

By: Van de Putte

S.B. No. 96

A BILL TO BE ENTITLED

AN ACT

relating to swimming pool and spa safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 761 to read as follows:

CHAPTER 761. SWIMMING POOL AND SPA SAFETY BARRIERS AND ENTRAPMENT

AVOIDANCE

Sec. 761.001. DEFINITIONS. In this chapter:

(1) "ASME/ANSI" means a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) "ASTM" means a standard that is accredited by the American Society For Testing and Materials.

(3) "Barrier" includes:

(A) a natural or constructed topographical feature that prevents unauthorized access by children to a swimming pool or spa;

(B) for a hot tub, a lockable cover; and

(C) a manual cover that meets all requirements of the ASTM Specifications F1346-91 "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs."

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

1           (5) "Main drain" means a submerged suction outlet  
2 typically located at the bottom of a swimming pool or spa to  
3 transfer water from the swimming pool or spa to a recirculating  
4 pump.

5           (6) "Safety vacuum release system" means a vacuum  
6 release system capable of providing vacuum release at a suction  
7 outlet caused by a high vacuum occurrence due to a flow blockage.

8           (7) "Swimming pool or spa" means any outdoor or indoor  
9 structure intended for swimming or recreational bathing, including  
10 inground and aboveground structures. The term includes nonportable  
11 wading pools.

12           (8) "Unblockable drain" means a drain of any size and  
13 shape that a human body cannot sufficiently block to create a  
14 suction entrapment hazard.

15           Sec. 761.002. DRAIN STANDARD AND REQUIRED SAFETY EQUIPMENT.

16           (a) A swimming pool or spa drain installed or sold in this state on  
17 or after September 1, 2009, must conform to the entrapment  
18 protection standards of the ASME/ANSI Standard A112.19.8 "Suction  
19 Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot  
20 Tubs" or a successor standard regulating the swimming pool or spa  
21 drain cover that is adopted by the executive commissioner, in  
22 conjunction with the United States Consumer Product Safety  
23 Commission, as being at least as stringent as the A112.19.8  
24 performance standard.

25           (b) A swimming pool or spa installed or constructed on or  
26 after September 1, 2009, in this state must:

27           (1) have one of the following:

1                   (A) more than one drain;  
2                   (B) one or more unblockable drains; or  
3                   (C) no main drain; and  
4           (2) at a minimum, be equipped with one or more of the  
5 following devices or systems designed to prevent entrapment by  
6 swimming pool or spa drains in accordance with the following  
7 requirements:  
8                   (A) a safety vacuum release system that:  
9                           (i) is tested by an independent third  
10 party;  
11                           (ii) stops operation of a pump, reverses  
12 the circulation flow, or otherwise provides a vacuum release at a  
13 blocked suction outlet; and  
14                           (iii) conforms to the ASME/ANSI Standard  
15 A112.19.17 "Manufactured Safety Vacuum Release Systems (SVRS) for  
16 Residential & Commercial Swimming Pool, Spa, Hot Tub, Wading Pool  
17 Suction Systems" or a successor standard that is adopted by the  
18 executive commissioner, in conjunction with the United States  
19 Consumer Product Safety Commission, as being at least as stringent  
20 as the A112.19.17 performance standard;  
21                   (B) a suction-limiting vent system with a  
22 tamper-resistant atmospheric opening;  
23                   (C) a gravity drainage system that uses a  
24 collector tank;  
25                   (D) an automatic pump shut-off system;  
26                   (E) a device or system that disables the drain;  
27 or

1           (F) any other system determined by the executive  
2 commissioner to be equally effective as, or better than, the  
3 systems described in Paragraphs (A)-(E) at preventing or  
4 eliminating the risk of injury or death associated with swimming  
5 pool or spa drainage systems.

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

10           (d) A residential swimming pool or spa constructed or  
11 installed in this state on or after September 1, 2009, other than a  
12 swimming pool governed by Chapter 757, must be enclosed by barriers  
13 to entry designed to effectively prevent small children from  
14 gaining unsupervised and unfettered access to the swimming pool or  
15 spa.

16           (e) The executive commissioner shall adopt rules for  
17 barriers consistent with the guidelines contained in:

18                   (1) the United States Consumer Product Safety  
19 Commission's publication 362 entitled "Safety Barrier Guidelines  
20 for Home Pools";

21                   (2) the United States Consumer Product Safety  
22 Commission's March 2005 publication entitled "Guidelines for  
23 Entrapment Hazards: Making Pools and Spas Safer"; and

24                   (3) any other swimming pool and spa safety guidelines  
25 established by the United States Consumer Product Safety  
26 Commission.

27           (f) A person who sells, constructs, or installs a swimming

1 pool or spa in this state shall provide notice to a purchaser of a  
2 swimming pool or spa of the applicable barrier requirements adopted  
3 by the executive commissioner under Subsection (e).

4 Sec. 761.003. EDUCATION AND NOTIFICATION. The Department  
5 of State Health Services shall conduct an education program to:

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

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

11 SECTION 2. Subsection (g), Section 341.064, Health and  
12 Safety Code, is amended to read as follows:

13 (g) The construction and appliances of a public swimming  
14 pool must be such as to reduce to a practical minimum the  
15 possibility of drowning or of injury to bathers. The construction  
16 after September 1, 2009 [~~4, 1945~~], of a public swimming pool must  
17 comply with Chapter 761 and conform to good public health  
18 engineering practices.

19 SECTION 3. Section 343.011, Health and Safety Code, is  
20 amended by adding Subsection (c-1) to read as follows:

21 (c-1) A swimming pool barrier that satisfies the  
22 requirements of Chapter 761 satisfies the requirements of  
23 Subsection (c) with respect to a fence or cover for a swimming pool  
24 for purposes of determining whether the swimming pool is a public  
25 nuisance.

26 SECTION 4. This Act takes effect September 1, 2009.