

By: Davis

S.B. No. 771

A BILL TO BE ENTITLED

AN ACT

relating to swimming pool safety alarms for certain single-family homes; providing a civil penalty.

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

SECTION 1. This Act may be cited as the Residential Swimming Pool Safety Act in memory of Grayson James Satarino.

SECTION 2. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 761 to read as follows:

CHAPTER 761. RESIDENTIAL SWIMMING POOL SAFETY

Sec. 761.001. DEFINITIONS. In this chapter:

(1) "ASTM" means the American Society for Testing and Materials.

(2) "Department" means the Department of State Health Services.

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

(4) "Remodel" means a renovation, reconstruction, improvement, or repair of a swimming pool that requires a municipal or county construction permit.

(5) "Swimming pool" means any structure intended for swimming or recreational bathing that contains water over 18 inches deep. The term includes an in-ground or above-ground structure, hot tub, spa, portable spa, and non-portable wading pool.

Sec. 761.002. APPLICABILITY. This chapter does not apply

1 to:

2 (1) a swimming pool governed by Chapter 757;

3 (2) a hot tub or spa with a locking safety cover that
4 conforms to ASTM Standard F1346-91 (2010), "Standard Performance
5 Specification for Safety Covers and Labeling Requirements for All
6 Covers for Swimming Pools, Spas and Hot Tubs," as it existed on
7 January 1, 2011, or a successor standard that is adopted by the
8 executive commissioner as being at least as safe as the F1346-91
9 (2010) standard; or

10 (3) a swimming pool in the jurisdiction of a political
11 subdivision of this state that adopts an ordinance regarding alarms
12 for residential swimming pools with requirements that are at least
13 as stringent as the requirements of this chapter.

14 Sec. 761.003. REQUIRED ALARMS. A person who constructs an
15 in-ground swimming pool, installs an above-ground swimming pool, or
16 remodels a swimming pool for a single-family home shall provide for
17 each swimming pool constructed, installed, or remodeled the
18 following:

19 (1) on each door providing direct access from the home
20 to the pool area without an intervening enclosure, an exit alarm
21 that:

22 (A) makes an audible, continuous alarm sound when
23 the door is opened or left ajar; and

24 (B) is battery operated or connected to the
25 electrical wiring of the home; and

26 (2) a swimming pool alarm that:

27 (A) when placed in a swimming pool, will sound on

1 detection of accidental or unauthorized entrance into the water;

2 (B) meets and is certified by an independent
3 third party as conforming to ASTM Standard F2208-08, "Standard
4 Safety Specification for Residential Pool Alarms," as it existed on
5 January 1, 2011, or a successor standard that is adopted by the
6 executive commissioner as being at least as safe as the F2208-08
7 standard; and

8 (C) is not a swimming protection alarm device
9 designed for individual use, such as an alarm attached to a child
10 that sounds when the child exceeds a certain distance or becomes
11 submerged in water.

12 Sec. 761.004. CONSUMER NOTICE. A person who sells,
13 constructs, installs, or remodels a swimming pool for a
14 single-family home shall provide to the owner of the home written
15 notice of the requirements of this chapter.

16 Sec. 761.005. DUTIES OF EXECUTIVE COMMISSIONER AND
17 DEPARTMENT. (a) The executive commissioner shall adopt rules
18 necessary to implement this chapter.

19 (b) The department shall post on the department's Internet
20 website the requirements of this chapter, including rules adopted
21 under this chapter, and any other residential swimming pool safety
22 information the executive commissioner determines is appropriate.
23 The information must be posted in a format that is easily
24 downloaded.

25 Sec. 761.006. CIVIL PENALTY. (a) A person who fails to
26 comply with Section 761.003 is liable to this state for a civil
27 penalty not to exceed \$5,000 for each noncompliance.

1 (b) A person who fails to comply with Section 761.004 is
2 liable to this state for a civil penalty not to exceed \$1,000 for
3 each noncompliance.

4 (c) The attorney general may sue to collect a civil penalty
5 under this section.

6 (d) The attorney general may recover reasonable expenses
7 incurred in obtaining a civil penalty under this section, including
8 court costs, reasonable attorney's fees, investigative costs,
9 witness fees, and deposition expenses.

10 SECTION 3. (a) Not later than December 1, 2011, the
11 executive commissioner of the Health and Human Services Commission
12 shall adopt the rules and standards required by Chapter 761, Health
13 and Safety Code, as added by this Act.

14 (b) Not later than May 1, 2012, the Department of State
15 Health Services shall post on the department's Internet website the
16 information required by Section 761.005, Health and Safety Code, as
17 added by this Act.

18 (c) Notwithstanding Chapter 761, Health and Safety Code, as
19 added by this Act, a person who constructs an in-ground swimming
20 pool, installs an above-ground swimming pool, or remodels a
21 swimming pool for a single-family home on or after the effective
22 date of this Act is not required to comply with that chapter before
23 May 1, 2012.

24 SECTION 4. (a) Except as provided by Subsection (b) of
25 this section, this Act takes effect September 1, 2011.

26 (b) Section 761.006, Health and Safety Code, as added by
27 this Act, takes effect May 1, 2012.