

By: Representatives Holland, Scott, Clark

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1240

1 AN ACT TO CREATE THE CHILDREN'S PRODUCT SAFETY ACT; TO
2 PROVIDE WHEN A CHILDREN'S PRODUCT IS DEEMED UNSAFE; TO REQUIRE THE
3 ATTORNEY GENERAL TO CREATE, MAINTAIN AND UPDATE A COMPREHENSIVE
4 LIST OF UNSAFE CHILDREN'S PRODUCTS; TO PROHIBIT A SELLER FROM
5 RESELLING UNSAFE CHILDREN'S PRODUCTS; TO PROVIDE PENALTIES FOR
6 VIOLATION OF THIS ACT; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** This act shall be known as the "Children's
9 Product Safety Act."

10 **SECTION 2.** (1) A children's product is deemed to be unsafe
11 for purposes of this act if it meets any of the following
12 criteria:

13 (a) It does not conform to all federal laws and
14 regulations setting forth standards for the children's product,
15 including standards endorsed or established by the federal
16 Consumer Product Safety Commission and the American Society for
17 Testing and Materials.

18 (b) It has been recalled for any reason by an agency of
19 the federal government or the product's manufacturer, distributor,
20 or importer, and the recall has not been rescinded.

21 (c) An agency of the federal government has issued a
22 warning that a specific product's intended use constitutes a
23 safety hazard, and the warning has not been rescinded.

24 (2) The Attorney General shall create or adopt by reference,
25 and shall maintain and update, a comprehensive list of children's
26 products that it has identified as meeting any of the criteria set
27 forth in paragraphs (a) through (c) of this subsection (1). The
28 Attorney General shall make the comprehensive list available to



29 the public at no cost, and shall post it on its Internet Web site.
30 The Attorney General shall also encourage links to and from state,
31 federal and private Internet Web sites that describe children's
32 product standards, provide information on children or children's
33 products, or advertise or sell children's products.

34 (3) It shall be a violation of the Mississippi Consumer
35 Protection Act for a seller or lessor to remanufacture or
36 retrofit, unless such retrofit is done in compliance with the
37 provisions of subsection (4) of this section, or for a seller or
38 lessor to sell, contract to sell or resell, lease, sublet, or
39 otherwise place in the stream of commerce, on or after July 1,
40 2008, a children's product that appears on the list of children's
41 products created and maintained by the Attorney General.

42 (4) (a) A listed children's product may be retrofitted if
43 the retrofit has been approved or sanctioned by the agency of the
44 federal government issuing the recall or warning or the agency
45 responsible for approving the retrofit, if different from the
46 agency issuing the recall or warning. A retrofitted children's
47 product may be sold or leased if it is accompanied at the time of
48 sale or lease by a notice containing:

49 (i) A description of the original problem which
50 made the recalled product unsafe;

51 (ii) A description of the retrofit which explains
52 how the original problem was eliminated and declaring that it is
53 now safe to use for a child under six (6) years of age; and

54 (iii) The name and address of the person who
55 accomplished the retrofit.

56 (b) The seller or lessor is responsible for ensuring
57 that the notice is present with the retrofitted product at the
58 time of sale or lease. A retrofit is exempt from the provisions
59 of this act if:

60 (i) The retrofit is for a children's product that
61 requires assembly by the consumer, the approved retrofit is



62 provided with the product by the seller or lessor, and the
63 retrofit is accompanied at the time of sale or lease by
64 instructions explaining how to apply the retrofit; or

65 (ii) The seller or lessor of a previously unsold
66 or unleased product accomplishes the repair, approved or
67 recommended by an agency of the federal government, prior to sale
68 or lease.

69 (5) It shall be a violation of the Mississippi Consumer
70 Protection Act, for a person to manufacture, and to sell, contract
71 to sell, resell, lease, sublet, or otherwise place in the stream
72 of commerce, on or after July 1, 2008, a children's product that
73 does not conform to all federal laws and regulations setting forth
74 standards for the children's product, including standards endorsed
75 or established by the federal Consumer Product Safety Commission
76 and the American Society for Testing and Materials.

77 (6) At least annually, the Attorney General shall make
78 available to day care facilities and family child care homes, the
79 list of children's products created and maintained under the
80 provisions of this act by the Internet.

81 (7) At least annually, the Attorney General shall make
82 available to licensed pediatricians, the list of children's
83 products created and maintained under the provisions of this act
84 by the Internet.

85 (8) Nothing in this act shall preclude any civil remedies
86 provided by law.

87 **SECTION 3.** This act shall take effect and be in force from
88 and after July 1, 2008.

