

1 AN ACT concerning 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, 20, 25, and 30 and by adding Sections
6 17, 26, and 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 9 ~~children under 6 years~~
18 ~~of age or is designed or intended for the care of, or use~~
19 ~~by, both children under 6 years of age and children 6 years~~
20 ~~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 9 ~~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 remanufacturing, retrofitting, selling, leasing, subletting,
6 or otherwise placing in the stream of commerce children's
7 products.

8 (b-5) "Manufacturer" means any person who makes and places
9 into the stream of commerce a children's product as defined by
10 this Act.

11 (b-10) "Importer" means any person who brings into this
12 country and places into the stream of commerce a children's
13 product.

14 (b-15) "Distributor" and "wholesaler" means any person,
15 other than a manufacturer or retailer, who sells or resells or
16 otherwise places into the stream of commerce a children's
17 product.

18 (b-20) "Retailer" means any person other than a
19 manufacturer, distributor, or wholesaler who sells, leases, or
20 sublets children's products.

21 (b-25) "First seller" means any retailer selling a
22 children's product that has not been used or has not previously
23 been owned. A first seller does not include an entity such as a
24 second-hand or resale store.

25 (c) "Person" means a natural person, firm, corporation,
26 limited liability company, or association, or an employee or
27 agent of a natural person or an entity included in this
28 definition.

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

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

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

36 (g) "Non-full-size crib" means a non-full-size crib as

1 defined in Section 1509.2 of Title 16 of the Code of Federal
2 Regulations regarding the requirements for non-full-size
3 cribs.

4 (h) "End consumer" means a person who purchases a
5 children's product for any purpose other than resale.

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

7 (430 ILCS 125/15)

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

9 (a) On and after the effective date of this amendatory Act
10 of the 94th General Assembly, no ~~no~~ commercial dealer,
11 manufacturer, importer, distributor, wholesaler, or retailer
12 ~~user~~ may manufacture, remanufacture, retrofit, distribute,
13 sell at wholesale or retail, contract to sell or resell, lease,
14 or sublet, or otherwise place in the stream of commerce, ~~on or~~
15 after January 1, 2000, a children's product that is unsafe.

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

19 (1) It does not conform to all applicable federal laws
20 and regulations setting forth standards for the children's
21 product.

22 (2) It has been recalled for any reason by or in
23 cooperation with an agency of the federal government or the
24 product's manufacturer, wholesaler, distributor, or
25 importer and the recall has not been rescinded.

26 (3) An agency of the federal government or the
27 product's manufacturer, wholesaler, distributor, or
28 importer has issued a warning that a specific product's
29 intended use constitutes a safety hazard and the warning
30 has not been rescinded.

31 (b-5) The Department of Public Health shall do the
32 following:

33 (1) Maintain ~~create, maintain,~~ and update a
34 comprehensive list of children's products that have been
35 identified as meeting any of the criteria set forth in

1 subdivisions (1) through (3) of ~~this~~ subsection (b).

2 (2) Update the comprehensive list within 24 hours after
3 a children's product has been identified as meeting any of
4 the criteria set forth in subsection (b).

5 (3) Make ~~The Department of Public Health shall make~~ the
6 comprehensive list available to the public at no cost and
7 ~~shall~~ post it on the Internet, ~~and encourage links.~~ The
8 Internet posting shall provide a link to www.recalls.gov or
9 its successor and shall otherwise make available a link to
10 the specific recall notice or warning concerning the
11 children's product that has been recalled or for which a
12 warning has been issued. The Department must review and
13 update these links on a regular basis.

14 (4) Include information regarding the comprehensive
15 list of unsafe children's products maintained under this
16 Section in regular publications or mailings such as those
17 sent to persons including, but not limited to:
18 pediatricians; Special Supplemental Nutrition Program for
19 Women, Infants, and Children (WIC) clinics; and local
20 health departments.

21 (c) A crib is presumed to be unsafe for purposes of this
22 Act if it does not conform to the standards endorsed or
23 established by the Consumer Product Safety Commission,
24 including but not limited to Title 16 of the Code of Federal
25 Regulations and the standards endorsed or established by ASTM
26 International American Society for Testing and Materials, as
27 follows:

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

31 (2) Part 1509 of Title 16 of the Code of Federal
32 Regulations and any regulations adopted to amend or
33 supplement the regulations.

34 (3) Part 1303 of Title 16 of the Code of Federal
35 Regulations and any regulations adopted to amend or
36 supplement the regulations.

1 (4) The following standards and specifications of ASTM
2 International ~~the American Society for Testing Materials~~
3 for corner posts of baby cribs and structural integrity of
4 baby cribs:

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

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

8 (C) ASTM F 406 ~~1822-97~~ (non-full-size cribs).

9 The Department of Public Health shall make the requirements
10 set forth in this subsection (c) available to the public.

11 (d) (Blank.) ~~Cribs that are unsafe shall include, but not~~
12 ~~be limited to, cribs that have any of the following dangerous~~
13 ~~features or characteristics:~~

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

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

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

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

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

24 ~~(A) The height of the rail and end panel as~~
25 ~~measured from the top of the rail or panel in its~~
26 ~~lowest position to the top of the mattress support in~~
27 ~~its highest position is at least 9 inches.~~

28 ~~(B) The height of the rail and end panel as~~
29 ~~measured from the top of the rail or panel in its~~
30 ~~highest position to the top of the mattress support in~~
31 ~~its lowest position is at least 26 inches.~~

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

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

1 ~~(8) Tears in mesh or fabric sides in a non-full size~~
2 ~~crib.~~

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

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

8 (e) An unsafe children's product, as determined pursuant to
9 subdivisions (1), (2), and (3) of subsection (b) of this
10 Section 15, may be retrofitted if the retrofit has been
11 approved by the agency of the federal government issuing the
12 recall or warning or the agency responsible for approving the
13 retrofit is different from the agency issuing the recall or
14 warning. A retrofitted children's product may be sold if it is
15 accompanied at the time of sale by a notice declaring that it
16 is safe to use for a child under age 9 ~~6 years of age~~. The
17 notice shall include: (1) a description of the original problem
18 which made the recalled product unsafe; (2) a description of
19 the retrofit which explains how the original problem was
20 eliminated and declaring that it is now safe to use for a child
21 under age 9 ~~6 years of age~~; and (3) the name and address of the
22 commercial dealer, manufacturer, importer, distributor, or
23 wholesaler ~~user~~ who accomplished the retrofit certifying that
24 the work was done along with the name and model number of the
25 product retrofitted. The commercial dealer, manufacturer,
26 importer, distributor, or wholesaler ~~user~~ is responsible for
27 ensuring that the notice is present with the retrofitted
28 product at the time of sale. A retrofit is exempt from this Act
29 if:

30 (i) the retrofit is for a children's product that
31 requires assembly by the consumer, the approved retrofit is
32 provided with the product by the commercial dealer,
33 manufacturer, importer, distributor, or wholesaler ~~user~~,
34 and the retrofit is accompanied at the time of sale by
35 instructions explaining how to apply the retrofit; or

36 (ii) the seller of a previously unsold product

1 accomplishes the repair, approved or recommended by an
2 agency of the federal government, prior to sale.

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

4 (430 ILCS 125/17 new)

5 Sec. 17. Product recalls.

6 (a) If a manufacturer, importer, wholesaler, or
7 distributor of children's products has placed into the stream
8 of commerce in Illinois a children's product for which a recall
9 or warning has subsequently been issued by one of those
10 entities or by an agency of the federal government, then the
11 manufacturer, importer, wholesaler, or distributor must
12 initiate the following steps within 24 hours after issuing or
13 receiving the recall or warning:

14 (1) Contact all of its commercial customers, other than
15 end consumers, to whom it sold, leased, sublet, or
16 transferred that particular children's product in
17 Illinois. This contact must include providing the recall
18 notice or warning and must be made to the person designated
19 by the retailer for that product.

20 (2) If the manufacturer, importer, wholesaler, or
21 distributor maintains a web site, the entity must place on
22 the home page (or the first entry point) of its web site a
23 link to recall or warning information that contains the
24 specific recall notice or warning that was issued for the
25 product in question. The recall or warning information must
26 include a description of the product, the reason for the
27 recall or warning, a picture of the product, and
28 instructions on how to participate in the recall or
29 warning. The information may include only the product
30 recall information and may not include sales or marketing
31 information on that product or any other product, excluding
32 return and exchange policies. The recall or warning
33 information must allow persons to participate in the recall
34 through the web site of the manufacturer, importer,
35 wholesaler, or distributor.

1 (3) If the manufacturer, importer, wholesaler, or
2 distributor sold directly to a non-commercial consumer,
3 and the consumer provided either a shipping address or
4 e-mail address at the time of sale, then the manufacturer,
5 importer, wholesaler, or distributor must send a notice of
6 the recall or warning to the consumer at either address
7 provided. The notice must include a description of the
8 product, the reason for the recall or warning, and
9 instructions on how to participate in the recall or
10 warning. The notice may include only the product recall
11 information and may not include sales or marketing
12 information on that product or any other product, excluding
13 return and exchange policies.

14 (b) If a retailer receives notice of a recall or warning
15 regarding a children's product from a manufacturer, importer,
16 wholesaler, or distributor, or, in the case of an involuntary
17 recall, from a federal agency, and if the retailer at any time
18 offered the product for sale in Illinois, then the retailer
19 must do the following:

20 (1) Within 3 business days after receiving the recall
21 or warning from the manufacturer, importer, wholesaler, or
22 distributor by a person designated by the retailer, the
23 retailer must remove the children's product from the
24 shelves of its stores or program its registers to ensure
25 that the item cannot be sold.

26 (2) If the product was sold through the retailer's web
27 site, then within 3 business days after receipt of the
28 recall or warning by the person designated by the retailer,
29 the retailer must remove the children's product from the
30 web site or remove the ability of a consumer to purchase
31 the children's product through the web site.

32 (3) If an e-mail or shipping address was provided at
33 the time a children's product, for which a recall or
34 warning was subsequently issued, was purchased on the
35 retailer's web site, the retailer must attempt to contact
36 the purchaser at either address provided with the recall or

1 warning information. The recall or warning information
2 must include a description of the product, the reason for
3 the recall or warning, and instructions on how to
4 participate in the recall or warning. The information may
5 include only the product recall information and may not
6 include sales or marketing information on that product or
7 any other product, excluding return and exchange policies.
8 The retailer must comply with this paragraph (3) within 30
9 days after receiving the notice of the recall or warning
10 from a manufacturer, importer, wholesaler, or distributor.

11 (4) Within 5 business days after receipt of the recall
12 or warning by the person designated by the retailer from a
13 manufacturer, importer, wholesaler, distributor, or from a
14 federal agency in the case of an involuntary recall, the
15 retailer must post in a prominent location in each retail
16 store the recall or warning notice. This notice must remain
17 posted for 120 days.

18 (5) If the children's product for which a recall or
19 warning was issued was sold on the retailer's web site, the
20 retailer must within 5 business days post on the home page
21 (or the first entry point) of its web site a link to recall
22 or warning information that contains the specific recall
23 notice or warning that was issued for the product in
24 question. The recall or warning information must include a
25 description of the product, the reason for the recall or
26 warning, a picture of the product (if one was provided),
27 and instructions on how to participate in the recall or
28 warning. The information may include only the product
29 recall information and may not include sales or marketing
30 information on that product or any other product, excluding
31 return and exchange policies.

32 (c) Within 5 business days after a recalled children's
33 product is placed on the Department of Public Health's
34 comprehensive list maintained under Section 15, a retailer who
35 is not a first seller must comply with subsection (b) of
36 Section 17, except that such a retailer has 5 business days to

1 comply with both subdivision (b)(1) and subdivision (b)(2) of
2 Section 17.

3 (d) A manufacturer, importer, wholesaler, or distributor
4 who is also a retailer must comply with both subsection (a) and
5 subsection (b) of Section 17, except that a manufacturer,
6 importer, wholesaler, or distributor who is also a retailer
7 must, within 24 hours after issuing or receiving the recall or
8 warning, post on the home page (or the first entry point) of
9 its web site a link to recall or warning information that
10 contains the specific recall notice or warning that was issued
11 for the product in question.

12 (430 ILCS 125/20)

13 Sec. 20. Exception. The commercial dealer, manufacturer,
14 importer, distributor, wholesaler, or retailer ~~user~~ shall not
15 be found in violation of Section 15 noncompliant if the
16 specific recalled product sold was not included on the
17 Department of Public Health's list on the day before the sale.

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

19 (430 ILCS 125/25)

20 Sec. 25. Penalty. Except as provided in Section 20, a A
21 commercial dealer, importer, distributor, wholesaler, or
22 retailer ~~user~~ who ~~willfully and knowingly~~ violates this Act by
23 failing to exercise reasonable care is subject to a civil
24 penalty in an amount not to exceed \$500 for each day that the
25 violation continues ~~Section 15 is guilty of a Class C~~
26 ~~misdemeanor.~~

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

28 (430 ILCS 125/26 new)

29 Sec. 26. Issuance of recalls by other entities prohibited.
30 Nothing in this Act shall be interpreted to allow a unit of
31 State or local government or any other entity within the State
32 to issue recalls.

1 (430 ILCS 125/27 new)

2 Sec. 27. Federal requirements. Nothing in this Act relieves
3 a commercial dealer, manufacturer, importer, distributor,
4 wholesaler, or retailer from compliance with stricter
5 requirements that may be imposed by an agency of the federal
6 government.

7 (430 ILCS 125/30)

8 Sec. 30. Enforcement.

9 (a) The Attorney General, or a State's Attorney in the
10 county in which a violation of this Act occurred, may bring an
11 action in the name of the People of the State of Illinois to
12 enforce the provisions of this Act.

13 (b) When (i) it appears to the Attorney General that a
14 commercial dealer, manufacturer, importer, distributor,
15 wholesaler, or retailer has engaged in or is engaging in any
16 practice declared to be in violation of this Act, or (ii) the
17 Attorney General receives a written complaint from a consumer
18 of the commission of a practice declared to be in violation of
19 this Act, or (iii) the Attorney General believes it to be in
20 the public interest that an investigation should be made to
21 ascertain whether a person in fact has engaged in or is
22 engaging in any practice declared to be in violation of this
23 Act, the Attorney General may:

24 (1) Require that person to file, on terms that the
25 Attorney General prescribes, a statement or report in
26 writing under oath or otherwise, as to all information the
27 Attorney General considers necessary.

28 (2) Examine under oath any person in connection with
29 the conduct of any trade or commerce.

30 (3) Examine any merchandise or sample thereof, record,
31 book, document, account, or paper the Attorney General
32 considers necessary.

33 (4) Pursuant to an order of the circuit court, impound
34 any record, book, document, account, paper, or sample of
35 merchandise that is produced in accordance with this Act,

1 and retain it in the Attorney General's possession until
2 the completion of all proceedings in connection with which
3 it is produced.

4 (c) In the administration of this Act, the Attorney General
5 may accept an assurance of voluntary compliance with respect to
6 any practice deemed to be a violation of this Act from any
7 commercial dealer, manufacturer, importer, distributor,
8 wholesaler, or retailer who has engaged in or is engaging in
9 that practice. Evidence of the violation of an assurance of
10 voluntary compliance shall be prima facie evidence of a
11 violation of this Act in any subsequent proceeding brought by
12 the Attorney General against the alleged violator with regard
13 to the specific violation or violations addressed in the
14 assurance of voluntary compliance.

15 (d) Whenever the Attorney General or a State's Attorney has
16 reason to believe that any commercial dealer, manufacturer,
17 importer, distributor, wholesaler, or retailer has engaged in
18 or is engaging in any practice in violation of this Act and
19 that proceedings would be in the public interest, he or she may
20 bring an action in the name of the People of the State against
21 that commercial dealer, manufacturer, importer, distributor,
22 wholesaler, or retailer to restrain by preliminary or permanent
23 injunction the use of that practice.

24 (e) Civil penalties paid under Section 25 shall be
25 deposited into the Attorney General Court Ordered and Voluntary
26 Compliance Payment Projects Fund. Moneys in the Fund shall be
27 used, subject to appropriation, for the performance of any
28 function pertaining to the exercise of the duties of the
29 Attorney General, including, but not limited to, enforcement of
30 any law of this State and conducting public education programs.
31 Any moneys in the Fund that are required by the court or by an
32 agreement to be used for a particular purpose must be used for
33 that purpose, however.

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

35 Section 99. Effective date. This Act takes effect upon

1 becoming law, except that the amendatory changes to Sections 25
2 and 30 of the Children's Product Safety Act take effect January
3 1, 2006.