

By Senator Justice

16-02492D-08

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1 A bill to be entitled

2 An act relating to toy safety; creating the Children's
3 Toys Safety Act; providing legislative findings and intent
4 relating to the distribution of unsafe toys in this state;
5 providing definitions; requiring each manufacturer of
6 children's toys that are to be sold in this state to
7 notify each retailer selling the toys which toys do not
8 conform to the consumer product safety standards of the
9 United States Consumer Products Safety Commission and is a
10 banned hazardous product; requiring each manufacturer to
11 label each unsafe toy warning the consumer that the toy
12 does not meet the safety standards; requiring each
13 retailer to erect signs in each retail aisle identifying
14 which unsafe toys the retailer is selling; requiring that
15 any test for safety be conducted by a nongovernmental,
16 independent third party that is qualified to perform such
17 tests; providing for injunctive relief; requiring the
18 enforcing authority to issue and enforce a written stop-
19 sale order under certain circumstances; providing for the
20 distribution of the children's toys after the manufacturer
21 labels each toy that is not in compliance with applicable
22 safety standards; providing that any manufacturer who
23 violates the act is subject to a specified fine for each
24 toy not meeting the safety standards; providing that a
25 retailer is subject to a fine for not erecting signs to
26 identify unsafe toys that are sold in the store; providing
27 an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Children's toy safety.--

32 (1) This section may be cited as the "Children's Toys
33 Safety Act."

34 (2) The Legislature finds that there is a need to prevent
35 dangerous toys intended for children from being introduced into
36 the marketplace. The Legislature also finds that by requiring
37 independent third-party testing and certification of a toy's
38 safety, manufacturers of children's toys will be compelled to
39 comply with the consumer safety standards of the United States
40 Consumer Product Safety Commission. Therefore, it is the intent
41 of this section to require manufacturers to certify that their
42 toys are in compliance with the consumer safety standards set by
43 the United States Consumer Product Safety Commission.

44 (3) As used in this section, the term:

45 (a) "Children's toy" means a toy or other article that is
46 intended for use by a child 60 months of age or younger. In
47 determining whether a toy or article is intended for use by a
48 child 60 months of age or younger, the following factors shall be
49 considered:

50 1. A statement by a manufacturer about the intended use of
51 the toy, including a label on the toy or article, if such
52 statement is reasonable.

53 2. The context and manner of the advertising, promotion,
54 and marketing associated with the toy or article.

55 3. Whether the toy or other object is commonly recognized
56 by consumers as being intended for use by a child 60 months of
57 age or younger.

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58 (b) "Enforcing authority" means the Department of
59 Agriculture and Consumer Services.

60 (c) "Independent third party" means a nongovernmental,
61 independent testing entity that is physically separate from any
62 manufacturer or private labeler whose toy will be tested by the
63 entity and that is not owned, managed, controlled, or directed by
64 a manufacturer or private labeler.

65 (4) Each manufacturer and each private labeler of a toy, if
66 it bears a private label, which makes children's toys that are to
67 be sold in this state and that are subject to the consumer
68 product safety standards of the United States Consumer Product
69 Safety Commission must notify each retailer selling the
70 manufacturer's toys whenever it has been determined by an
71 independent third party that one of its toys is not in compliance
72 with the consumer product safety standards and is a hazardous
73 product under the standards. If the retailer chooses to sell the
74 unsafe children's toy, the manufacturer must affix on each toy
75 delivered to the retailer a label that states that the toy does
76 not meet the consumer product safety standards of the United
77 States Consumer Product Safety Commission.

78 (5) If a retailer selling children's toys has been advised
79 by a manufacturer that an independent third party has determined
80 that a toy sold by the retailer is not in compliance with the
81 consumer product safety standards and is a hazardous product
82 under the standards and if the retailer nevertheless chooses to
83 sell the toy, the retailer must erect signs in every retail aisle
84 in which toys are sold identifying the toy that does not meet the
85 consumer products safety standards.

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86 (6) Any test or testing program to determine the safety of
87 toys to be sold must be conducted by an independent third party
88 that is qualified to perform such tests or testing programs.

89 (7) (a) The enforcing authority may bring an action for
90 injunctive relief against any manufacturer that violates this
91 section.

92 (b) If the enforcing authority finds that a children's toy
93 being distributed does not meet the safety standards of the
94 United States Consumer Product Safety Commission and does not
95 have a label warning the consumer that it is an unsafe toy, the
96 enforcing authority shall issue and enforce a written stop-sale
97 order. The stop-sale order must warn distributors to segregate
98 any lot of toys in any manner until written permission is given
99 by the enforcing authority to recommence distribution. The
100 enforcing authority shall release for distribution the lot of
101 children's toys subject to a stop-sale order only after the
102 manufacturer has affixed to each toy a label that states that the
103 toy does not meet the applicable safety standards.

104 (c)1. A manufacturer shall be fined \$500 for each
105 children's toy found in a retail store which is not in compliance
106 with the consumer products safety standards and does not have a
107 warning label affixed to the toy.

108 2. A retailer shall be fined \$1,000 for each retail store
109 aisle in which an unsafe children's toy is found and which does
110 not have a sign identifying each unsafe toy sold in the aisle.

111 Section 2. This act shall take effect July 1, 2008.