

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

1 the United States Consumer Product Safety Commission and the recall
2 has not been rescinded.

3 (c) A children's product that has been recalled for any
4 reason by the United States Consumer Product Safety Commission is
5 not presumed to be unsafe if the product has been remanufactured or
6 retrofitted so that the product is safe.

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

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

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

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

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

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

27 (2) during an inspection.

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

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

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

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

20 SECTION 4. This Act takes effect September 1, 2009.

Randall Neuhorst
President of the Senate

Jim Strawn
Speaker of the House

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

Patsy Spaw
Secretary of the Senate

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.

Robert Nancy
Chief Clerk of the House

Approved:

19 MAY '09
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

Hope McArthur
Secretary of State