



POOL SAFETY COUNCIL

Pool Safety Council
336 West College Avenue
Santa Rosa, CA 95401

January 22, 2009

The Honorable Edmund G. Brown
Attorney General's Office
California Department of Justice
ATTN: Public Inquiry Unit
P.O. Box 944255
Sacramento, CA 94244-2550

VIA FAX: (916) 323-5341

Dear Attorney General Brown:

As you may know, on December 19, 2008, the Virginia Graeme Baker Pool and Spa Safety Act went into effect. The legislation mandates that all public pools take relatively simple measures in order to better protect swimmers from the dangers of drowning and entrapment.

However, the Pool Safety Council is shocked by some of the early and disparate public comments related to the legislation's interpretation and enforcement. While the Consumer Product Safety Commission (CPSC) has issued its interpretation of the Pool and Spa Safety Act, some local officials have taken it upon themselves to act – or not act – based upon their own interpretation of the language of the law.

The most alarming comments have come from Los Angeles Department of Public Health program manager Bernard Franklin, whose jurisdiction covers more than 16,000 public swimming pools in Los Angeles, California. Franklin has stated publically that his agency will not even attempt to conduct thorough inspections of the pools in his jurisdiction. The December 29, 2008 issue of *Pool & Spa News* quotes Mr. Franklin as stating that split main drains “are the only thing we can verify,” adding the LADPH “can't make sure SVRS systems have been installed... and calibrated properly.” Nationwide, over 100,000 such systems have already been installed.

It eludes us as to why Mr. Franklin is unwilling to allow pools to simply replace their drain covers without emptying the entire pool, a requirement that goes beyond the federal regulations. From our vantage, Mr. Franklin's requirement is out of step with the mainstream application of the law; nowhere in the United States are officials requiring that operators drain a pool in order to replace a drain cover.

Sadly for public pool owners and operators, Mr. Franklin's comments stating that he and his staff cannot be bothered to inspect installed pool equipment a matter of feet from any pool puts some of the most cost-effective methods of compliance out of sight of many pool operators. Despite broader parameters laid out in the law, the LADPH has suggested public pools install costly split drains, even when a far less costly anti-entrapment device may already be in place. Their web site states pools “with single drains will be required to be retrofitted with split drains when the pool is resurfaced, renovated or drained for any reason even though the pool has a safety vacuum release system or automatic pump shut-off system.” These comments make Mr. Franklin's office sound less like a public safety agency and more like a public works

initiative: LADPH is suggesting that excessive, costly construction work is the only option for LA County public pools to become compliant and safe. This could not be further from the case.

Mr. Franklin and the LADPH are ignoring the multiple options for protection outlined in the Virginia Graeme Baker Pool and Spa Safety Act. That law explicitly states public pools must have approved safety drain covers. All single drain pools must have either an anti-entrapment device, such as a Safety Vacuum Release System, a Suction-Limiting Vent System, Automatic Pump Shut-Off System or Drain Disablement Device. The LADPH's policy flies in the face of what the law actually requires, at great expense to public pool owners and operators and to the detriment of the thousands of swimmers that take advantage of our public pools.

To make matters worse, Mr. Franklin has stated that LA County pools must be drained of their water for a drain compliance inspection to take place. Doing so is not only unnecessary, but irresponsible in a part of the country where water resources are so scarce. Forcing 16,000 pools to drain for an inspection that can take place visually or with a diver would add millions of gallons of water demand to the public utilities system just to refill the pools and return them to service.

Empty pools are also at risk of damage. Terry Snow, who serves on the Government Relations Committee of the Independent Pool & Spa Service Association, told *Pool and Spa News* that drained pools will be at the mercy of the elements. "If it takes [the inspector] one or two weeks to get out there... you have a bunch of pools sitting there subject to the weather," Snow said. Scorching summer heat and high groundwater can lead to cracking and other damage. Such conditions can even push entire, empty inground pools out of the ground after a significant rain. There are ways to ensure compliance without putting our recreational infrastructure at risk.

LADPH's policies will put the squeeze on public pools, and those which cannot find the tens of thousands of dollars necessary to meet Mr. Franklin's baseless demands will be forced to close. Franklin and the LADPH are making compliance that much harder to attain.

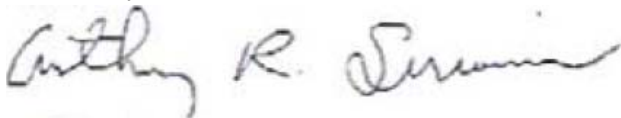
The Pool Safety Council urges you and your colleagues to investigate our concerns of Mr. Franklin's conduct. We also ask that you compel your local officials to make thorough inspections of the Pool and Spa Safety Act compliance an urgent priority. Finally, PSC requests that you use the power of your office to hold officials in your state like Mr. Franklin accountable for taking the necessary and appropriate measures to ensure compliance with this life-saving piece of legislation.

We hope you will continue this fight to ensure that, as with the adoption of the vehicle airbag and child car seats, tragic pool drain entrapment can eventually become part of our past. We would welcome an opportunity to discuss this matter further with you and your staff at your convenience and can be reached at (800) 970-8420.

Additional information is also available on our website at: www.poolsafetycouncil.org

Thank you for your consideration and continued support.

Sincerely,

A handwritten signature in cursive script that reads "Anthony R. Sirianni". The ink is dark and the signature is fluid and legible.

Anthony Sirianni
Member, Board of Directors

Cc: The Honorable Gov. Arnold Schwarzenegger (R)
The Honorable Lt. Gov. John Garamendi (D)
The Honorable Mayor Antonio Villaraigosa, mayor of Los Angeles (D)
Dr. John Schunhoff, Ph.D., Interim Director, Los Angeles County Health Services
Dr. Robert G. Splawn, M.D., Interim Chief Medical Officer, Los Angeles County Health Services
The Honorable Rep. Henry Waxman (D-CA), United States Representative
Dr. Jonathan E. Fielding M.D., M.P.H., L.A. County Director of Department Public Health
The Honorable Jerry Brown, Attorney General
The Honorable Alfonso Medina, Director of the Environmental Protection Bureau

The Honorable Darrell Steinberg, President Pro Tempore of the California State Senate
The Honorable Leland Lee, Assistant President Pro Tempore of the California State Senate
The Honorable Dean Florez, Majority Leader California State Senate
The Honorable Dave Cogdill, Minority Leader of the California State Senate

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