

By Senator Wasserman Schultz

34-191-04

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.

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

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27 Section 1. (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 (2) As used in this section, the term:

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

11 (b) "Public funds" means funds provided by the state,
12 a county, a municipality, a school district, or a special
13 district, or an agency of any of them. The term does not
14 include funds provided by the Federal Government.

15 (3) This section applies only to construction of new
16 playground equipment and new placement of decorative mulch or
17 groundcover. This section does not apply to maintenance or
18 modification of equipment that was in place prior to October
19 1, 2004, nor does it apply to any construction that was begun,
20 or for which contracts have been signed, prior to October 1,
21 2004.

22 (4) Notwithstanding subsection (1), the Department of
23 Environmental Protection may not enforce this section unless
24 the playground equipment is constructed or the decorative
25 mulch or groundcover is used on state land.

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

1 Protection to develop guidelines on effective types of
2 sealants and their application.

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

7 Section 3. (1) A state agency may not purchase wood
8 treated with chromated copper arsenate unless it can be shown
9 that there are no arsenic-free treated wood products
10 commercially available for a particular use, such as pilings
11 used in submerged applications, or that chemicals used in the
12 arsenic-free product pose an environmental threat to aquatic,
13 wetland, or other sensitive ecosystems.

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

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

25 (a) A retailer of wood treated with chromated copper
26 arsenate or a product containing wood treated with chromated
27 copper arsenate. Such retailer shall provide each
28 noncommercial purchaser of treated wood with the notice
29 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. Such contractor or subcontractor shall
5 provide the owner of the structure and each nonowner resident
6 with the notice specified in subsection (2).

7 (2) The notice required by this section must 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 and language that
11 prominently states: "Urgent Notice: This wood is treated with
12 arsenic. If children are expected to come into contact with
13 this wood, you must seal this wood with a nontoxic sealant at
14 least once every 2 years."

15 (3) A person who is required 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 2004-2005 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 2004-2005 to provide grants to
27 private companies that 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, 2004.
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SENATE 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, 2004. 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 to wood-treating companies for conversion from the use of chromated copper arsenate to the 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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