

1-1 By: Van de Putte, Zaffirini S.B. No. 95
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 1, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 1, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 95 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to prohibiting the use of unsafe children's products in
1-11 certain nonresidential child-care facilities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 42.002, Human Resources Code, is amended
1-14 by adding Subdivision (20) to read as follows:

1-15 (20) "Children's product" means a product that is
1-16 designed or intended to be used by a child under 13 years of age or
1-17 used by a caregiver during the care of a child under 13 years of age.
1-18 The term does not include:

1-19 (A) an item that is not designed or intended to be
1-20 used solely or primarily by a child under 13 years of age or in the
1-21 care of a child under 13 years of age;

1-22 (B) a medication, a drug, food, or another item
1-23 that is intended to be ingested; or

1-24 (C) clothing.

1-25 SECTION 2. Subchapter C, Chapter 42, Human Resources Code,
1-26 is amended by adding Section 42.0423 to read as follows:

1-27 Sec. 42.0423. CHILDREN'S PRODUCT SAFETY FOR CERTAIN
1-28 NONRESIDENTIAL CHILD-CARE FACILITIES. (a) This section applies
1-29 only to a licensed day-care center, licensed group day-care home,
1-30 or registered family home.

1-31 (b) A children's product is presumed to be unsafe for
1-32 purposes of this section if it has been recalled for any reason by
1-33 the United States Consumer Product Safety Commission and the recall
1-34 has not been rescinded.

1-35 (c) A children's product that has been recalled for any
1-36 reason by the United States Consumer Product Safety Commission is
1-37 not presumed to be unsafe if the product has been remanufactured or
1-38 retrofitted so that the product is safe.

1-39 (d) The department shall include on its public Internet
1-40 website a link to the United States Consumer Product Safety
1-41 Commission's Internet website.

1-42 (e) A child-care facility subject to this section may not
1-43 use an unsafe children's product or have an unsafe children's
1-44 product on the premises of the child-care facility unless:

1-45 (1) the product is an antique or collectible
1-46 children's product and is not used by, or accessible to, any child
1-47 in the child-care facility; or

1-48 (2) the unsafe children's product is being retrofitted
1-49 to make it safe and the product is not used by, or accessible to, any
1-50 child in the child-care facility.

1-51 (f) The department shall notify a child-care facility
1-52 subject to this section of the provisions of this section in plain,
1-53 nontechnical language that will enable the child-care facility to
1-54 effectively inspect the children's products at the facility and
1-55 identify unsafe children's products. The department shall provide
1-56 the notice required by this subsection:

1-57 (1) during the department's pre-application interview
1-58 for a license, registration, or certification; and

1-59 (2) during an inspection.

1-60 (g) At least annually, each child-care facility subject to
1-61 this section shall certify in writing that the facility has
1-62 reviewed each of the bulletins and notices issued by the United
1-63 States Consumer Product Safety Commission regarding unsafe

2-1 children's products and that there are no unsafe products in the
2-2 facility except products described by Subsection (e). The facility
2-3 shall retain the certification form completed by each facility in
2-4 the facility's licensing file.

2-5 (h) The executive commissioner of the Health and Human
2-6 Services Commission shall adopt rules and forms necessary to
2-7 implement this section.

2-8 SECTION 3. Section 42.055, Human Resources Code, is amended
2-9 by adding Subsection (a-1) to read as follows:

2-10 (a-1) A licensed day-care center, licensed group day-care
2-11 home, or registered family home subject to Section 42.0423 shall
2-12 include in the sign required under Subsection (a) a description of
2-13 how to access a listing of unsafe children's products on the United
2-14 States Consumer Product Safety Commission's Internet website or
2-15 through the department's public Internet website.

2-16 SECTION 4. This Act takes effect September 1, 2009.

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