission in which children died because drain covers were broken or missing;

- Removed the “layers of protection” requirement from the eligibility standards in the state swimming pool safety grant program, including the Model Uniform State Pool and Spa Safety Legislation; and
- Exempted from the law any public accommodations with 5 or fewer units, even though the number of units in a building has no relationship to whether a pool or spa contains a deadly hazard;

The swimming season is upon us. We are writing to you to urge you in the strongest possible way to reverse these rulings. Public health demands the highest levels of protection to prevent drowning and Congress wholeheartedly agrees.


Sincerely,



Debbie Wasserman Schultz
Member of Congress



Frank R. Wolf
Member of Congress



John B. Larson
Member of Congress



James A. Himes
Member of Congress