

ASSEMBLY, No. 1666

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1996

By Assemblywoman BUONO and Assemblyman BARNES

1 AN ACT concerning playground safety and supplementing the "State
2 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
3 et seq.).
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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. For the purposes of this act:

9 "Governmental Entity" means the State, its agencies and
10 instrumentalities, a county or municipality, or any agency or
11 instrumentality thereof, a school district, or any other similar public
12 entity or agency, but not the federal government or its agencies and
13 instrumentalities.

14 "Nonprofit entity" means a person or entity which operates a
15 playground open to the public or open to users of a facility operated
16 by the person or entity, and which is an exempt organization pursuant
17 to section 9 of P.L. 1966, c. 30(C.54:32B-9), the "Sales and Use Tax
18 Act," but not a governmental entity or the federal government or its
19 agencies and instrumentalities.

20 "Private entity" means any person or entity which operates a
21 playground open to the public or open to users of a facility operated
22 by the person or entity, but not a governmental entity, a nonprofit
23 entity or the federal government or its agencies and instrumentalities.

24 "Playground" means an improved area designed, equipped, and set
25 aside for play of six or more children which is not intended for use as
26 an athletic playing field or athletic court, and shall include any play
27 equipment, surfacing, fencing, signs, internal pathways, internal land
28 forms, vegetation, and related structures.

29 "Supervision" means all general and specific supervision necessary
30 to protect children from unreasonable risk of harm from site hazards,
31 the acts of other children, or the use of the playground in a way that
32 was not intended by the designer or manager of the playground. This
33 act shall not expand or reduce existing standards of care to which a
34 playground operator is held.
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36 2. The Department of Community Affairs in consultation with the

1 Department of Education shall promulgate rules and regulations for
2 the design, installation, inspection, maintenance, supervision where
3 appropriate, and training of personnel regarding all playgrounds
4 operated by any governmental entity, nonprofit entity or private entity.
5 Those regulations shall meet any standard of care imposed by law on
6 playground operators, and shall include guidelines and criteria which
7 shall be as protective as the guidelines in the Handbook for Public
8 Playground Safety produced by the United States Consumer Products
9 Safety Commission or any successor. The rules and regulations shall
10 include special provisions for playgrounds appropriate for children
11 within the range of ages in day care settings. The department shall not
12 be responsible for enforcement of any rules or regulations promulgated
13 by this act.

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15 3. a. All governmental entities operating playgrounds shall
16 upgrade their playgrounds by replacement or improvement as
17 necessary to satisfy the rules and regulations promulgated pursuant to
18 this act to the extent State funds are made available specifically for
19 that purpose through State bonds or other means. All private entities
20 shall upgrade their playgrounds by replacement or improvement as
21 necessary to satisfy the rules and regulations promulgated pursuant to
22 this act, on or before January 1, 2000. All nonprofit entities shall
23 upgrade the surfacing of their playgrounds by replacement or
24 improvement as necessary to satisfy the rules and regulations
25 promulgated pursuant to this act, on or before January 1, 2000, and
26 shall upgrade all other elements of their playgrounds to satisfy the
27 rules and regulations promulgated pursuant to this act, no later than
28 January 1, 2010, but shall upgrade playground equipment prior to that
29 date if the equipment is replaced or reconstructed. This section shall
30 not affect the liability or absence of liability of playground operators.

31 b. All newly constructed playgrounds built by a governmental
32 entity, a nonprofit entity, or a private entity more than six months after
33 the effective date of the rules and regulations promulgated pursuant to
34 this act shall conform to the requirements of those rules and
35 regulations.

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37 4. a. After the effective date of the rules and regulations
38 promulgated pursuant to this act, no State funding shall be available
39 for the planning, development, or redevelopment of any playground,
40 unless the playground, after completion of the State-funded project,
41 will conform to the applicable rules and regulations promulgated
42 pursuant to this act. However, if State funds have been appropriated
43 to, or allocated for, a playground project prior to the effective date of
44 the regulations but the regulations become effective prior to the
45 completion of the project, that funding shall be maintained, as long as
46 the playground is altered to conform to the rules and regulations to the

1 extent the alterations can be made without adding more than 15% to
2 the project cost.

3 b. After the date by which an entity is required to conform its
4 playground to satisfy the rules and regulations promulgated pursuant
5 to this act, no State funding shall be available for the construction,
6 operation, maintenance, or supervision of the playground unless the
7 playground conforms to the applicable regulations adopted pursuant
8 to this act.

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10 5. This act shall take effect immediately.

11 12 13 STATEMENT

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15 This bill would require the Department of Community Affairs, in
16 consultation with the Department of Education, to promulgate rules
17 and regulations regarding public playground safety. The regulations
18 are to be based upon the guidelines in the Handbook for Public
19 Playground Safety produced by the United States Consumer Products
20 Safety Commission. These guidelines are patterned upon
21 recommendations of the COMSIS Corporation in "Development of
22 Human Factors Criteria for Playground Equipment Safety," and are
23 geared to the different needs of children from preschool age to 12
24 years old. Their purpose is to promote greater safety awareness
25 among those who purchase, install, and maintain public playground
26 equipment.

27 The guidelines would apply to any playground operated by a public
28 agency, nonprofit entity, or private entity, as defined under the bill, if
29 the playground were open to the public or to users of facilities
30 operated by the entity.

31 The regulations would apply to all playgrounds newly constructed
32 by a public agency or private entity more than six months after the
33 guidelines were promulgated.

34 Governmental entities would be required to upgrade existing
35 playgrounds to meet the guidelines as State funds are made available
36 for that purpose. Nonprofit entities would be required to conform
37 existing playgrounds with the standards for surfacing to be provided
38 in regulations promulgated under the bill by January 1, 2000, and
39 would be required to conform existing playgrounds with other
40 elements of the promulgated playground standards by January 1, 2010,
41 unless the playground equipment were replaced or reconstructed prior
42 to that date. Private entities which operate playgrounds would be
43 required to conform all playground elements by January 1, 2000.

44 The bill specifies that playgrounds governed by the legislation are
45 those designed, equipped, and set aside for play by six or more
46 children.

1 The bill would not require the Department of Community Affairs to
2 enforce the regulations. In addition, the bill specifically provides that
3 the guidelines would not affect the liability or absence of liability of
4 playground operators. Rather, the bill provides that State funding for
5 the planning, development or redevelopment of a playground, or for
6 the operation, maintenance, and supervision of a playground, would
7 be withheld unless the playground conforms to the guidelines.

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12 Requires DCA to promulgate regulations on playground safety based
13 on U.S. Consumer Products Safety Commission guidelines.

WITHDRAWN