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The Global Source and Voice for the Recreational Water Industry

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## **Pool & Spa Safety Act Supported by APSP Enacted Into Law**

Congress has approved the "Virginia Graeme Baker Pool and Spa Safety Act". With minor modifications, it is materially the same as the bill that passed the Senate unanimously last year but narrowly failed in the House. The current bill, approved by the Senate Commerce Committee earlier, was incorporated as Title XIV of H.R. 6, the omnibus energy bill approved by the Congress and signed by the President on December 19. The House of Representatives in July passed a slightly different version of the bill, but it is the Senate version that has now been enacted, with the full support of APSP.

Passage of this legislation is the culmination of a lengthy, intensive effort by both Houses of Congress to promote child safety in and around pools, spas and hot tubs. The initial step was a hearing by the U.S. Senate Consumer Affairs Subcommittee in May, 2006, at which Mark Laven, President of Latham International, testified on behalf of APSP. Throughout, APSP has been actively involved with Congressional members and staff to craft a responsible and effective legislative approach. Many APSP members contributed significantly to the successful passage of this legislation.

In summary, the legislation establishes a grant program for the states to be administered by the U.S. Consumer Product Safety Commission. To be eligible, states would be required to enact laws adhering to safety guidelines in the new federal law. Safety education is also emphasized.

Of particular note, in setting forth guidelines, the bill addresses entrapment prevention and protective barriers around pools, spas, and hot tubs.

**Entrapment Prevention.** At the urging of APSP, the entrapment guidelines in the new law are consistent with the new *ANSI/APSP-7 American National Standard for Suction Entrapment Avoidance*. The standard provides that all swimming pools and spas are to use proper anti-entrapment drain covers and circulation and drainage systems. If adhered to, the new standard will eliminate all future risk of all forms of entrapment. Consistent with the new law, APSP is now actively supporting adoption of the standard at the state and local level. For example, the Florida Building Commission adopted the ANSI/APSP-7 Standard in August, so Florida is in compliance with the entrapment provisions of the new law.

For the most part, the new law relies on state action to implement the guidelines presented. However, several new provisions are now federally mandated. One year after enactment, it will be unlawful for residential drain covers to be made or marketed that do not conform with anti-entrapment drain cover standards. Further, one year after enactment, all public pools must be retrofitted with appropriate anti-entrapment drain covers. This last provision was included by

Senator Amy Klobuchar of Minnesota as a result of the tragic evisceration of a 6-year old child in a public wading pool in Minnesota this past summer.

The entrapment guidelines in the new law also call for the use of several enumerated devices, including an SVRS device, vent line, or other comparable device on installations that have one single main drain, other than an unblockable drain. The law specifically exempts from these requirements installations that do not have a single main drain, such as those with more than one drain, or no drains.

**Barriers.** The new law calls for “the enclosure of all residential pools and spas by barriers to entry that will effectively prevent small children from gaining unsupervised and unfettered access to the pool or spa.” At the strong urging of APSP, the new law incorporates the recognized “layers of protection” approach to barriers, emphasizing that “one size does not fit all” and that safety is only promoted if homeowners “own into” and implement whatever combination of “natural or constructed topographical features”, gates, locks, door alarms, pool alarms and covers they choose to employ. At all times it was acknowledged that whatever “layers of protection” are employed, they are merely backup to the essential need for adult supervision.

Further, and very importantly, APSP was successful in assuring that the law acknowledged lockable covers as an accepted and effective safety barrier for hot tubs.

The Pool & Spa Safety Act is the product of the concerted efforts of many people, first and foremost Nancy Baker, mother of Virginia Graeme Baker, for whom the legislation is named. Many Congressional members and staff also contributed to its success. On the House side, particular credit goes to Congresswoman Debbie Wasserman Schultz of Florida, who has worked tirelessly in support of this legislation, as well as Congressman Bobby Rush of Illinois and Congressman Cliff Stearns of Florida, Chairman and Ranking Member, respectively, of the House Commerce, Trade and Consumer Protection Subcommittee. Senator David Pryor of Arkansas, Chairman of the Senate Consumer Affairs Subcommittee, steered the bill successfully through the Senate. It is noteworthy that in both the House and Senate, the legislation was the product of bi-partisan cooperation.

The Pool & Spa Safety Act is a highly significant achievement for APSP and the pool, spa and hot tub industry. As Mark Laven stated before the Senate, safety is a core belief of our industry that guided APSP’s efforts throughout the process. APSP participated effectively in both the House and Senate with a common sense message of how safety can most effectively be achieved that resonated well.

While the new law is mostly directive, not mandatory, it is extremely significant that the Congress is encouraging action at the state and local level, and providing guidelines that will make for a safer pool, spa and hot tub experience. The Act also lends valuable support to APSP’s efforts to promote implementation of APSP standards, generally.

A sincere thanks to all within APSP who participated in this successful legislative effort. Attached please find the complete text of the new Pool & Spa Safety Act.

