

(C) 2 or more members of which are manufacturers or sellers of a qualified product.

(9) Unlawful misuse

The term “unlawful misuse” means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

(Pub. L. 109-92, § 4, Oct. 26, 2005, 119 Stat. 2097.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 109-92, Oct. 26, 2005, 119 Stat. 2095, known as the Protection of Lawful Commerce in Arms Act. For complete classification of this Act to the Code, see Short Title note set out under section 7901 of this title and Tables.

CHAPTER 106—POOL AND SPA SAFETY

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§ 8001. Findings

Congress finds the following:

(1) Of injury-related deaths, drowning is the second leading cause of death in children aged 1 to 14 in the United States.

(2) In 2004, 761 children aged 14 and under died as a result of unintentional drowning.

(3) Adult supervision at all aquatic venues is a critical safety factor in preventing children from drowning.

(4) Research studies show that the installation and proper use of barriers or fencing, as well as additional layers of protection, could substantially reduce the number of childhood residential swimming pool drownings and near drownings.

(Pub. L. 110-140, title XIV, § 1402, Dec. 19, 2007, 121 Stat. 1794.)

EFFECTIVE DATE

Chapter effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

SHORT TITLE

Pub. L. 110-140, title XIV, § 1401, Dec. 19, 2007, 121 Stat. 1794, provided that: “This title [enacting this chapter] may be cited as the ‘Virginia Graeme Baker Pool and Spa Safety Act’.”

§ 8002. Definitions

In this chapter:

(1) ASME/ANSI

The term “ASME/ANSI” as applied to a safety standard means such a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) Barrier

The term “barrier” includes a natural or constructed topographical feature that pre-

vents unpermitted access by children to a swimming pool, and, with respect to a hot tub, a lockable cover.

(3) Commission

The term “Commission” means the Consumer Product Safety Commission.

(4) Main drain

The term “main drain” means a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a recirculating pump.

(5) Safety vacuum release system

The term “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 flow blockage.

(6) Swimming pool; spa

The term “swimming pool” or “spa” means any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above-ground structures, and includes hot tubs, spas, portable spas, and non-portable wading pools.

(7) Unblockable drain

The term “unblockable drain” means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

(8) State

The term “State” has the meaning given such term in section 2052(10)¹ of this title, and includes the Northern Mariana Islands. For purposes of eligibility for the grants authorized under section 8004 of this title, such term shall also include any political subdivision of a State.

(Pub. L. 110-140, title XIV, § 1403, Dec. 19, 2007, 121 Stat. 1795; Pub. L. 110-314, title II, § 238(1), Aug. 14, 2008, 122 Stat. 3076; Pub. L. 112-10, div. B, title V, § 1576(a), Apr. 15, 2011, 125 Stat. 139.)

REFERENCES IN TEXT

Section 2052(10) of this title, referred to in par. (8), was redesignated section 2052(15) of this title by Pub. L. 110-314, title II, § 235(b)(4), Aug. 14, 2008, 122 Stat. 3074.

AMENDMENTS

2011—Par. (8). Pub. L. 112-10 inserted at end “For purposes of eligibility for the grants authorized under section 8004 of this title, such term shall also include any political subdivision of a State.”

2008—Par. (8). Pub. L. 110-314 added par. (8).

§ 8003. Federal swimming pool and spa drain cover standard

(a) Consumer product safety rule

The requirements described in subsection (b) shall be treated as a consumer product safety rule issued by the Consumer Product Safety Commission under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(b) Drain cover standard

Effective 1 year after December 19, 2007, each swimming pool or spa drain cover manufactured,

¹ See References in Text note below.

distributed, or entered into commerce in the United States shall conform to the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard, or any successor standard regulating such swimming pool or drain cover. If a successor standard is proposed, the American Society of Mechanical Engineers shall notify the Commission of the proposed revision. If the Commission determines that the proposed revision is in the public interest, it shall incorporate the revision into the standard after providing 30 days notice to the public.

(c) Public pools

(1) Required equipment

(A) In general

Beginning 1 year after December 19, 2007—

(i) each public pool and spa in the United States shall be equipped with anti-entrapment devices or systems that comply with the ASME/ANSI A112.19.8 performance standard, or any successor standard; and

(ii) each public pool and spa in the United States with a single main drain other than an unblockable drain shall be equipped, at a minimum, with 1 or more of the following devices or systems designed to prevent entrapment by pool or spa drains that meets the requirements of subparagraph (B):

(I) Safety vacuum release system

A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387.

(II) Suction-limiting vent system

A suction-limiting vent system with a tamper-resistant atmospheric opening.

(III) Gravity drainage system

A gravity drainage system that utilizes a collector tank.

(IV) Automatic pump shut-off system

An automatic pump shut-off system.

(V) Drain disablement

A device or system that disables the drain.

(VI) Other systems

Any other system determined by the Commission to be equally effective as, or better than, the systems described in subclauses (I) through (V) of this clause at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(B) Applicable standards

Any device or system described in subparagraph (A)(ii) shall meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

(2) Public pool and spa defined

In this subsection, the term “public pool and spa” means a swimming pool or spa that is—

(A) open to the public generally, whether for a fee or free of charge;

(B) open exclusively to—

(i) members of an organization and their guests;

(ii) residents of a multi-unit apartment building, apartment complex, residential real estate development, or other multifamily residential area (other than a municipality, township, or other local government jurisdiction); or

(iii) patrons of a hotel or other public accommodations facility; or

(C) operated by the Federal Government (or by a concessionaire on behalf of the Federal Government) for the benefit of members of the Armed Forces and their dependents or employees of any department or agency and their dependents.

(3) Enforcement

Violation of paragraph (1) shall be considered to be a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)) and may also be enforced under section 17 of that Act (15 U.S.C. 2066).

(Pub. L. 110-140, title XIV, §1404, Dec. 19, 2007, 121 Stat. 1795; Pub. L. 110-314, title II, §238(2), Aug. 14, 2008, 122 Stat. 3076.)

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in subsec. (a), is Pub. L. 92-573, Oct. 27, 1972, 86 Stat. 1207, which is classified generally to chapter 47 (§2051 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of this title and Tables.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-314 inserted at end “If a successor standard is proposed, the American Society of Mechanical Engineers shall notify the Commission of the proposed revision. If the Commission determines that the proposed revision is in the public interest, it shall incorporate the revision into the standard after providing 30 days notice to the public.”

§ 8004. State swimming pool safety grant program

(a) In general

Subject to the availability of appropriations authorized by subsection (e), the Commission shall establish a grant program to provide assistance to eligible States.

(b) Eligibility

To be eligible for a grant under the program, a State shall—

(1) demonstrate to the satisfaction of the Commission that it has a State statute, or that, after December 19, 2007, it has enacted a statute, or amended an existing statute, and provides for the enforcement of,¹ a law that—

(A) except as provided in section 8005(a)(1)(A)(i) of this title, applies to all swimming pools constructed after the date

¹ So in original. The comma probably should not appear.