

By Senator Wasserman Schultz

32-301-02

See HB 113

1 A bill to be entitled

2 An act relating to treated wood; prohibiting

3 use of wood products treated with chromated

4 copper arsenate in publicly funded playground

5 equipment; providing definitions; providing

6 applicability; providing for enforcement on

7 state lands by the Department of Environmental

8 Protection; requiring the Department of

9 Education to provide notice to and develop

10 guidelines for school districts regarding the

11 sealing of wood treated with chromated copper

12 arsenate; prohibiting state agencies from

13 purchasing wood treated with chromated copper

14 arsenate; providing exceptions; providing for

15 grants for conversion of wood treating

16 companies to operations using preservatives

17 that do not contain arsenic; specifying persons

18 who must provide notice to consumers of wood or

19 wood products containing chromated copper

20 arsenate; providing contents of such notice;

21 providing a penalty for failure to provide

22 notice; providing appropriations; providing an

23 effective date.

24

25 Be It Enacted by the Legislature of the State of Florida:

26

27 Section 1. The use of any wood product containing

28 chromated copper arsenate is prohibited in the construction of

29 any playground equipment, and for use as decorative mulch or

30 groundcover associated with playground equipment, for which

31 public funds are used.

1 (1) As used in this section, the term "playground
2 equipment" means swings, slides, climbing equipment,
3 merry-go-rounds, seesaws, spring rockers, trampolines, and
4 other similar equipment intended for use primarily by children
5 and includes stairways, ramps, ladders, handrails, platforms,
6 guardrails, and protective barriers that support, provide
7 access to, or act as safety barriers for such equipment. The
8 term does not include buildings, docks, picnic tables, and
9 other associated structures which may be located near
10 playgrounds or adjacent recreation areas.

11 (2) As used in this section, the term "public funds"
12 means funds provided by the state, a county, a municipality, a
13 school district, or a special district, or an agency of any of
14 them. The term does not include funds provided by the Federal
15 Government.

16 (3) This section applies only to construction of new
17 playground equipment and new placement of decorative mulch or
18 groundcover. It does not apply to maintenance or modification
19 of equipment which was in place prior to October 1, 2002, nor
20 does it apply to any construction which was begun, or for
21 which contracts have been signed, prior to October 1, 2002.

22 (4) Notwithstanding the provisions of subsections (1)
23 and (2), the Department of Environmental Protection shall not
24 have the authority to enforce the provisions of this section
25 unless the playground equipment is constructed, or the
26 decorative mulch or groundcover is used, on state land.

27 Section 2. (1) The Department of Education shall give
28 annual notice to school districts that wood which is likely to
29 come in contact with children, and which is treated with
30 chromated copper arsenate, must be sealed every 2 years with a
31 nontoxic sealant. The department shall consult with the wood

1 treating industry, the Department of Health, and the
2 Department of Environmental Protection to develop guidelines
3 on effective types of sealants and their application.

4 (2) The department is authorized to provide grants to
5 school districts and charter schools to help offset the costs
6 of sealing playground equipment made with wood treated with
7 chromated copper arsenate as provided in subsection (1).

8 Section 3. (1) No state agency may purchase wood
9 treated with chromated copper arsenate unless it can be shown
10 that there are no arsenic-free treated wood products
11 commercially available for a particular use, such as pilings
12 used in submerged applications, or that chemicals used in the
13 arsenic-free product pose an environmental threat to aquatic,
14 wetland, or other sensitive ecosystems.

15 (2) The Department of Environmental Protection is
16 authorized to provide grants to private companies that treat
17 wood with chromated copper arsenate, to be used to convert
18 operations to treat wood with a preservative that does not
19 contain arsenic. The grants may be used to offset the costs
20 associated with the conversion, including removal of
21 arsenic-containing wood preservatives and treatment residuals,
22 equipment cleaning or modifications, and labor costs.

23 Section 4. (1) The following persons must provide
24 notice regarding the use of wood treated with chromated copper
25 arsenate:

26 (a) A retailer of wood treated with chromated copper
27 arsenate, or a product containing wood treated with chromated
28 copper arsenate, must provide each noncommercial purchaser of
29 treated wood with the notice specified in subsection (2).

30 (b) A contractor or subcontractor engaged to construct
31 an improvement to a residential structure which will contain

1 wood treated with arsenic, inorganic arsenic, or an arsenic
2 copper combination such as chromated copper arsenate wood
3 preservative, or a product containing wood treated with any of
4 these substances, must provide the owner of the structure, and
5 the resident if different, with the notice specified in
6 subsection (2).

7 (2) The notice required by this section shall include
8 the information guidelines developed by the United States
9 Environmental Protection Agency for consumer purchases of wood
10 treated with chromated copper arsenate, as well as language
11 which prominently states: "Urgent Notice: This wood is treated
12 with arsenic. If children are expected to come into contact
13 with this wood, you must seal this wood with a nontoxic
14 sealant at least once every 2 years."

15 (3) A person who is obligated to provide this notice
16 and who fails to do so shall refund to the purchaser the full
17 cost of the treated wood or wood product.

18 Section 5. There is appropriated from the General
19 Revenue Fund to the Department of Education the sum of
20 \$250,000 for fiscal year 2002-2003 to provide grants to public
21 school districts and charter schools to help offset the costs
22 of sealing playground equipment made with wood treated with
23 chromated copper arsenate.

24 Section 6. There is appropriated from the General
25 Revenue Fund to the Department of Environmental Protection the
26 sum of \$250,000 for fiscal year 2002-2003 to provide grants to
27 private companies which treat wood with chromated copper
28 arsenate, to be used to convert operations to treat wood with
29 a preservative that does not contain arsenic.

30 Section 7. This act shall take effect July 1, 2002.
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LEGISLATIVE SUMMARY

Prohibits use of wood products treated with chromated copper arsenate in publicly funded playground equipment, and associated groundcovers, constructed or contracted for on or after October 1, 2002. Provides for enforcement on state lands by the Department of Environmental Protection. Requires the Department of Education to annually notify school districts that a nontoxic sealant must be applied every 2 years to any such treated wood that is likely to come into contact with children. Provides for development of sealant application guidelines by the Department of Education, in consultation with the wood treating industry and the Departments of Health and Environmental Protection. Provides for grants to schools to offset the cost of sealing playground equipment. Prohibits state agencies from purchasing such treated wood for most applications, and specifies exceptions. Provides for grants for conversion of wood treating companies using chromated copper arsenate to use of preservatives that do not contain arsenic. Requires retailers and contractors to provide notice to certain consumers of wood or wood products containing chromated copper arsenate. Provides for refunds when such notice is not provided. Provides appropriations.

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