

1-1 By: Van de Putte S.B. No. 96
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 15, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 15, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 96 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to swimming pool and spa safety.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subtitle A, Title 9, Health and Safety Code, is
1-13 amended by adding Chapter 761 to read as follows:
1-14 CHAPTER 761. SWIMMING POOL AND SPA SAFETY BARRIERS AND ENTRAPMENT
1-15 AVOIDANCE
1-16 Sec. 761.001. DEFINITIONS. In this chapter:
1-17 (1) "ASME/ANSI" means a standard that is accredited by
1-18 the American National Standards Institute and published by the
1-19 American Society of Mechanical Engineers.
1-20 (2) "ASTM" means a standard that is accredited by the
1-21 American Society For Testing and Materials.
1-22 (3) "Barrier" includes:
1-23 (A) a natural or constructed topographical
1-24 feature that prevents unauthorized access by children to a swimming
1-25 pool or spa;
1-26 (B) for a hot tub, a lockable cover; and
1-27 (C) a manual cover that meets all requirements of
1-28 the ASTM Specifications F1346-91 "Standard Performance
1-29 Specification for Safety Covers and Labeling Requirements for All
1-30 Covers for Swimming Pools, Spas and Hot Tubs."
1-31 (4) "Executive commissioner" means the executive
1-32 commissioner of the Health and Human Services Commission.
1-33 (5) "Main drain" means a submerged suction outlet
1-34 typically located at the bottom of a swimming pool or spa to
1-35 transfer water from the swimming pool or spa to a recirculating
1-36 pump.
1-37 (6) "Safety vacuum release system" means a vacuum
1-38 release system capable of providing vacuum release at a suction
1-39 outlet caused by a high vacuum occurrence due to a flow blockage.
1-40 (7) "Swimming pool or spa" means any outdoor or indoor
1-41 structure intended for swimming or recreational bathing, including
1-42 inground and aboveground structures. The term includes
1-43 non-portable wading pools.
1-44 (8) "Unblockable drain" means a drain of any size and
1-45 shape that a human body cannot sufficiently block to create a
1-46 suction entrapment hazard.
1-47 Sec. 761.002. DRAIN STANDARD AND REQUIRED SAFETY EQUIPMENT.
1-48 (a) A swimming pool or spa drain installed or sold in this state on
1-49 or after September 1, 2009, must conform to the entrapment
1-50 protection standards of the ASME/ANSI Standard A112.19.8 "Suction
1-51 Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot
1-52 Tubs" or a successor standard regulating the swimming pool or spa
1-53 drain cover that is adopted by the executive commissioner, in
1-54 conjunction with the United States Consumer Product Safety
1-55 Commission, as being at least as stringent as the A112.19.8
1-56 performance standard.
1-57 (b) A swimming pool or spa installed or constructed on or
1-58 after September 1, 2009, in this state must:
1-59 (1) have one of the following:
1-60 (A) more than one drain;
1-61 (B) one or more unblockable drains; or
1-62 (C) no main drain; and
1-63 (2) at a minimum, be equipped with one or more of the

2-1 following devices or systems designed to prevent entrapment by
2-2 swimming pool or spa drains in accordance with the following
2-3 requirements:

2-4 (A) a safety vacuum release system that:
2-5 (i) is tested by an independent third
2-6 party;

2-7 (ii) stops operation of a pump, reverses
2-8 the circulation flow, or otherwise provides a vacuum release at a
2-9 blocked suction outlet; and

2-10 (iii) conforms to the ASME/ANSI Standard
2-11 A112.19.17 "Manufactured Safety Vacuum Release Systems (SVRS) for
2-12 Residential & Commercial Swimming Pool, Spa, Hot Tub, Wading Pool
2-13 Suction Systems" or a successor standard that is adopted by the
2-14 executive commissioner, in conjunction with the United States
2-15 Consumer Product Safety Commission, as being at least as stringent
2-16 as the A112.19.17 performance standard;

2-17 (B) a suction-limiting vent system with a
2-18 tamper-resistant atmospheric opening;

2-19 (C) a gravity drainage system that uses a
2-20 collector tank;

2-21 (D) an automatic pump shut-off system;

2-22 (E) a device or system that disables the drain;

2-23 or

2-24 (F) any other system determined by the executive
2-25 commissioner to be equally effective as, or better than, the
2-26 systems described in Paragraphs (A)-(E) at preventing or
2-27 eliminating the risk of injury or death associated with swimming
2-28 pool or spa drainage systems.

2-29 (c) A swimming pool or spa with a single main drain, other
2-30 than an unblockable drain, that is remodeled for purposes of repair
2-31 or improvement on or after September 1, 2009, must comply with the
2-32 requirements of Subsection (b).

2-33 (d) A residential swimming pool or spa constructed or
2-34 installed in this state on or after September 1, 2009, other than a
2-35 swimming pool governed by Chapter 757, must be enclosed by barriers
2-36 to entry designed to effectively prevent small children from
2-37 gaining unsupervised and unfettered access to the swimming pool or
2-38 spa.

2-39 (e) The executive commissioner shall adopt rules for
2-40 barriers consistent with the guidelines contained in:

2-41 (1) the United States Consumer Product Safety
2-42 Commission's publication 362 entitled "Safety Barrier Guidelines
2-43 for Home Pools";

2-44 (2) the United States Consumer Product Safety
2-45 Commission's March 2005 publication entitled "Guidelines for
2-46 Entrapment Hazards: Making Pools and Spas Safer"; and

2-47 (3) any other swimming pool and spa safety guidelines
2-48 established by the United States Consumer Product Safety
2-49 Commission.

2-50 (f) A person who sells, constructs, or installs a swimming
2-51 pool or spa in this state shall provide notice to a purchaser of a
2-52 swimming pool or spa of the applicable barrier requirements adopted
2-53 by the executive commissioner under Subsection (e).

2-54 Sec. 761.003. EDUCATION AND NOTIFICATION. The Department
2-55 of State Health Services shall conduct an education program to:

2-56 (1) periodically notify owners of swimming pools or
2-57 spas about the requirements of this chapter and any applicable
2-58 federal statute or safety standard; and

2-59 (2) inform the public of methods to prevent drowning
2-60 and entrapment in swimming pools and spas.

2-61 SECTION 2. Subsection (g), Section 341.064, Health and
2-62 Safety Code, is amended to read as follows:

2-63 (g) The construction and appliances of a public swimming
2-64 pool must be such as to reduce to a practical minimum the
2-65 possibility of drowning or of injury to bathers. The construction
2-66 after September 1, 2009 [4, 1945], of a public swimming pool must
2-67 comply with Chapter 761 and conform to good public health
2-68 engineering practices.

2-69 SECTION 3. Section 343.011, Health and Safety Code, is

