

# HB0964



## 96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

**HB0964**

Introduced 2/10/2009, by Rep. Careen M Gordon

### SYNOPSIS AS INTRODUCED:

430 ILCS 125/17

Amends the Children's Product Safety Act. Provides that a recall or warning notice may be posted in an electronic format. Effective immediately.

LRB096 08907 KTG 19043 b

A BILL FOR

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 Section 17 as follows:

6 (430 ILCS 125/17)

7 Sec. 17. Product recalls.

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

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

22 (2) If the manufacturer, importer, wholesaler, or  
23 distributor maintains a web site, the entity must place on

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

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

1 return and exchange policies.

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

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

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

20 (3) If an e-mail or shipping address was provided at  
21 the time a children's product, for which a recall or  
22 warning was subsequently issued, was purchased on the  
23 retailer's web site, the retailer must attempt to contact  
24 the purchaser at either address provided with the recall or  
25 warning information. The recall or warning information  
26 must include a description of the product, the reason for

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

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

17 (5) If the children's product for which a recall or  
18 warning was issued was sold on the retailer's web site, the  
19 retailer must within 5 business days post on the home page  
20 (or the first entry point) of its web site a link to recall  
21 or warning information that contains the specific recall  
22 notice or warning that was issued for the product in  
23 question. The recall or warning information must include a  
24 description of the product, the reason for the recall or  
25 warning, a picture of the product (if one was provided),  
26 and instructions on how to participate in the recall or

1 warning. The information may include only the product  
2 recall information and may not include sales or marketing  
3 information on that product or any other product, excluding  
4 return and exchange policies.

5 (c) Within 5 business days after a recalled children's  
6 product is placed on the Department of Public Health's  
7 comprehensive list maintained under Section 15, a retailer who  
8 is not a first seller must comply with subsection (b) of  
9 Section 17, except that such a retailer has 5 business days to  
10 comply with both subdivision (b)(1) and subdivision (b)(2) of  
11 Section 17.

12 (d) A manufacturer, importer, wholesaler, or distributor  
13 who is also a retailer must comply with both subsection (a) and  
14 subsection (b) of Section 17, except that a manufacturer,  
15 importer, wholesaler, or distributor who is also a retailer  
16 must, within 24 hours after issuing or receiving the recall or  
17 warning, post on the home page (or the first entry point) of  
18 its web site a link to recall or warning information that  
19 contains the specific recall notice or warning that was issued  
20 for the product in question.

21 (Source: P.A. 94-11, eff. 6-8-05.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.