



Sen. Carol Ronen

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1 AMENDMENT TO SENATE BILL 526

2 AMENDMENT NO. _____. Amend Senate Bill 526 by replacing
3 everything after the enacting clause with the following:

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

1 if:

2 (I) it may be used by or for the care of a child under
3 age 9 ~~6 years of age~~, but it is designed or intended for
4 use by the general population or segments of the general
5 population and not solely or primarily for use by or the
6 care of a child; or

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

9 (b) "Commercial dealer ~~user~~" means any person who deals in
10 children's products or who otherwise by one's occupation holds
11 oneself out as having knowledge or skill peculiar to children's
12 products, or any person who is in the business of
13 remanufacturing, retrofitting, selling, leasing, subletting,
14 or otherwise placing in the stream of commerce children's
15 products.

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

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

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

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

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

33 (c) "Person" means a natural person, firm, corporation,
34 limited liability company, or association, or an employee or

1 agent of a natural person or an entity included in this
2 definition.

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

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

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

10 (g) "Non-full-size crib" means a non-full-size crib as
11 defined in Section 1509.2 of Title 16 of the Code of Federal
12 Regulations regarding the requirements for non-full-size
13 cribs.

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

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

17 (430 ILCS 125/15)

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

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

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

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

32 (2) It has been recalled for any reason by or in
33 cooperation with an agency of the federal government or the

1 product's manufacturer, wholesaler, distributor, or
2 importer and the recall has not been rescinded.

3 (3) An agency of the federal government or the
4 product's manufacturer, wholesaler, distributor, or
5 importer has issued a warning that a specific product's
6 intended use constitutes a safety hazard and the warning
7 has not been rescinded.

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

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

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

17 (3) Make ~~The Department of Public Health shall make~~ the
18 comprehensive list available to the public at no cost and
19 ~~shall post it on the Internet, and encourage links.~~ The
20 Internet posting shall provide a link to www.recalls.gov or
21 its successor and shall otherwise make available a link to
22 the specific recall notice or warning concerning the
23 children's product that has been recalled or for which a
24 warning has been issued. The Department must review and
25 update these links on a regular basis.

26 (4) Include information regarding the comprehensive
27 list of unsafe children's products maintained under this
28 Section in regular publications or mailings such as those
29 sent to persons including, but not limited to:
30 pediatricians; Special Supplemental Nutrition Program for
31 Women, Infants, and Children (WIC) clinics; and local
32 health departments.

33 (c) A crib is presumed to be unsafe for purposes of this
34 Act if it does not conform to the standards endorsed or

1 established by the Consumer Product Safety Commission,
2 including but not limited to Title 16 of the Code of Federal
3 Regulations and the standards endorsed or established by ASTM
4 International American Society for Testing and Materials, as
5 follows:

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

9 (2) Part 1509 of Title 16 of the Code of Federal
10 Regulations and any regulations adopted to amend or
11 supplement the regulations.

12 (3) Part 1303 of Title 16 of the Code of Federal
13 Regulations and any regulations adopted to amend or
14 supplement the regulations.

15 (4) The following standards and specifications of ASTM
16 International the American Society for Testing Materials
17 for corner posts of baby cribs and structural integrity of
18 baby cribs:

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

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

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

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

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

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

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

31 ~~(3) Mattress support that can be easily dislodged from~~
32 ~~any point of the crib. A mattress segment can be easily~~
33 ~~dislodged if it cannot withstand at least a 25-pound upward~~
34 ~~force from underneath the crib.~~

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

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

4 ~~(A) The height of the rail and end panel as~~
5 ~~measured from the top of the rail or panel in its~~
6 ~~lowest position to the top of the mattress support in~~
7 ~~its highest position is at least 9 inches.~~

8 ~~(B) The height of the rail and end panel as~~
9 ~~measured from the top of the rail or panel in its~~
10 ~~highest position to the top of the mattress support in~~
11 ~~its lowest position is at least 26 inches.~~

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

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

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

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

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

24 (e) An unsafe children's product, as determined pursuant to
25 subdivisions (1), (2), and (3) of subsection (b) of this
26 Section 15, may be retrofitted if the retrofit has been
27 approved by the agency of the federal government issuing the
28 recall or warning or the agency responsible for approving the
29 retrofit is different from the agency issuing the recall or
30 warning. A retrofitted children's product may be sold if it is
31 accompanied at the time of sale by a notice declaring that it
32 is safe to use for a child under age 9 ~~6 years of age~~. The
33 notice shall include: (1) a description of the original problem
34 which made the recalled product unsafe; (2) a description of

1 the retrofit which explains how the original problem was
2 eliminated and declaring that it is now safe to use for a child
3 under age 9 ~~6 years of age~~; and (3) the name and address of the
4 commercial dealer, manufacturer, importer, distributor, or
5 wholesaler ~~user~~ who accomplished the retrofit certifying that
6 the work was done along with the name and model number of the
7 product retrofitted. The commercial dealer, manufacturer,
8 importer, distributor, or wholesaler ~~user~~ is responsible for
9 ensuring that the notice is present with the retrofitted
10 product at the time of sale. A retrofit is exempt from this Act
11 if:

12 (i) the retrofit is for a children's product that
13 requires assembly by the consumer, the approved retrofit is
14 provided with the product by the commercial dealer,
15 manufacturer, importer, distributor, or wholesaler ~~user~~,
16 and the retrofit is accompanied at the time of sale by
17 instructions explaining how to apply the retrofit; or

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

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

22 (430 ILCS 125/17 new)

23 Sec. 17. Product recalls.

24 (a) If a manufacturer, importer, wholesaler, or
25 distributor of children's products has placed into the stream
26 of commerce in Illinois a children's product for which a recall
27 or warning has subsequently been issued by one of those
28 entities or by an agency of the federal government, then the
29 manufacturer, importer, wholesaler, or distributor must
30 initiate the following steps within 24 hours after issuing or
31 receiving the recall or warning:

32 (1) Contact all of its commercial customers, other than
33 end consumers, to whom it sold, leased, sublet, or

1 transferred that particular children's product in
2 Illinois. This contact must include providing the recall
3 notice or warning and must be made to the person designated
4 by the retailer for that product.

5 (2) If the manufacturer, importer, wholesaler, or
6 distributor maintains a web site, the entity must place on
7 the home page (or the first entry point) of its web site a
8 link to recall or warning information that contains the
9 specific recall notice or warning that was issued for the
10 product in question. The recall or warning information must
11 include a description of the product, the reason for the
12 recall or warning, a picture of the product, and
13 instructions on how to participate in the recall or
14 warning. The information may include only the product
15 recall information and may not include sales or marketing
16 information on that product or any other product, excluding
17 return and exchange policies. The recall or warning
18 information must allow persons to participate in the recall
19 through the web site of the manufacturer, importer,
20 wholesaler, or distributor.

21 (3) If the manufacturer, importer, wholesaler, or
22 distributor sold directly to a non-commercial consumer,
23 and the consumer provided either a shipping address or
24 e-mail address at the time of sale, then the manufacturer,
25 importer, wholesaler, or distributor must send a notice of
26 the recall or warning to the consumer at either address
27 provided. The notice must include a description of the
28 product, the reason for the recall or warning, and
29 instructions on how to participate in the recall or
30 warning. The notice may include only the product recall
31 information and may not include sales or marketing
32 information on that product or any other product, excluding
33 return and exchange policies.

34 (b) If a retailer receives notice of a recall or warning

1 regarding a children's product from a manufacturer, importer,
2 wholesaler, or distributor, or, in the case of an involuntary
3 recall, from a federal agency, and if the retailer at any time
4 offered the product for sale in Illinois, then the retailer
5 must do the following:

6 (1) Within 3 business days after receiving the recall
7 or warning from the manufacturer, importer, wholesaler, or
8 distributor by a person designated by the retailer, the
9 retailer must remove the children's product from the
10 shelves of its stores or program its registers to ensure
11 that the item cannot be sold.

12 (2) If the product was sold through the retailer's web
13 site, then within 3 business days after receipt of the
14 recall or warning by the person designated by the retailer,
15 the retailer must remove the children's product from the
16 web site or remove the ability of a consumer to purchase
17 the children's product through the web site.

18 (3) If an e-mail or shipping address was provided at
19 the time a children's product, for which a recall or
20 warning was subsequently issued, was purchased on the
21 retailer's web site, the retailer must attempt to contact
22 the purchaser at either address provided with the recall or
23 warning information. The recall or warning information
24 must include a description of the product, the reason for
25 the recall or warning, and instructions on how to
26 participate in the recall or warning. The information may
27 include only the product recall information and may not
28 include sales or marketing information on that product or
29 any other product, excluding return and exchange policies.
30 The retailer must comply with this paragraph (3) within 30
31 days after receiving the notice of the recall or warning
32 from a manufacturer, importer, wholesaler, or distributor.

33 (4) Within 5 business days after receipt of the recall
34 or warning by the person designated by the retailer from a

1 manufacturer, importer, wholesaler, distributor, or from a
2 federal agency in the case of an involuntary recall, the
3 retailer must post in a prominent location in each retail
4 store the recall or warning notice. This notice must remain
5 posted for 120 days.

6 (5) If the children's product for which a recall or
7 warning was issued was sold on the retailer's web site, the
8 retailer must within 5 business days post on the home page
9 (or the first entry point) of its web site a link to recall
10 or warning information that contains the specific recall
11 notice or warning that was issued for the product in
12 question. The recall or warning information must include a
13 description of the product, the reason for the recall or
14 warning, a picture of the product (if one was provided),
15 and instructions on how to participate in the recall or
16 warning. The information may include only the product
17 recall information and may not include sales or marketing
18 information on that product or any other product, excluding
19 return and exchange policies.

20 (c) Within 5 business days after a recalled children's
21 product is placed on the Department of Public Health's
22 comprehensive list maintained under Section 15, a retailer who
23 is not a first seller must comply with subsection (b) of
24 Section 17, except that such a retailer has 5 business days to
25 comply with both subdivision (b)(1) and subdivision (b)(2) of
26 Section 17.

27 (d) A manufacturer, importer, wholesaler, or distributor
28 who is also a retailer must comply with both subsection (a) and
29 subsection (b) of Section 17, except that a manufacturer,
30 importer, wholesaler, or distributor who is also a retailer
31 must, within 24 hours after issuing or receiving the recall or
32 warning, post on the home page (or the first entry point) of
33 its web site a link to recall or warning information that
34 contains the specific recall notice or warning that was issued

1 for the product in question.

2 (430 ILCS 125/20)

3 Sec. 20. Exception. The commercial dealer, manufacturer,
4 importer, distributor, wholesaler, or retailer ~~user~~ shall not
5 be found in violation of Section 15 noncompliant if the
6 specific recalled product sold was not included on the
7 Department of Public Health's list on the day before the sale.
8 (Source: P.A. 91-413, eff. 1-1-00.)

9 (430 ILCS 125/25)

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

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

18 (430 ILCS 125/26 new)

19 Sec. 26. Issuance of recalls by other entities prohibited.
20 Nothing in this Act shall be interpreted to allow a unit of
21 State or local government or any other entity within the State
22 to issue recalls.

23 (430 ILCS 125/27 new)

24 Sec. 27. Federal requirements. Nothing in this Act relieves
25 a commercial dealer, manufacturer, importer, distributor,
26 wholesaler, or retailer from compliance with stricter
27 requirements that may be imposed by an agency of the federal
28 government.

29 (430 ILCS 125/30)

1 Sec. 30. Enforcement.

2 (a) The Attorney General, or a State's Attorney in the
3 county in which a violation of this Act occurred, may bring an
4 action in the name of the People of the State of Illinois to
5 enforce the provisions of this Act.

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

17 (1) Require that person to file, on terms that the
18 Attorney General prescribes, a statement or report in
19 writing under oath or otherwise, as to all information the
20 Attorney General considers necessary.

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

23 (3) Examine any merchandise or sample thereof, record,
24 book, document, account, or paper the Attorney General
25 considers necessary.

26 (4) Pursuant to an order of the circuit court, impound
27 any record, book, document, account, paper, or sample of
28 merchandise that is produced in accordance with this Act,
29 and retain it in the Attorney General's possession until
30 the completion of all proceedings in connection with which
31 it is produced.

32 (c) In the administration of this Act, the Attorney General
33 may accept an assurance of voluntary compliance with respect to
34 any practice deemed to be a violation of this Act from any

1 commercial dealer, manufacturer, importer, distributor,
2 wholesaler, or retailer who has engaged in or is engaging in
3 that practice. Evidence of the violation of an assurance of
4 voluntary compliance shall be prima facie evidence of a
5 violation of this Act in any subsequent proceeding brought by
6 the Attorney General against the alleged violator with regard
7 to the specific violation or violations addressed in the
8 assurance of voluntary compliance.

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

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

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

29 Section 99. Effective date. This Act takes effect upon
30 becoming law, except that the amendatory changes to Sections 25
31 and 30 of the Children's Product Safety Act take effect January
32 1, 2006."