

BILL ANALYSIS

Senate Research Center

C.S.S.B. 96
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An estimated 350 children under the age of five die annually in swimming pools. Nationally, drowning ranks second in injury-related causes of death for children 14 years of age and younger. Federal law that took effect in December 2008, the Virginia Graeme Baker Act, outlines safety requirements for pools manufactured in the United States.

C.S.S.B. 96 amends current law relating to swimming pool and spa safety.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 761.002, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 9, Health and Safety Code, by adding Chapter 761, as follows:

CHAPTER 761. SWIMMING POOL AND SPA SAFETY BARRIERS AND ENTRAPMENT AVOIDANCE

Sec. 761.001. DEFINITIONS. Defines "ASME/ANSI," "ASTM," "barrier," "executive commissioner," "main drain," "safety vacuum release system," "swimming pool or spa" and "unblockable drain."

Sec. 761.002. DRAIN STANDARD AND REQUIRED SAFETY EQUIPMENT. (a) Requires that a swimming pool or spa drain installed or sold in this state on or after September 1, 2009, conform to the entrapment protection standards of the ASME/ANSI Standard A112.19.8 "Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs" or a successor standard regulating the swimming pool or spa drain cover that is adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner), in conjunction with the United States Consumer Product Safety Commission, as being at least as stringent as the A112.19.8 performance standard.

(b) Requires that a swimming pool or spa installed or constructed on or after September 1, 2009, in this state:

(1) have one of the following: more than one drain, one or more unblockable drains, or no main drain; and

(2) at a minimum, be equipped with one or more of the following devices or systems designed to prevent entrapment by swimming pool or spa drains in accordance with the following requirements: a safety vacuum release system that meets certain standards, a suction-limiting vent system with a tamper-resistant atmospheric opening; a gravity drainage system that uses a collector tank; an automatic pump shut-off system; a device or system that disables the drain; or any other system determined by the executive commissioner to be equally effect as, or better than, the systems

described in Paragraphs (A) - (E) (relating to certain safety systems) at preventing or eliminating the risk of injury or death associated with swimming pool or spa drainage systems.

(c) Requires that a swimming pool or spa with a single main drain, other than an unblockable drain, that is remodeled for purposes of repair or improvement on or after September 1, 2009, comply with the requirements of Subsection (b).

(d) Requires that a residential swimming pool or spa constructed or installed in this state on or after September 1, 2009, other than a swimming pool governed by Chapter 757 (Pool Yard Enclosures), be enclosed by barriers to entry designated to effectively prevent small children from gaining unsupervised and unfettered access to the swimming pool or spa.

(e) Requires the executive commissioner to adopt rules for barriers consistent with the guidelines contained in the United States Consumer Product Safety Commission's publication 362 entitled "Safety Barrier Guidelines for Home Pools"; the United States Consumer Product Safety Commission's March 2005 publication entitled "Guidelines for Entrapment Hazards: Making Pools and Spas Safer"; and any other swimming pool and spa safety guidelines established by the United States Consumer Product Safety Commission.

(f) Requires a person who sells, constructs, or installs a swimming pool or spa in this state to provide notice to a purchaser of a swimming pool or spa of the applicable barrier requirements adopted by the executive commissioner under Subsection (e).

Sec. 761.003. EDUCATION AND NOTIFICATION. Requires the Department of State Health Services to conduct an education program to:

(1) periodically notify owners of swimming pools or spas about the requirements of this chapter and any applicable federal statute or safety standard; and

(2) inform the public of methods to prevent drowning and entrapment in swimming pools and spas.

SECTION 2. Amends Section 341.064(g), Health and Safety Code, to require that the construction after September 1, 2009, rather than September 4, 1945, of a public swimming pool comply with Chapter 761 and conform to good public health engineering practices.

SECTION 3. Amends Section 343.011, Health and Safety Code, by adding Subsection (c-1), as follows:

(c-1) Provides that a swimming pool barrier that satisfies the requirements of Chapter 761 satisfies the requirements of Subsection (c) (relating to the definition of a public nuisance) with respect to a fence or cover for a swimming pool for purposes of determining whether the swimming pool is a public nuisance.

SECTION 4. Effective date: September 1, 2009.