



**CARPENTER HAZLEWOOD DELGADO & WOOD**

# E-Newsletter

## **New Federal Pool Safety Laws Impact Associations**

*- Jason N. Miller, Esq.*

On December 19, 2007 President George W. Bush signed into law the Virginia Graeme Baker Pool and Spa Safety Act (the “Act”). The Act creates mandatory federal safety requirements to avoid suction entrapment in all public pools and spas. Beginning December 19, 2008 every public pool and spa must be equipped with anti-entrapment devices or equipment (drain covers, etc.) that comply with the American Society of Mechanical Engineers and American National Standards Institute (ASME/ANSI) A112.19.8 performance standard. Additionally, any public pool and spa equipped with a single main drain, other than an unblockable drain, must be equipped with at least one of several government approved anti-entrapment devices or equipment.

A public pool and spa is generally defined as, a swimming pool or spa that is open exclusively to “members of an organization and their guests” or “residential real estate development or other multi-family residential area.” Most pools and spas maintained on the common area of most Arizona planned communities and condominiums are subject to the Act’s safety requirements. Also important to note is that if a community’s pool or spa is closed on December 19, 2008, compliance with the new law is not necessary until the pool or spa re-opens. However, the best practice would be to ensure compliance prior to December 19, 2008.

The Consumer Products Safety Commission has been charged with administering and enforcing the requirements of the Act, and penalties for non-compliance can be steep. Under current law, the maximum penalty for one or more related violations is \$1.825 million. Congress is considering legislation that would increase this penalty to \$10 million or higher.

Please consult with the pool contractor servicing your common areas in order to ensure compliance with the new safety requirement imposed by Federal Law. You can find more information on this topic, including a list of approved manufacturers of drain covers and safety systems, at [www.cpsc.gov/whatsnew.html#pool](http://www.cpsc.gov/whatsnew.html#pool).



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