

AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
<p>SECTION 1. Section 18942 of the Health and Safety Code is amended to read:</p> <p>18942. (a) The commission shall publish, or cause to be published, editions of the code in its entirety once in every three years. In each intervening year the commission shall publish, or cause to be published, supplements as necessary. For emergency building standards defined in subdivision (a) of Section 18913, an emergency building standards supplement shall be published whenever the commission determines it is necessary.</p> <p>(b) The commission shall publish the text of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104, within the requirements for single-family residential occupancies contained in Part 2 of Title 24 of the California Code of Regulations, with the following note:</p> <p>“NOTE: These regulations are subject to local government modification. You should verify the applicable local government requirements at the time of application for a building permit.”</p> <p>(c) The commission shall publish the text of Section 116064.2 within Part 2 of Title 24 of the California Code of Regulations.</p> <p>(d) The commission may publish, stockpile, and sell at a reasonable price the code and materials incorporated therein by reference if it deems the latter is insufficiently available to the public, or unavailable at a reasonable price. Each state department concerned and each city, county, or city and county shall have an up-to-date copy of the code available for public inspection.</p> <p>(e) (1) Each city, county, and city and county, including charter cities, shall obtain and maintain with all revisions on a current basis, at least one copy of the building standards and other state regulations relating to buildings published in Titles 8, 19, 20, 24, and 25 of the California Code of Regulations. These</p>	

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<p>codes shall be maintained in the office of the building official responsible for the administration and enforcement of this part.</p> <p>(2) This subdivision shall not apply to a city or county that contracts for the administration and enforcement of the provisions of this part with another local government agency that complies with this section.</p>	
<p>SEC. 2. Section 116064.1 is added to the Health and Safety Code, to read:</p> <p>116064.1. The Legislature finds and declares that the public health interest requires that there be uniform statewide health and safety standards for public swimming pools to prevent physical entrapment and serious injury to children and adults. It is the intent of the Legislature to occupy the whole field of health and safety standards for public swimming pools and the requirements established in this article and the regulations adopted pursuant to this article shall be exclusive of all local health and safety standards relating to public swimming pools.</p>	
<p>SEC. 3. Section 116064.2 is added to the Health and Safety Code, to read:</p> <p>116064.2. (a) As used in this section, the following words have the following meanings:</p>	
<p>(1) "ASME/ANSI performance standard" means a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.</p>	<p>(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.</p>
<p>(2) "ASTM performance standard" means a standard that is developed and published by ASTM International.</p>	
	<p>(2) BARRIER.—The term "barrier" includes a natural or constructed topographical feature that prevents unpermitted access by children to a swimming pool, and, with respect to a hot tub, a lockable cover.</p>

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AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
	(3) COMMISSION.—The term “Commission” means the Consumer Product Safety Commission.
(3) "Main drain" means a submerged suction outlet typically located at the bottom of a swimming pool that conducts water to a recirculating pump.	(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.
	(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.
(4) “Public swimming pool” means an outdoor or indoor structure, whether in-ground or above-ground, intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, or nonportable wading pool, that is any of the following: (A) Open to the public generally, whether for a fee or free of charge. (B) Open exclusively to members of an organization and their guests, residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area, or patrons of a hotel or other public accommodations facility. (C) Located on the premises of an athletic club, or public or private school.	(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 multi-family 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

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AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
	any department or agency and their dependents.
(5) "Qualified individual" means a contractor who holds a current valid license issued by the State of California or a professional engineer licensed in the State of California who has experience working on public swimming pools.	
(6) "Safety vacuum release system" means a vacuum release system that ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected.	<p>(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.</p> <p>(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.</p>
(7) "Skimmer equalizer line" means a suction outlet located below the waterline and connected to the body of a skimmer that prevents air from being drawn into the pump if the water level drops below the skimmer weir. However, a skimmer equalizer line is not a main drain.	
(8) "Unblockable drain" means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.	(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.
(b) Subject to subdivision (c), an ASME/ANSI or ASTM	(1) REQUIRED EQUIPMENT.—

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AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
<p>performance standard relating to anti-entrapment devices or systems or an amendment or successor to, or later published edition of an ASME/ANSI or ASTM performance standard relating to anti-entrapment devices or systems shall become the applicable standard in California 90 days after publication by ASME/ANSI or ASTM, respectively, provided that the performance standard or amendment or successor to, or later published edition is approved by the department within 90 days of the publication of the performance standard by ASME/ANSI or ASTM, respectively. Notwithstanding any other law, the department may implement, interpret, or make specific the provisions of this section by means of a policy letter or similar instruction and this action by the department shall not be subject to the rulemaking requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).</p>	<p>(A) IN GENERAL.—Beginning 1 year after the date of Effective date. enactment of this title— (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</p> <p>(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.</p>
<p>(c) Subject to subdivision (f), every public swimming pool shall be equipped with anti-entrapment devices or systems that comply with ASME/ANSI performance standard A112.19.8, as in effect December 31, 2009, or any applicable ASME/ANSI performance standard that has been adopted by the department pursuant to subdivision (b).</p>	<p>(1) REQUIRED EQUIPMENT.— (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</p>
<p>(d) Subject to subdivisions (e) and (f), every public swimming pool with a single main drain that is not an unblockable drain shall be equipped with at least one or more of the following devices or systems that are designed to prevent physical entrapment by pool drains:</p>	<p>(1) REQUIRED EQUIPMENT.— (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</p>

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AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
	the following devices or systems designed to prevent entrapment by pool or spa drains that meets the requirements of subparagraph (B):
(1) A safety vacuum release system that has been tested by a department-approved independent third party and found to conform to ASME/ANSI performance standard A112.19.17, as in effect on December 31, 2009, or any applicable ASME/ANSI performance standard that has been adopted by the department pursuant to subdivision (b), or ASTM performance standard F2387, as in effect on December 31, 2009, or any applicable ASTM performance standard that has been adopted by the department pursuant to subdivision (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.
(2) A suction-limiting vent system with a tamper-resistant atmospheric opening, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard that has been adopted by the department pursuant to subdivision (b).	(II) SUCTION-LIMITING VENT SYSTEM.—A suction-limiting vent system with a tamper-resistant atmospheric opening.
(3) A gravity drainage system that utilizes a collector tank, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard that has been adopted by the department pursuant to subdivision (b).	(III) GRAVITY DRAINAGE SYSTEM.—A gravity drainage system that utilizes a collector tank.
(4) An automatic pump shut-off system tested by a department-approved independent third party and found to conform to any applicable ASME/ANSI or ASTM performance standard that has been adopted by the department pursuant to subdivision (b).	(IV) AUTOMATIC PUMP SHUT-OFF SYSTEM.—An automatic pump shut-off system.
(5) Any other system that is deemed, in accordance with federal law, to be equally effective as or more effective than, the systems described in paragraphs (1) to (4), inclusive, at preventing or eliminating the risk of injury or death associated with pool drainage systems.	(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.

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AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
<p>(e) Every public swimming pool constructed on or after January 1, 2010, shall have at least two main drains per pump that are hydraulically balanced and symmetrically plumbed through one or more “T” fittings, and that are separated by a distance of at least three feet in any dimension between the drains. A public swimming pool constructed on or after January 1, 2010, that meets the requirements of this subdivision, shall be exempt from the requirements of subdivision (d).</p>	<p>(A) IN GENERAL.—Beginning 1 year after the date of Effective date. enactment of this title— (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</p>
<p>(f) A public swimming pool constructed prior to January 1, 2010, shall be retrofitted to comply with subdivisions (c) and (d) by no later than July 1, 2010, except that no further retrofitting is required for a public swimming pool that completed a retrofit between December 19, 2007, and January 1, 2010, that complied with the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. Sec. 8001 et seq.) as in effect on the date of issue of the construction permit, or for a nonportable wading pool that completed a retrofit prior to January 1, 2010, that complied with state law on the date of issue of the construction permit. A public swimming pool owner who meets the exception described in this subdivision shall do one of the following prior to September 30, 2010 :</p> <p>(1) File the form issued by the department pursuant to subdivision (g), as otherwise provided in subdivision (h).</p> <p>2) (A) File a signed statement attesting that the required work has been completed. (B) Provide a document containing the name and license number of the qualified individual who completed the required work. (C) Provide either a copy of the final building permit, if required by the local agency, or a copy of one of the following documents if no permit was required: (i) A document that describes the modification in a manner</p>	

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AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
<p>that provides sufficient information to document the work that was done to comply with federal law.</p> <p>(ii) A copy of the final paid invoice. The amount paid for the services may be omitted or redacted from the final invoice prior to submission.</p>	
<p>(g) Prior to March 31, 2010, the department shall issue a form for use by an owner of a public swimming pool to indicate compliance with this section. The department shall consult with county health officers and directors of departments of environmental health in developing the form and shall post the form on the department's Internet Web site. The form shall be completed by the owner of a public swimming pool prior to filing the form with the appropriate city, county, or city and county department of environmental health. The form shall include, but not be limited to, the following information:</p> <p>(1) A statement of whether the pool operates with a single or split main drain.</p> <p>(2) Identification of the type of anti-entrapment devices or systems that have been installed pursuant to subdivision (c) and the date or dates of installation.</p> <p>(3) Identification of the type of devices or systems designed to prevent physical entrapment that have been installed pursuant to subdivision (d) in a public swimming pool with a single main drain that is not an unblockable drain and the date or dates of installation or the reason why the requirement is not applicable.</p> <p>(4) A signature and license number of a qualified individual who certifies that the factual information provided on the form in response to paragraphs (1) to (3), inclusive, is true to the best of his or her knowledge.</p>	

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AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
(h) A qualified individual who improperly certifies information pursuant to paragraph (4) of subdivision (g) shall be subject to potential disciplinary action at the discretion of the licensing authority.	
(i) Except as provided in subdivision (f), each public swimming pool owner shall file a completed copy of the form issued by the department pursuant to this section with the city, county, or city and county department of environmental health in the city, county, or city and county in which the swimming pool is located. The form shall be filed within 30 days following the completion of the swimming pool construction or installation required pursuant to this section or, if the construction or installation is completed prior to the date that the department issues the form pursuant to this section, within 30 days of the date that the department issues the form. The public swimming pool owner or operator shall not make a false statement, representation, certification, record, report, or otherwise falsify information that he or she is required to file or maintain pursuant to this section.	
(j) In enforcing this section, health officers and directors of city, county, or city and county departments of environmental health shall consider documentation filed on or with the form issued pursuant to this section by the owner of a public swimming pool as evidence of compliance with this section. A city, county, or city and county department of environmental health may verify the accuracy of the information filed on or with the form.	
(k) To the extent that the requirements for public wading pools imposed by Section 116064 conflict with this section, the requirements of this section shall prevail.	
(l) (1) Until January 1, 2014, the department may assess an annual fee on the owners of each public swimming pool, to be collected by the applicable local health department, in an	

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AB 1020**Federal Law – VGB Pool and Spa Safety Act**

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
<p>amount not to exceed the amount necessary to defray the department's costs of carrying out its duties under Section 116064.1 and this section but in no case shall this fee exceed six dollars (\$6).</p> <p>(2) The local health department may retain a portion of the fee collected pursuant to paragraph (1) in an amount necessary to cover the administrative costs of collecting the fee, but in no case to exceed one dollar (\$1).</p> <p>(3) The local health department shall bill the owner of each public swimming pool in its jurisdiction for the amount of the state fee. The local health department shall transmit the collected state fee to the Controller for deposit into the Recreational Health Fund, which is hereby created in the State Treasury. The local health department shall not be required to take action to collect an unpaid state fee, but shall submit to the department, every six months, a list containing the name and address of the owner of each public swimming pool who has failed to pay the state fee for more than 90 days after the date that the bill was provided to the owner of the public swimming pool.</p> <p>(4) Owners that are exempt from local swimming pool permit fees shall also be exempt from the fees imposed pursuant to this subdivision.</p> <p>(5) Except as provided in paragraph (2), all moneys collected by the department pursuant to this section shall be deposited into the Recreational Health Fund. Notwithstanding Section 16305.7 of the Government Code, interest and dividends on moneys in the Recreational Health Fund shall also be deposited in the fund. Moneys in the fund shall, upon appropriation by the Legislature, be available to the department for carrying out its duties under Section 116064.1 and this section and shall not be redirected for any other purpose.</p>	

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AB 1020

Federal Law – VGB Pool and Spa Safety Act

AB 1020 CHAPTERED	Federal Law – VGB Pool and Spa Safety Act
<p>SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.</p> <p>No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain other costs that may be incurred by a local agency or school district because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.</p>	

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