

BILL ANALYSIS

Senate Research Center
81R1730 MSE-D

S.B. 96
By: Van de Putte
State Affairs
2/24/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An estimated 350 children under the age of five die annually in swimming pools. Nationally, drowning ranks second in injury-related causes of death for children 14 years of age and younger. Federal law that took effect in December 2008, the Virginia Graeme Baker Act, outlines safety requirements for pools manufactured in the United States.

As proposed, S.B. 96 requires that a person who sells or installs a residential pool provide a pool yard enclosure and a device or system to prevent entrapment by a pool drain. For pools installed after September 1, 2010, drainage requirements would be more stringent, specifically requiring that there be more than one drain, that there be one or more unblockable drains, or that there be no main drain. The seller or installer of a pool is authorized to charge the person purchasing the pool for the necessary safety equipment.

S.B. 96 also requires the Department of State Health Services (DSHS) to conduct an education program to notify pool owners of the safety requirements in this legislation as well as federal law requirements. Additionally, DSHS is charged with informing the public on ways to prevent drowning and entrapment in pools. Finally, S.B. 96 authorizes the executive commissioner of the Health and Human Services Commission to adopt rules to require the owner of a pool at a single-family dwelling to install certain safety devices.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Sections 761.002, 761.003, and 761.004, Health and Safety Code) of this bill.

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

Sec. 761.001. DEFINITIONS. Defines "executive commissioner," "main drain," "pool," "pool yard," "pool yard enclosure" or "enclosure," "safety vacuum release system," and "unblockable drain."

Sec. 761.002. REQUIRED SAFETY EQUIPMENT. (a) Requires a person who sells or installs a pool to provide, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission (HHSC), with each pool sold or installed, the following safety equipment:

- (1) a pool yard enclosure and gate, for a residential pool other than a pool governed by Chapter 757 (Pool Yard Enclosures), that will prevent a small child from gaining unfettered and unsupervised access to the pool;
- (2) a device or system to prevent entrapment by a pool drain; and
- (3) for a pool installed on or after September 1, 2010, either more than one drain, one or more unblockable drains, or no main drain.

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

(c) Exempts a seller or installer from providing the safety equipment required by Subsection (a) if the person purchasing the pool owns safety equipment that complies with this chapter. Requires the person purchasing the pool to submit proof to the seller or installer of the presence of the required safety equipment in accordance with rules adopted by the executive commissioner of HHSC.

Sec. 761.003. DRAINS. (a) Requires that a pool that has a main drain, other than an unblockable drain:

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

(2) have at least one of a list of certain anti-entrapment devices.

(b) Authorizes the executive commissioner of HHSC by rule to adopt a successor standard to a standard required by Subsection (a) on a finding that the successor standard adequately promotes safety.

Sec. 761.004. ADDITIONAL SAFETY REQUIREMENTS. Authorizes the executive commissioner of HHSC to adopt rules to require the owner of a pool at a single-family dwelling to install certain safety devices.

Sec. 761.005. EDUCATION AND NOTIFICATION. Requires the Department of State Health Services to conduct an education program to:

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

(2) inform the public of methods to prevent drowning and entrapment in pools.

Sec. 761.006. CUMULATIVE OF OTHER LAW. Provides that the requirements of this chapter are in addition to the requirements of Chapter 757.

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

CHAPTER 757. POOL YARD ENCLOSURES AT CERTAIN DWELLINGS

SECTION 3. Effective date: September 1, 2009.