AN ACT
relating to prohibiting the use of unsafe children's products in
 certain nonresidential child-care facilities.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 42.002, Human Resources Code, is amended
by adding Subdivision (20) to read as follows:
(20) "Children's product" means a product that is
designed or intended to be used by a child under 13 years of age or
used by a caregiver during the care of a child under 13 years of age.
The term does not include:
(A) an item that is not designed or intended to be
used solely or primarily by a child under 13 years of age or in the
care of a child under 13 years of age;
(B) a medication, a drug, food, or another item
that is intended to be ingested; or
(C) clothing.
SECTION 2. Subchapter C, Chapter 42, Human Resources Code,
is amended by adding Section 42.0423 to read as follows:
Sec. 42.0423. CHILDREN'S PRODUCT SAFETY FOR CERTAIN
NONRESIDENTIAL CHILD-CARE FACILITIES. (a) This section applies
only to a licensed day-care center, licensed group day-care home,
or registered family home.
(b) A children's product is presumed to be unsafe for
purposes of this section if it has been recalled for any reason by
(c) A children's product that has been recalled for any reason by the United States Consumer Product Safety Commission is not presumed to be unsafe if the product has been remanufactured or retrofitted so that the product is safe.

(d) The department shall include on its public Internet website a link to the United States Consumer Product Safety Commission's Internet website.

(e) A child-care facility subject to this section may not use an unsafe children's product or have an unsafe children's product on the premises of the child-care facility unless:

(1) the product is an antique or collectible children's product and is not used by, or accessible to, any child in the child-care facility; or

(2) the unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to, any child in the child-care facility.

(f) The department shall notify a child-care facility subject to this section of the provisions of this section in plain, nontechnical language that will enable the child-care facility to effectively inspect the children's products at the facility and identify unsafe children's products. The department shall provide the notice required by this subsection:

(1) during the department's pre-application interview for a license, registration, or certification; and

(2) during an inspection.
(g) At least annually, each child-care facility subject to this section shall certify in writing that the facility has reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe products in the facility except products described by Subsection (e). The facility shall retain the certification form completed by each facility in the facility's licensing file.

(h) The executive commissioner of the Health and Human Services Commission shall adopt rules and forms necessary to implement this section.

SECTION 3. Section 42.055, Human Resources Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A licensed day-care center, licensed group day-care home, or registered family home subject to Section 42.0423 shall include in the sign required under Subsection (a) a description of how to access a listing of unsafe children's products on the United States Consumer Product Safety Commission's Internet website or through the department's public Internet website.

SECTION 4. This Act takes effect September 1, 2009.
S.B. No. 95

David Dewhurst  
President of the Senate

I hereby certify that S.B. No. 95 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0.

J. Straus  
Speaker of the House

I hereby certify that S.B. No. 95 passed the House on May 5, 2009, by the following vote: Yeas 140, Nays 5, one present not voting.

R. Hope  
Secretary of the Senate

Approved:

19 MAY '09  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2 PM  
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Secretary of State