

## **BILL ANALYSIS**

Senate Research Center  
79R6528 UM-D

S.B. 654  
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### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently in Texas, there is no law requiring that manufacturers or retailers of swimming pools include proper safety products when selling and installing a swimming pool in a single family home. In 2004, the United States Consumer Product Safety Commission launched a drowning prevention campaign as part of an intensified initiative to prevent the tragic drowning of 250 children under the age of five in swimming pools annually. Among unintentional injuries, drowning has been the second leading cause of death to children under age five after motor vehicle accidents. In 2002, an estimated 1,600 children were treated in hospital emergency rooms for submersion injuries. Many of these deaths and injuries occur in residential swimming pools.

As proposed, S.B. 654 requires manufacturers and retailers of swimming pools to include safety products, either a pool yard enclosure and gate with a self-closing and self-latching device or a power safety pool cover, when selling a residential swimming pool package. This bill also requires manufacturers and retailers of swimming pools to include a flotation device designed to be thrown to a person in the pool and a pole designed to retrieve a person from the pool. By requiring that such safety products be sold when a swimming pool is being installed in a single-family home, swimming pool death and injuries may be prevented and the life of a child may be saved.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle A, Title 9, Health and Safety Code, by adding Chapter 761, as follows:

#### CHAPTER 761. POOL SAFETY AT SINGLE-FAMILY HOMES

Sec. 761.001. DEFINITIONS. Defines "manufacturer," "pool," "pool yard," "pool yard enclosure," "enclosure," "power safety cover," and "self-closing and self-latching device."

Sec. 761.002. REQUIRED SAFETY EQUIPMENT. (a) Requires, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner), an individual who sells or manufactures a pool to provide certain safety equipment, with each pool sold or manufactured for use at a single family home.

(b) Authorizes a seller or manufacturer required to comply with this chapter to charge the cost of the required safety equipment to the individual purchasing the pool.

(c) Provides that a seller or manufacturer is not required to provide the safety equipment required by Subsection (a) if the individual purchasing the pool owns safety equipment that complies with this chapter. Requires the individual purchasing the pool to submit proof to the seller or manufacturer of the presence

of the required safety equipment in accordance with rules adopted by the executive commissioner.

Sec. 761.003. ENCLOSURE FOR POOL YARD. Sets forth certain requirements for the enclosure of a pool yard.

Sec. 761.004. GATES. Sets forth certain requirements for a gate in a fence or wall enclosing a pool yard.

Sec. 761.005. ENFORCEMENT. (a) Authorizes a person who purchases a pool from a seller or manufacturer required to comply with this chapter, a governmental entity, or the person's representative to maintain an action against the seller or manufacturer of the pool for failure to comply with the requirements of this chapter. Authorizes the person to obtain certain directives and judgments in that action.

(b) Provides that a seller and manufacturer are jointly and severally liable for damages under this section. Provides that Chapter 33 (Proportionate Responsibility), Civil Practice and Remedies Code, does not apply to an action maintained under this section.

SECTION 2. Amends the heading to Chapter 757, Health and Safety Code, to read as follows:

CHAPTER 757. POOL YARD ENCLOSURE AT CERTAIN DWELLINGS

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.