



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3761

by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

430 ILCS 125/10
430 ILCS 125/16 new
430 ILCS 125/25
430 ILCS 125/30

Amends the Children's Product Safety Act. Prohibits a commercial dealer, manufacturer, importer, distributor, wholesaler, or retailer from selling, offering to sell, leasing, or offering to lease a crib bumper pad in the State. Imposes a civil penalty of not less than \$100 and not more than \$500 for each violation. Provides for the deposit of these civil penalties into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund.

LRB099 04985 MGM 25014 b

FISCAL NOTE ACT
MAY APPLY

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 adding Section 16 and changing Sections 10, 25, and 30 as
6 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; and

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

20 Notwithstanding any other provision of this Section, a
21 product is not a "children's product" for purposes of this Act
22 if:

23 (I) it may be used by or for the care of a child under

1 age 9, but it is designed or intended for use by the
2 general population or segments of the general population
3 and not solely or primarily for use by or the care of a
4 child; or

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

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

14 (b-5) "Manufacturer" means any person who makes and places
15 into the stream of commerce a children's product or crib bumper
16 pad as defined by this Act.

17 (b-10) "Importer" means any person who brings into this
18 country and places into the stream of commerce a children's
19 product or a crib bumper pad.

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

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

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

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

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

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

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

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

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

22 (i) "Crib bumper pad" means any padding material,
23 including, but not limited to, a roll of stuffed fabric, that
24 is designed for placement within a crib to cushion one or more
25 of the crib's inner sides adjacent to the crib mattress.

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

1 (430 ILCS 125/16 new)

2 Sec. 16. Crib bumper pads.

3 (a) No commercial dealer, manufacturer, importer,
4 distributor, wholesaler, or retailer shall sell, lease, offer
5 for sale, or offer for lease in the State any crib bumper pad
6 as an accessory to a crib or as a separate item.

7 (b) Any person who violates this Section is subject to a
8 civil penalty of not less than \$100 nor more than \$500 for each
9 offense.

10 (430 ILCS 125/25)

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

17 (Source: P.A. 94-11, eff. 1-1-06.)

18 (430 ILCS 125/30)

19 Sec. 30. Enforcement.

20 (a) The Attorney General, or a State's Attorney in the
21 county in which a violation of this Act occurred, may bring an
22 action in the name of the People of the State of Illinois to
23 enforce the provisions of this Act.

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

12 (1) Require that person to file, on terms that the
13 Attorney General prescribes, a statement or report in
14 writing under oath or otherwise, as to all information the
15 Attorney General considers necessary.

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

18 (3) Examine any merchandise or sample thereof, record,
19 book, document, account, or paper the Attorney General
20 considers necessary.

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

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

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

21 (e) Civil penalties paid under Section 25 and civil
22 penalties paid under Section 16 shall be deposited into the
23 Attorney General Court Ordered and Voluntary Compliance
24 Payment Projects Fund. Moneys in the Fund shall be used,
25 subject to appropriation, for the performance of any function
26 pertaining to the exercise of the duties of the Attorney

1 General, including, but not limited to, enforcement of any law
2 of this State and conducting public education programs. Any
3 moneys in the Fund that are required by the court or by an
4 agreement to be used for a particular purpose must be used for
5 that purpose, however.

6 (Source: P.A. 94-11, eff. 1-1-06.)