

SENATE, No. 270

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator SINAGRA

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.

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

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

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

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

1 the playground is altered to conform to the rules and regulations to the
2 extent the alterations can be made without adding more than 15% to
3 the project cost.

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

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11 5. This act shall take effect immediately.

12 13 14 STATEMENT

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

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

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

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

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

1 children.

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

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