

By: Van de Putte

S.B. No. 96

A BILL TO BE ENTITLED

AN ACT

relating to swimming pool safety; providing a civil penalty.

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. POOL SAFETY

Sec. 761.001. DEFINITIONS. In this chapter:

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

(2) "Main drain" means a submerged suction outlet typically located at the bottom of a pool to conduct water to a recirculating pump.

(3) "Pool" means an outdoor or indoor structure intended for swimming or recreational bathing, including an inground or aboveground structure, and includes a hot tub, spa, portable spa, and non-portable wading pool.

(4) "Pool yard" means an area that contains a pool.

(5) "Pool yard enclosure" or "enclosure" means a fence, wall, or combination of fences, walls, or gates that completely surround a pool. A pool yard enclosure may also enclose the pool deck, landscaped areas, and other areas beyond the pool.

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

1 flow blockage.

2 (7) "Unblockable drain" means a drain of any size and  
3 shape that a human body cannot sufficiently block to create a  
4 suction entrapment hazard.

5 Sec. 761.002. REQUIRED SAFETY EQUIPMENT. (a) In  
6 accordance with rules adopted by the executive commissioner, a  
7 person who sells or installs a pool shall provide, with each pool  
8 sold or installed, the following safety equipment:

9 (1) for a residential pool other than a pool governed  
10 by Chapter 757, a pool yard enclosure and gate that will effectively  
11 prevent a small child from gaining unsupervised and unfettered  
12 access to the pool;

13 (2) a device or system to prevent entrapment by a pool  
14 drain; and

15 (3) for a pool installed on or after September 1, 2010,  
16 either:

17 (A) more than one drain;

18 (B) one or more unblockable drains; or

19 (C) no main drain.

20 (b) A seller or installer required to comply with this  
21 chapter may charge the cost of the required safety equipment to the  
22 person purchasing the pool.

23 (c) A seller or installer is not required to provide the  
24 safety equipment required by Subsection (a) if the person  
25 purchasing the pool owns safety equipment that complies with this  
26 chapter. The person purchasing the pool must submit proof to the  
27 seller or installer of the presence of the required safety

1 equipment in accordance with rules adopted by the executive  
2 commissioner.

3 Sec. 761.003. DRAINS. (a) A pool that has a main drain,  
4 other than an unblockable drain, must:

5 (1) be equipped with a drain cover that conforms to the  
6 ASME/ANSI Standard A112.19.8M "Suction Fittings for Use in Swimming  
7 Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub  
8 Appliances," as it existed on January 1, 2009; and

9 (2) have at least one of the following anti-entrapment  
10 devices:

11 (A) a safety vacuum release system, tested by an  
12 independent third party, that ceases operation of a pump, reverses  
13 the circulation flow, or otherwise provides a vacuum release at a  
14 blocked suction outlet and that conforms to:

15 (i) the ASME/ANSI Standard A112.19.17  
16 "Manufactured Safety Vacuum Release Systems (SVRS) for Residential  
17 and Commercial Swimming Pool, Spa, Hot Tub, Wading Pool Suction  
18 Systems," as it existed on January 1, 2009; or

19 (ii) the ASTM International Standard F2387  
20 "Standard Specification for Manufactured Safety Vacuum Release  
21 Systems for Swimming Pools, Spas and Hot Tubs," as it existed on  
22 January 1, 2009;

23 (B) a suction-limiting vent system with a  
24 tamper-resistant atmospheric opening;

25 (C) a gravity drainage system that uses a  
26 collector tank;

27 (D) an automatic pump shut-off system;

1                   (E) a device or system that disables the drain;  
2 or

3                   (F) another system that the executive  
4 commissioner determines is effective at preventing the risk of  
5 injury or death for children associated with pool drainage systems.

6           (b) The executive commissioner may by rule adopt a successor  
7 standard to a standard required by Subsection (a) on a finding that  
8 the successor standard adequately promotes safety.

9           Sec. 761.004. ADDITIONAL SAFETY REQUIREMENTS. The  
10 executive commissioner may adopt rules to require the owner of a  
11 pool at a single-family dwelling to install:

12                   (1) a manual or power safety pool cover;

13                   (2) a self-closing, self-latching device on a gate  
14 providing access to a pool, pool yard, or pool yard enclosure;

15                   (3) an audible alert device or alarm on any door with  
16 direct access to a pool, pool yard, or pool yard enclosure that  
17 sounds when the door is opened;

18                   (4) a pool alarm designed to provide rapid detection  
19 of an entry into the water of a pool; and

20                   (5) any other safety device or feature required by  
21 federal law.

22           Sec. 761.005. EDUCATION AND NOTIFICATION. The Department  
23 of State Health Services shall conduct an education program to:

24                   (1) periodically notify pool owners about the  
25 requirements of this chapter and any applicable federal statute or  
26 safety standard; and

27                   (2) inform the public of methods to prevent drowning

1 and entrapment in pools.

2 Sec. 761.006. CUMULATIVE OF OTHER LAW. The requirements of  
3 this chapter are in addition to the requirements of Chapter 757.

4 SECTION 2. The heading to Chapter 757, Health and Safety  
5 Code, is amended to read as follows:

6 CHAPTER 757. POOL YARD ENCLOSURES AT CERTAIN DWELLINGS

7 SECTION 3. This Act takes effect September 1, 2009.