

1 **TITLE XIV—POOL AND SPA**
2 **SAFETY**

3 **SEC. 1401. SHORT TITLE.**

4 This title may be cited as the “Virginia Graeme
5 Baker Pool and Spa Safety Act”.

6 **SEC. 1402. FINDINGS.**

7 Congress finds the following:

8 (1) Of injury-related deaths, drowning is the
9 second leading cause of death in children aged 1 to
10 14 in the United States.

11 (2) In 2004, 761 children aged 14 and under
12 died as a result of unintentional drowning.

13 (3) Adult supervision at all aquatic venues is a
14 critical safety factor in preventing children from
15 drowning.

16 (4) Research studies show that the installation
17 and proper use of barriers or fencing, as well as ad-
18 ditional layers of protection, could substantially re-
19 duce the number of childhood residential swimming
20 pool drownings and near drownings.

21 **SEC. 1403. DEFINITIONS.**

22 In this title:

1 (1) ASME/ANSI.—The term “ASME/ANSI”
2 as applied to a safety standard means such a stand-
3 ard that is accredited by the American National
4 Standards Institute and published by the American
5 Society of Mechanical Engineers.

6 (2) BARRIER.—The term “barrier” includes a
7 natural or constructed topographical feature that
8 prevents unpermitted access by children to a swim-
9 ming pool, and, with respect to a hot tub, a lockable
10 cover.

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

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

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

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

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

3 (7) UNBLOCKABLE DRAIN.—The term
4 “unblockable drain” means a drain of any size and
5 shape that a human body cannot sufficiently block
6 to create a suction entrapment hazard.

7 **SEC. 1404. FEDERAL SWIMMING POOL AND SPA DRAIN**
8 **COVER STANDARD.**

9 (a) CONSUMER PRODUCT SAFETY RULE.—The re-
10 quirements described in subsection (b) shall be treated as
11 a consumer product safety rule issued by the Consumer
12 Product Safety Commission under the Consumer Product
13 Safety Act (15 U.S.C. 2051 et seq.).

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

21 (c) PUBLIC POOLS.—

22 (1) REQUIRED EQUIPMENT.—

23 (A) IN GENERAL.—Beginning 1 year after
24 the date of enactment of this title—

1 (i) each public pool and spa in the
2 United States shall be equipped with anti-
3 entrapment devices or systems that comply
4 with the ASME/ANSI A112.19.8 perform-
5 ance standard, or any successor standard;
6 and

7 (ii) each public pool and spa in the
8 United States with a single main drain
9 other than an unblockable drain shall be
10 equipped, at a minimum, with 1 or more of
11 the following devices or systems designed
12 to prevent entrapment by pool or spa
13 drains that meets the requirements of sub-
14 paragraph (B):

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

1 (II) SUCTION-LIMITING VENT
2 SYSTEM.—A suction-limiting vent sys-
3 tem with a tamper-resistant atmos-
4 pheric opening.

5 (III) GRAVITY DRAINAGE SYS-
6 TEM.—A gravity drainage system that
7 utilizes a collector tank.

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

11 (V) DRAIN DISABLEMENT.—A
12 device or system that disables the
13 drain.

14 (VI) OTHER SYSTEMS.—Any
15 other system determined by the Com-
16 mission to be equally effective as, or
17 better than, the systems described in
18 subclauses (I) through (V) of this
19 clause at preventing or eliminating the
20 risk of injury or death associated with
21 pool drainage systems.

22 (B) APPLICABLE STANDARDS.—Any device
23 or system described in subparagraph (A)(ii)
24 shall meet the requirements of any ASME/
25 ANSI or ASTM performance standard if there

1 is such a standard for such a device or system,
2 or any applicable consumer product safety
3 standard.

4 (2) PUBLIC POOL AND SPA DEFINED.—In this
5 subsection, the term “public pool and spa” means a
6 swimming pool or spa that is—

7 (A) open to the public generally, whether
8 for a fee or free of charge;

9 (B) open exclusively to—

10 (i) members of an organization and
11 their guests;

12 (ii) residents of a multi-unit apart-
13 ment building, apartment complex, residen-
14 tial real estate development, or other
15 multi-family residential area (other than a
16 municipality, township, or other local gov-
17 ernment jurisdiction); or

18 (iii) patrons of a hotel or other public
19 accommodations facility; or

20 (C) operated by the Federal Government
21 (or by a concessionaire on behalf of the Federal
22 Government) for the benefit of members of the
23 Armed Forces and their dependents or employ-
24 ees of any department or agency and their de-
25 pendents.

1 (3) ENFORCEMENT.—Violation of paragraph
2 (1) shall be considered to be a violation of section
3 19(a)(1) of the Consumer Product Safety Act (15
4 U.S.C. 2068(a)(1)) and may also be enforced under
5 section 17 of that Act (15 U.S.C. 2066).

6 **SEC. 1405. STATE SWIMMING POOL SAFETY GRANT PRO-**
7 **GRAM.**

8 (a) IN GENERAL.—Subject to the availability of ap-
9 propriations authorized by subsection (e), the Commission
10 shall establish a grant program to provide assistance to
11 eligible States.

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

14 (1) demonstrate to the satisfaction of the Com-
15 mission that it has a State statute, or that, after the
16 date of enactment of this title, it has enacted a stat-
17 ute, or amended an existing statute, and provides for
18 the enforcement of, a law that—

19 (A) except as provided in section
20 1406(a)(1)(A)(i), applies to all swimming pools
21 in the State; and

22 (B) meets the minimum State law require-
23 ments of section 1406; and

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

4 (c) AMOUNT OF GRANT.—The Commission shall de-
5 termine the amount of a grant awarded under this title,
6 and shall consider—

7 (1) the population and relative enforcement
8 needs of each qualifying State; and

9 (2) allocation of grant funds in a manner de-
10 signed to provide the maximum benefit from the
11 program in terms of protecting children from drown-
12 ing or entrapment, and, in making that allocation,
13 shall give priority to States that have not received
14 a grant under this title in a preceding fiscal year.

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

17 (1) at least 50 percent of amounts made avail-
18 able to hire and train enforcement personnel for im-
19 plementation and enforcement of standards under
20 the State swimming pool and spa safety law; and

21 (2) the remainder—

22 (A) to educate pool construction and in-
23 stallation companies and pool service companies
24 about the standards;

1 (B) to educate pool owners, pool operators,
2 and other members of the public about the
3 standards under the swimming pool and spa
4 safety law and about the prevention of drown-
5 ing or entrapment of children using swimming
6 pools and spas; and

7 (C) to defray administrative costs associ-
8 ated with such training and education pro-
9 grams.

10 (e) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Commission for
12 each of fiscal years 2009 and 2010 \$2,000,000 to carry
13 out this section, such sums to remain available until ex-
14 pended. Any amounts appropriated pursuant to this sub-
15 section that remain unexpended and unobligated at the
16 end of fiscal year 2010 shall be retained by the Commis-
17 sion and credited to the appropriations account that funds
18 enforcement of the Consumer Product Safety Act.

19 **SEC. 1406. MINIMUM STATE LAW REQUIREMENTS.**

20 (a) IN GENERAL.—

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

23 (A) the State requires by statute—

24 (i) the enclosure of all outdoor resi-
25 dential pools and spas by barriers to entry

1 that will effectively prevent small children
2 from gaining unsupervised and unfettered
3 access to the pool or spa;

4 (ii) that all pools and spas be
5 equipped with devices and systems de-
6 signed to prevent entrapment by pool or
7 spa drains;

8 (iii) that pools and spas built more
9 than 1 year after the date of the enact-
10 ment of such statute have—

11 (I) more than 1 drain;

12 (II) 1 or more unblockable
13 drains; or

14 (III) no main drain;

15 (iv) every swimming pool and spa that
16 has a main drain, other than an
17 unblockable drain, be equipped with a
18 drain cover that meets the consumer prod-
19 uct safety standard established by section
20 1404; and

21 (v) that periodic notification is pro-
22 vided to owners of residential swimming
23 pools or spas about compliance with the
24 entrapment protection standards of the

1 ASME/ANSI A112.19.8 performance
2 standard, or any successor standard; 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) NO LIABILITY INFERENCE ASSOCIATED
8 WITH STATE NOTIFICATION REQUIREMENT.—The
9 minimum State law notification requirement under
10 paragraph (1)(A)(v) shall not be construed to imply
11 any liability on the part of a State related to that
12 requirement.

13 (3) 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 1405 of this Act; and

19 (B) may not enforce any requirement
20 under paragraph (1) except for the purpose of
21 determining the eligibility of a State for a grant
22 under section 1405 of this Act.

23 (4) REQUIREMENTS TO REFLECT NATIONAL
24 PERFORMANCE STANDARDS AND COMMISSION
25 GUIDELINES.—In establishing minimum State law

1 requirements under paragraph (1), the Commission
2 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
15 the Commission from promulgating standards regulating
16 pool and spa safety or from relying on an applicable na-
17 tional performance standard.

18 (c) BASIC ACCESS-RELATED SAFETY DEVICES AND
19 EQUIPMENT REQUIREMENTS TO BE CONSIDERED.—In
20 establishing minimum State law requirements for swim-
21 ming pools and spas under subsection (a)(1), the Commis-
22 sion 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 or spa that is equipped with a self-
3 closing, self-latching device.

4 (3) DOORS.—Any door with direct access to the
5 swimming pool or spa that is equipped with an audi-
6 ble alert device or alarm which sounds when the
7 door is 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
15 pools and spas under subsection (a)(1), the Commis-
16 sion shall require, at a minimum, 1 or more of the
17 following (except for pools constructed without a sin-
18 gle main drain):

19 (A) SAFETY VACUUM RELEASE SYSTEM.—

20 A safety vacuum release system which ceases
21 operation of the pump, reverses the circulation
22 flow, or otherwise provides a vacuum release at
23 a suction outlet when a blockage is detected,
24 that has been tested by an independent third
25 party and found to conform to ASME/ANSI

1 standard A112.19.17 or ASTM standard
2 F2387, or any successor standard.

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
8 tank.

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

11 (E) DRAIN DISABLEMENT.—A device or
12 system that disables the drain.

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

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

1 **SEC. 1407. EDUCATION PROGRAM.**

2 (a) IN GENERAL.—The Commission shall establish
3 and carry out an education program to inform the public
4 of methods to prevent drowning and entrapment in swim-
5 ming pools and spas. In carrying out the program, the
6 Commission shall develop—

7 (1) educational materials designed for pool
8 manufacturers, pool service companies, and pool
9 supply retail outlets;

10 (2) educational materials designed for pool own-
11 ers and operators; and

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

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

19 **SEC. 1408. CPSC REPORT.**

20 Not later than 1 year after the last day of each fiscal
21 year for which grants are made under section 1405, the
22 Commission shall submit to Congress a report evaluating
23 the implementation of the grant program authorized by
24 that section.