

Pool & Spa Safety Act Enacted Into Law

The Florida Swimming Pool Association (FSPA) is pleased to announce, along with the Association of Pool and Spa Professionals (APSP), the passage of the "Virginia Graeme Baker Pool and Spa Safety Act." This act, passed earlier in 2007 by the Senate Commerce Committee, was incorporated as Title IV of the omnibus energy bill approved by the Congress and signed by the President on December 19, 2007. The House of Representatives in July passed a slightly different version of the bill, but it is the Senate version that has now been enacted, with the full support of APSP and FSPA. Passage of this legislation is the culmination of a lengthy, intensive effort by both Houses of Congress to promote child safety in and around pools, spas and hot tubs.

In summary, the legislation establishes a grant program for the states to be administered by the U.S. Consumer Product Safety Commission. To be eligible, states would be required to enact laws adhering to safety guidelines in the new federal law. Safety education is also emphasized. Of particular note in setting forth guidelines, the bill addresses entrapment prevention and protective barriers around pools and hot tubs.

Entrapment Prevention. At the urging of APSP, the entrapment guidelines in the new law are consistent with the new ANSI/APSP-7 American National Standard for Suction Entrapment Avoidance. The standard provides that all swimming pools and spas are to use proper anti-entrapment drain covers and circulation and drainage systems.

The 2007 Florida Building Code, which will go into effect October 1, 2008, provides that all residential pools follow the ANSI/APSP 7 Suction Entrapment Avoidance standard, which is consistent with the new federal law. The adoption of ANSI/APSP-7 makes the Florida Building Code stronger and more effective in preventing all known forms of entrapment injury by requiring ASME approved covers on all drains and by requiring that pools and spas not be used whenever approved covers are absent, removed or damaged.

One year after enactment of the Pool and Spa Safety Act, it will be unlawful for residential drain covers to be made or marketed that do not conform with anti-entrapment drain cover standards. Further, one year after enactment, all public pools must be retrofitted with appropriate anti-entrapment drain covers. This last provision was included by Senator Amy Klobuchar of Minnesota as a result of the tragic evisceration of a 6-year old child in a public wading pool in Minnesota this past summer.

The entrapment guidelines in the new law also call for the use of several enumerated devices, including an SVRS device, vent line, or other comparable device on installations that have one single main drain. The law specifically

exempts from these requirements installations that do not have a single main drain, such as those with more than one drain or no drains.

Barriers. The new law calls for “the enclosure of all residential pools and spas by barriers to entry that will effectively prevent small children from gaining unsupervised and unfettered access to the pool or spa”. Current Florida law meets this minimum requirement. Chapter 515, Florida Statutes, passed in 2000 by, at that time, State legislator Debbie Wasserman Schultz, provides for the Residential Swimming Pool Safety Act. This Act was the model for the current federal legislation. This Florida law requires all residential swimming pools to have a barrier, meaning, a fence that is at least 4 feet high, a dwelling wall, or nondwelling wall, or any combination thereof, which completely surrounds the swimming pool, especially access from the residence or from the yard outside the barrier. The law also provides an option for a pool cover complying with ASTM F 1346 to meet the barrier requirement. The law further states that all doors and windows providing direct access from the home to the pool must be equipped with an exit alarm that has a minimum sound pressure rating of 85 dB A at 10 feet or that all doors providing direct access be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor.

The Pool & Spa Safety Act is the product of the concerted efforts of many people, first and foremost Nancy Baker, mother of Virginia Graeme Baker for whom the legislation is named. Many Congressional members and staff also contributed to its success. On the House side, particular credit goes to Congresswoman Debbie Wasserman Schultz of Florida, who has worked tirelessly in support of this legislation, as well as Congressman Bobby Rush of Illinois and Congressman Cliff Stearns of Florida, Chairman and Ranking Member, respectively, of the House Commerce, Trade and Consumer Protection Subcommittee. Senator David Pryor of Arkansas, Chairman of the Senate Consumer Affairs Subcommittee, steered the bill successfully through the Senate. It is noteworthy that in both the House and Senate, the legislation was the product of bi-partisan cooperation.

The Pool & Spa Safety Act is a highly significant achievement for APSP and the pool, spa and hot tub industry. Safety is a core belief of the swimming pool industry which guided our efforts throughout the process. APSP and FSPA participated effectively in both the House and Senate with a common sense message of how safety can most effectively be achieved that resonated well.

While the new law is mostly directive, not mandatory, it is extremely significant that the Congress is encouraging action at the state and local level, and providing guidelines that will make for a safer pool, spa and hot tub experience. The Act also lends valuable support to APSP's efforts to promote implementation of APSP standards, generally.

A sincere thanks to all within FSPA and APSP who participated in this successful legislative effort.