



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2379

Introduced 2/3/2004, by Carol Ronen

SYNOPSIS AS INTRODUCED:

430 ILCS 125/10
430 ILCS 125/15
430 ILCS 125/17 new
430 ILCS 125/25
430 ILCS 125/27 new
430 ILCS 125/20 rep.

Amends the Children's Product Safety Act. Provides that a "children's product" is one designed or intended for the care of or use by a child under age 12 (instead of under age 6). Replaces the definition of "commercial user" with a definition of "commercial dealer", which includes one who manufactures children's products. Imposes requirements on commercial dealers in children's products with respect to product recalls. Provides that a commercial dealer who violates the Act is subject to a civil penalty not to exceed \$1,000 for each day the violation continues (instead of providing that a commercial user who willfully and knowingly violates the Act is guilty of a Class C misdemeanor). Provides that nothing in the Act relieves a commercial dealer from compliance with stricter requirements imposed by a federal agency. Makes other changes. Effective immediately.

LRB093 17814 DRJ 43495 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning product safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Children's Product Safety Act is amended by
5 changing Sections 10, 15, and 25 and by adding Sections 17 and
6 27 as follows:

7 (430 ILCS 125/10)

8 Sec. 10. Definitions. In this Act:

9 (a) "Children's product" means a product, including but not
10 limited to a full-size crib, non-full-size crib, toddler bed,
11 bed, car seat, chair, high chair, booster chair, hook-on chair,
12 bath seat, gate or other enclosure for confining a child, play
13 yard, stationary activity center, carrier, stroller, walker,
14 swing, or toy or play equipment, that meets the following
15 criteria:

16 (i) the product is designed or intended for the care
17 of, or use by, any child under age 12 ~~children under 6~~
18 ~~years of age or is designed or intended for the care of, or~~
19 ~~use by, both children under 6 years of age and children 6~~
20 ~~years of age or older;~~ and

21 (ii) the product is designed or intended to come into
22 contact with the child while the product is used.

23 Notwithstanding any other provision of this Section, a
24 product is not a "children's product" for purposes of this Act
25 if:

26 (I) it may be used by or for the care of a child under
27 age 12 ~~6 years of age~~, but it is designed or intended for
28 use by the general population or segments of the general
29 population and not solely or primarily for use by or the
30 care of a child; or

31 (II) it is a medication, drug, or food or is intended
32 to be ingested.

1 (b) "Commercial dealer ~~user~~" means any person who deals in
2 children's products or who otherwise by one's occupation holds
3 oneself out as having knowledge or skill peculiar to children's
4 products, or any person who is in the business of
5 manufacturing, remanufacturing, retrofitting, selling,
6 leasing, subletting, or otherwise placing in the stream of
7 commerce children's products.

8 (c) "Person" means a natural person, firm, corporation,
9 limited liability company, or association, or an employee or
10 agent of a natural person or an entity included in this
11 definition.

12 (d) "Infant" means any person less than 35 inches tall and
13 less than 3 years of age.

14 (e) "Crib" means a bed or containment designed to
15 accommodate an infant.

16 (f) "Full-size crib" means a full-size crib as defined in
17 Section 1508.3 of Title 16 of the Code of Federal Regulations
18 regarding the requirements for full-size cribs.

19 (g) "Non-full-size crib" means a non-full-size crib as
20 defined in Section 1509.2 of Title 16 of the Code of Federal
21 Regulations regarding the requirements for non-full-size
22 cribs.

23 (Source: P.A. 91-413, eff. 1-1-00.)

24 (430 ILCS 125/15)

25 Sec. 15. Unsafe children's products; prohibition.

26 (a) On or after the effective date of this amendatory Act
27 of the 93rd General Assembly, no commercial dealer ~~user~~ may
28 manufacture, remanufacture, retrofit, sell, contract to sell
29 or resell, lease, sublet, or otherwise place in the stream of
30 commerce, ~~on or after January 1, 2000,~~ a children's product
31 that is unsafe.

32 (b) A children's product is deemed to be unsafe for
33 purposes of this Act if it meets any of the following criteria:

34 (1) It does not conform to all federal laws and
35 regulations setting forth standards for the children's

1 product.

2 (2) It has been recalled for any reason by an agency of
3 the federal government or the product's manufacturer,
4 distributor, or importer and the recall has not been
5 rescinded.

6 (3) An agency of the federal government has issued a
7 warning that a specific product's intended use constitutes
8 a safety hazard and the warning has not been rescinded.

9 (b-5) The Department of Public Health shall do the
10 following:

11 (1) ~~create,~~ Maintain, and update a comprehensive list
12 of children's products that have been identified as meeting
13 any of the criteria set forth in subdivisions (1) through
14 (3) of ~~this~~ subsection (b).

15 (2) Update the comprehensive list within 24 hours after
16 the occurrence of any of the criteria set forth in
17 subsection (b).

18 (3) ~~The Department of Public Health shall~~ Make the
19 comprehensive list available to the public at no cost and
20 ~~shall~~ post it on the Internet, ~~and encourage links.~~ The
21 Internet posting must include links to federal agency web
22 sites that describe children's product standards or
23 provide information on children's safety or children's
24 products.

25 (4) Include information regarding the comprehensive
26 list of unsafe children's products maintained under this
27 Section in regular publications or mailings sent to
28 pediatricians, Special Supplemental Nutrition Program for
29 Women, Infants and Children (WIC) clinics, and local health
30 departments.

31 (c) A crib is presumed to be unsafe for purposes of this
32 Act if it does not conform to the standards endorsed or
33 established by the Consumer Product Safety Commission,
34 including but not limited to Title 16 of the Code of Federal
35 Regulations and ASTM International ~~the American Society for~~
36 ~~Testing and Materials~~, as follows:

1 (1) Part 1508 of Title 16 of the Code of Federal
2 Regulations and any regulations adopted to amend or
3 supplement the regulations.

4 (2) Part 1509 of Title 16 of the Code of Federal
5 Regulations and any regulations adopted to amend or
6 supplement the regulations.

7 (3) Part 1303 of Title 16 of the Code of Federal
8 Regulations and any regulations adopted to amend or
9 supplement the regulations.

10 (4) The following standards and specifications of ASTM
11 International ~~the American Society for Testing Materials~~
12 for corner posts of baby cribs and structural integrity of
13 baby cribs:

14 (A) ASTM F 966 ~~966-90~~ (corner post standard).

15 (B) ASTM F 1169 ~~1169-88~~ (structural integrity of
16 full-size baby cribs).

17 (C) ASTM F 1822 ~~1822-97~~ (non-full-size cribs).

18 (d) The Department of Public Health shall make the
19 requirements set forth in subsection (c) available to the
20 public. ~~Cribs that are unsafe shall include, but not be limited~~
21 ~~to, cribs that have any of the following dangerous features or~~
22 ~~characteristics:~~

23 ~~(1) Corner posts that extend more than one sixteenth of~~
24 ~~an inch.~~

25 ~~(2) Spaces between side slats more than 2.375 inches.~~

26 ~~(3) Mattress support that can be easily dislodged from~~
27 ~~any point of the crib. A mattress segment can be easily~~
28 ~~dislodged if it cannot withstand at least a 25 pound upward~~
29 ~~force from underneath the crib.~~

30 ~~(4) Cutout designs on the end panels.~~

31 ~~(5) Rail height dimensions that do not conform to both~~
32 ~~of the following:~~

33 ~~(A) The height of the rail and end panel as~~
34 ~~measured from the top of the rail or panel in its~~
35 ~~lowest position to the top of the mattress support in~~
36 ~~its highest position is at least 9 inches.~~

1 ~~(B) The height of the rail and end panel as~~
2 ~~measured from the top of the rail or panel in its~~
3 ~~highest position to the top of the mattress support in~~
4 ~~its lowest position is at least 26 inches.~~

5 ~~(6) Any screws, bolts, or hardware that are loose and~~
6 ~~not secured.~~

7 ~~(7) Sharp edges, points, or rough surfaces, or any wood~~
8 ~~surfaces that are not smooth and free from splinters,~~
9 ~~splits, or cracks.~~

10 ~~(8) Tears in mesh or fabric sides in a non full size~~
11 ~~crib.~~

12 ~~(9) A non full size crib that folds in a "V" shape~~
13 ~~design does not have top rails that automatically lock into~~
14 ~~place when the crib is fully set up.~~

15 ~~(10) The mattress pad in a non full size mesh/fabric~~
16 ~~crib exceeds one inch.~~

17 (e) An unsafe children's product, as determined pursuant to
18 subdivisions (1), (2), and (3) of subsection (b) of this
19 Section 15, may be retrofitted if the retrofit has been
20 approved by the agency of the federal government issuing the
21 recall or warning or the agency responsible for approving the
22 retrofit is different from the agency issuing the recall or
23 warning. A retrofitted children's product may be sold if it is
24 accompanied at the time of sale by a notice declaring that it
25 is safe to use for a child under age 12 ~~6 years of age~~. The
26 notice shall include: (1) a description of the original problem
27 which made the recalled product unsafe; (2) a description of
28 the retrofit which explains how the original problem was
29 eliminated and declaring that it is now safe to use for a child
30 under age 12 ~~6 years of age~~; and (3) the name and address of the
31 commercial dealer ~~user~~ who accomplished the retrofit
32 certifying that the work was done along with the name and model
33 number of the product retrofitted. The commercial dealer ~~user~~
34 is responsible for ensuring that the notice is present with the
35 retrofitted product at the time of sale. A retrofit is exempt
36 from this Act if:

1 (i) the retrofit is for a children's product that
2 requires assembly by the consumer, the approved retrofit is
3 provided with the product by the commercial dealer ~~user~~,
4 and the retrofit is accompanied at the time of sale by
5 instructions explaining how to apply the retrofit; or

6 (ii) the seller of a previously unsold product
7 accomplishes the repair, approved or recommended by an
8 agency of the federal government, prior to sale.

9 (Source: P.A. 91-413, eff. 1-1-00.)

10 (430 ILCS 125/17 new)

11 Sec. 17. Product recalls.

12 (a) If a commercial dealer has sold to an Illinois resident
13 a children's product that is unsafe under Section 15, or if a
14 commercial dealer has manufactured a children's product that is
15 unsafe under Section 15, and if that commercial dealer also
16 maintains a web site, then the commercial dealer must include
17 the items described in paragraphs (1) through (3) of this
18 subsection on its web site. The commercial dealer must include
19 the items on the web site no later than the day on which a
20 recall press release is issued by a federal agency (including,
21 but not limited to, the Children's Products Safety Commission
22 or "CPSC") and must maintain the items on the web site for the
23 duration of the recall.

24 (1) The home page (or the first entry point to the
25 commercial dealer's web site) must include a separate
26 "button", "icon", or "scrolling message" entitled Recall
27 Safety Alert that links the home page to a separate recall
28 information page. The "button", "icon", or "scrolling
29 message" must be in a highly visible location on the home
30 page or first entry point to the commercial dealer's web
31 site. The home page design must allow a person visiting the
32 web site to view the Recall Safety Alert without scrolling
33 vertically or laterally on that page.

34 (2) The recall page may include only the product recall
35 information and may not include, link to, or otherwise be

1 combined with sales or marketing information on that
2 product or any other product. The recall information must
3 include all of the text (verbatim) in the federal agency
4 recall press release and a color photo of the recalled
5 product.

6 (3) The recall page must be interactive to allow
7 persons to participate in the recall through the commercial
8 dealer's web site.

9 (b) Within 30 days after a federal agency issues a recall
10 press release, a commercial dealer who has sold the recalled
11 product to an Illinois resident through the commercial dealer's
12 web site must give notice of the product recall to all Illinois
13 residents who purchased the recalled product. The notice must
14 include a description of the product defect and how to
15 participate in the recall.

16 (c) A commercial dealer who has any retail establishments
17 in Illinois must post current federal agency recall notices on
18 unsafe children's products (as defined in Section 15) that were
19 for sale at any time at each Illinois-based retail
20 establishment. The notices must be placed in prominent
21 locations in each store. The recall notices must be posted no
22 later than the day on which the federal agency issues the
23 recall press release and must remain posted for a minimum of 60
24 days. The commercial dealer must keep a copy of the recall
25 notice concerning any children's product sold in an
26 Illinois-based retail establishment on file and must make the
27 copy available to the public upon request for the duration of
28 the recall.

29 (d) Within 5 days after a recalled children's product is
30 placed on the Department of Public Health's comprehensive list
31 maintained under Section 15, a commercial dealer who is not a
32 party to the issuance of the recall must post the recalled
33 children's product on the retail establishment's web site as
34 provided in subsection (a) or must post a notice of the
35 recalled product at each retail establishment in Illinois as
36 provided in subsection (c).

1 (430 ILCS 125/25)

2 Sec. 25. Penalty. A commercial dealer ~~user~~ who ~~willfully~~
3 ~~and knowingly~~ violates this Act is subject to a civil penalty
4 in an amount not to exceed \$1,000 for each day that the
5 violation continues. The Department of Public Health may impose
6 a civil penalty under this Section following an administrative
7 hearing at which the commercial dealer has been afforded an
8 opportunity to present oral or written evidence, or both. The
9 Attorney General may bring an action in the circuit court to
10 enforce the collection of a civil penalty imposed under this
11 Section. ~~Section 15 is guilty of a Class C misdemeanor.~~

12 (Source: P.A. 91-413, eff. 1-1-00.)

13 (430 ILCS 125/27 new)

14 Sec. 27. Federal requirements. Nothing in this Act relieves
15 a commercial dealer from compliance with stricter requirements
16 that may be imposed by an agency of the federal government.

17 (430 ILCS 125/20 rep.)

18 Section 10. The Children's Product Safety Act is amended by
19 repealing Section 20.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.