

HB 0365

2004

A bill to be entitled

An act relating to treated wood; prohibiting use of wood products treated with chromated copper arsenate in publicly funded playground equipment; providing definitions; providing applicability; providing for enforcement on state lands by the Department of Environmental Protection; requiring the Department of Education to provide notice to and develop guidelines for school districts regarding the sealing of wood treated with chromated copper arsenate; prohibiting state agencies from purchasing wood treated with chromated copper arsenate; providing exceptions; providing for grants for conversion of wood-treating companies to operations using preservatives that do not contain arsenic; specifying persons who must provide notice to consumers of wood or wood products containing chromated copper arsenate; providing contents of such notice; providing a penalty for failure to provide notice; providing appropriations; providing an effective date.

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

Section 1. (1) The use of any wood product containing chromated copper arsenate is prohibited in the construction of any playground equipment and for use as decorative mulch or groundcover associated with playground equipment for which public funds are used.

(2) As used in this section, the term:

HB 0365

2004

29 (a) "Playground equipment" means swings, slides, climbing
 30 equipment, merry-go-rounds, seesaws, spring rockers,
 31 trampolines, and other similar equipment intended for use
 32 primarily by children and includes stairways, ramps, ladders,
 33 handrails, platforms, guardrails, and protective barriers that
 34 support, provide access to, or act as safety barriers for such
 35 equipment. The term does not include buildings, docks, picnic
 36 tables, and other associated structures that may be located near
 37 playgrounds or adjacent recreation areas.

38 (b) "Public funds" means funds provided by the state, a
 39 county, a municipality, a school district, or a special
 40 district, or an agency thereof. The term does not include funds
 41 provided by the Federal Government.

42 (3) This section applies only to construction of new
 43 playground equipment and new placement of decorative mulch or
 44 groundcover. This section does not apply to maintenance or
 45 modification of equipment that was in place prior to October 1,
 46 2004, nor does it apply to any construction that was begun, or
 47 for which contracts have been signed, prior to October 1, 2004.

48 (4) Notwithstanding subsection (1), the Department of
 49 Environmental Protection may not enforce this section unless the
 50 playground equipment is constructed or the decorative mulch or
 51 groundcover is used on state land.

52 Section 2. (1) The Department of Education shall annually
 53 notify school districts that wood likely to come in contact with
 54 children which is treated with chromated copper arsenate must be
 55 sealed every 2 years with a nontoxic sealant. The department
 56 shall consult with the wood-treating industry, the Department of
 57 Health, and the Department of Environmental Protection to

HB 0365

2004

58 develop guidelines on effective types of sealants and their
59 application.

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

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

71 (2) The Department of Environmental Protection may provide
72 grants to private companies that treat wood with chromated
73 copper arsenate, to be used to convert operations to treat wood
74 with a preservative that does not contain arsenic. The grants
75 may be used to offset the costs associated with the conversion,
76 including removal of arsenic-containing wood preservatives and
77 treatment residuals, equipment cleaning or modifications, and
78 labor costs.

79 Section 4. (1) The following persons shall provide notice
80 regarding the use of wood treated with chromated copper
81 arsenate:

82 (a) A retailer of wood treated with chromated copper
83 arsenate or a product containing wood treated with chromated
84 copper arsenate. Such retailer shall provide each noncommercial
85 purchaser of treated wood with the notice specified in
86 subsection (2).

HB 0365

2004

87 (b) A contractor or subcontractor engaged to construct an
 88 improvement to a residential structure which will contain wood
 89 treated with arsenic, inorganic arsenic, or an arsenic copper
 90 combination such as chromated copper arsenate wood preservative
 91 or a product containing wood treated with any of these
 92 substances. Such contractor or subcontractor shall provide the
 93 owner of the structure and each nonowner resident with the
 94 notice specified in subsection (2).

95 (2) The notice required by this section must include the
 96 information guidelines developed by the United States
 97 Environmental Protection Agency for consumer purchases of wood
 98 treated with chromated copper arsenate and language that
 99 prominently states: "Urgent Notice: This wood is treated with
 100 arsenic. If children are expected to come into contact with this
 101 wood, you must seal this wood with a nontoxic sealant at least
 102 once every 2 years."

103 (3) A person who is required to provide the notice
 104 specified in subsection (2) and who fails to do so shall refund
 105 to the purchaser the full cost of the treated wood or wood
 106 product.

107 Section 5. There is appropriated from the General Revenue
 108 Fund to the Department of Education the sum of \$250,000 for
 109 fiscal year 2004-2005 to provide grants to public school
 110 districts and charter schools to help offset the costs of
 111 sealing playground equipment made with wood treated with
 112 chromated copper arsenate.

113 Section 6. There is appropriated from the General Revenue
 114 Fund to the Department of Environmental Protection the sum of
 115 \$250,000 for fiscal year 2004-2005 to provide grants to private

HB 0365

2004

116 companies that treat wood with chromated copper arsenate, to be
117 used to convert operations to treat wood with a preservative
118 that does not contain arsenic.

119 Section 7. This act shall take effect July 1, 2004.