

BILL ANALYSIS

Senate Research Center

S.B. 95
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

On average, 103 children die annually and 286,900 are injured in incidents associated with children's products. According to the United States Consumer Product Safety Commission (commission), in 2007, children's products were recalled an average of four times per week, yet recall information is not effectively reaching consumers. When a recall occurs, the commission alerts the media; however no further action is required to ensure that use of the product is discontinued. This means that dangerous children's products can unknowingly end up in homes, childcare facilities, or anywhere children's products are used. Currently, in Texas, there is no mandatory requirement to specifically check for recalled products.

S.B. 95 provides that a children's product is presumed to be unsafe if it has been recalled for any reason by the commission and the recall has not been rescinded. The bill requires the Department of Family and Protective Services to include on its public Internet website a link to the commission's Internet website. The bill also requires each child care facility, at least annually, to certify in writing that they have reviewed the bulletins and notices issued by the commission regarding unsafe children's products and requires the facility to retain the certification form completed by each facility in its licensing file.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 42.0423, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 42.002, Human Resources Code, by adding Subdivision (20), to define "children's product."

SECTION 2. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0423, as follows:

Sec. 42.0423. CHILDREN'S PRODUCT SAFETY FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES. (a) Provides that this section applies only to a licensed day-care center, licensed group day-care home, or registered family home.

(b) Provides that a children's product is presumed to be unsafe for purposes of this section if it has been recalled for any reason by the United States Consumer Product Safety Commission (commission) and the recall has not been rescinded.

(c) Provides that a children's product that has been recalled for any reason by the commission is not presumed to be unsafe if the product has been remanufactured or retrofitted so that the product is safe.

(d) Requires the Department of Family and Protective Services (DFPS) to include on its public Internet website a link to the commission's Internet website.

(e) Prohibits a child-care facility subject to this section from using an unsafe children's product or having an unsafe children's product on the premises of the

child-care facility unless 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 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) Requires DFPS to 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. Requires DFPS to provide the notice required by this subsection during DFPS's pre-application interview for a license, registration, or certification and during an inspection.

(g) Requires each child-care facility subject to this section, at least annually, to certify in writing that the facility has reviewed each of the bulletins and notices issued by the commission regarding unsafe children's products and that there are no unsafe products in the facility except products described by Subsection (e). Requires the facility to retain the certification form completed by each facility in the facility's licensing file.

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

SECTION 3. Amends Section 42.055, Human Resources Code, by adding Subsection (a-1), to require a licensed day-care center, licensed group day-care home, or registered family home subject to Section 42.0423 to include in the sign required under Subsection (a) a description of how to access a listing of unsafe children's products on the commission's Internet website or through DFPS's public Internet website.

SECTION 4. Effective date: September 1, 2009.