



H.B. 104
124th General Assembly
(As Introduced)

Reps. Jones, D. Miller, Sullivan, S. Smith, Allen, Redfern, Jerse, Sykes, Barnes, Barrett

BILL SUMMARY

- Requires the Board of Building Standards to adopt as rules the most recent guidelines for public playground safety established by the United States Consumer Product Safety Commission and to specify that the rules apply to playgrounds accessible to the public, with certain exceptions.
- Grants absolute immunity from civil tort liability or criminal liability to an owner or operator of a playground who complies with the rules adopted by the Board.
- Requires that preschool playgrounds be constructed, equipped, repaired, altered, and maintained in accordance with the rules adopted by the Board.
- Provides that any rules adopted by the Director of Job and Family Services pertaining to child day-care center playgrounds must not conflict with the rules adopted by the Board.
- Requires the Board to adopt the playground safety rules on or before 120 days after the bill's effective date.

CONTENT AND OPERATION

Safety standards for public playgrounds

The bill enacts new provisions of law pertaining to safety standards applicable to certain playgrounds that are accessible to the public. The bill requires the Board of Building Standards in the Department of Commerce (hereafter "Board") to adopt as rules, in accordance with the Administrative Procedure Act, the guidelines for public playground safety established by the United States Consumer Product Safety Commission (hereafter, "Commission").

(See **COMMENT.**) Under the bill, the Board must adopt the rules according to the most recent guidelines available on the bill's effective date. In adopting the guidelines as rules, the Board may adopt modifications of the guidelines that it determines appropriate, but the Board first must consult with the Director of Job and Family Services and the Superintendent of Public Instruction regarding the manner in which the Board desires to modify the guidelines. The bill requires the Board to revise the rules periodically to reflect revisions of the guidelines made by the Commission. (Sec. 3781.110(A).)

The bill requires the Board to specify that the rules adopted by the Board providing public playground safety standards apply to all playgrounds accessible to the public, *except* for playgrounds that are owned and operated by the following persons (sec. 3781.110(B)):

- (1) The owner of a single-, two-, or three-family detached dwelling house;
- (2) A business that employs less than 25 employees on the site where the playground is located;
- (3) A church, if the church does *not* operate a day-care center operated for profit;
- (4) A nonpublic school that employs less than 50 employees.

The bill requires the Board to specify that the rules adopted by the Board under the bill apply to playgrounds that are constructed on or after the bill's effective date and to playgrounds that existed before that date and are altered or added to after that date. The bill authorizes the Board to grant variances or waivers for playgrounds that existed before the bill's effective date and are altered or added to after that date, if the alterations or additions are not significant as determined by the Board. (Sec. 3781.110(C).)

Immunity from liability of playground owner or operator

The bill grants to an owner or operator of a playground who complies with the rules providing public playground safety standards as adopted by the Board, absolute immunity from liability in "any civil or criminal action for damages for injury, death, or loss to person or property" resulting from the operation or use of that playground (sec. 3781.110(D)).

Preschool playgrounds

Existing law requires a school district, county MR/DD board, eligible nonpublic school, Head Start grantee, or Head Start delegate agency operating a preschool program to house the program in buildings that meet specified

requirements pertaining to, among others, the safety and sanitation of the buildings and other structures, fire and safety inspections, food services, indoor and outdoor play spaces, and first aid facilities (sec. 3301.55(A)). The bill requires that playgrounds operated in conjunction with preschool programs be constructed, equipped, repaired, altered, and maintained in accordance with the rules providing public playground safety standards adopted by the Board of Building Standards under the bill (sec. 3301.55(A)(1)).

Child day-care center playgrounds

Existing law requires that the Director of Job and Family Services adopt rules governing the operation of child day-care centers, including parent cooperative centers, part-time centers, drop-in centers, and school child centers. The rules must reflect the various forms of child day-care and the needs of children receiving child day-care or publicly funded child day-care. The rules must include specified standards, including standards for safe outdoor play space if such space is available. (Sec. 5104.011(A) and (B)(2).)

The bill requires the Director of Job and Family Services, in adopting rules pertaining to playgrounds in conjunction with child day-care centers, to adopt rules that do not conflict with the rules adopted by the Board of Building Standards under the bill (sec. 5104.011(J)).

Time period for adopting rules

The bill requires the Board of Building Standards to adopt the rules providing guidelines for public playground safety as required by the bill on or before 120 days after the bill's effective date (Section 3).

COMMENT

The U.S. Consumer Product Safety Commission created its playground safety guidelines as a detailed working blueprint to help local communities, schools, child day-care centers, corporations, and other groups build safe playgrounds. The guidelines are included in the Commission's *Handbook for Public Playground Safety* and include technical safety guidelines for designing, constructing, operating, and maintaining public playgrounds. The guidelines emphasize the importance of using protective surfacing material, such as shredded tires, around playground equipment. It appears that the most recent guidelines were issued in 1997 and contain revised and additional information about maximum equipment height, maintenance, lead paint on playground equipment, use zones for equipment, and clothing entanglement on equipment. (Cover letter of Ann Brown, Chair of the Commission, *Handbook for Public Playground Safety*.)

HISTORY

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