

1 A bill to be entitled
2 An act relating to toy safety; creating the "Children's
3 Toys Safety Act"; providing legislative findings and
4 intent relating to the distribution of unsafe toys in this
5 state; providing definitions; requiring each manufacturer
6 of children's toys that are to be sold in this state to
7 notify each retailer selling the toys which toys do not
8 conform to the consumer product safety standards of the
9 United States Consumer Product Safety Commission and are
10 banned hazardous products; requiring each manufacturer to
11 label each unsafe toy warning the consumer that the toy
12 does not meet the safety standards; requiring each
13 retailer to erect signs in each retail aisle identifying
14 which unsafe toys the retailer is selling; requiring that
15 any test for safety be conducted by a nongovernmental,
16 independent third party that is qualified to perform such
17 tests; providing for injunctive relief; requiring the
18 enforcing authority to issue and enforce a written stop-
19 sale order under certain circumstances; providing for the
20 distribution of the children's toys after the manufacturer
21 labels each toy that is not in compliance with applicable
22 safety standards; providing that any manufacturer who
23 violates the act is subject to a specified fine for each
24 toy not meeting the safety standards; providing that a
25 retailer is subject to a fine for not erecting signs to
26 identify unsafe toys that are sold in the store; providing
27 an effective date.
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29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Children's toy safety.--

32 (1) This section may be cited as the "Children's Toys
33 Safety Act."

34 (2) The Legislature finds that there is a need to prevent
35 dangerous toys intended for children from being introduced into
36 the marketplace. The Legislature also finds that by requiring
37 independent third-party testing and certification of a toy's
38 safety, manufacturers of children's toys will be compelled to
39 comply with the consumer product safety standards of the United
40 States Consumer Product Safety Commission. Therefore, it is the
41 intent of this section to require manufacturers to certify that
42 their toys are in compliance with the consumer product safety
43 standards set by the United States Consumer Product Safety
44 Commission.

45 (3) As used in this section, the term:

46 (a) "Children's toy" means a toy or other article that is
47 intended for use by a child 60 months of age or younger. In
48 determining whether a toy or article is intended for use by a
49 child 60 months of age or younger, the following factors shall
50 be considered:

51 1. A statement by a manufacturer about the intended use of
52 the toy, including a label on the toy or article, if such
53 statement is reasonable.

54 2. The context and manner of the advertising, promotion,
55 and marketing associated with the toy or article.

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56 3. Whether the toy or other object is commonly recognized
57 by consumers as being intended for use by a child 60 months of
58 age or younger.

59 (b) "Enforcing authority" means the Department of
60 Agriculture and Consumer Services.

61 (c) "Independent third party" means a nongovernmental,
62 independent testing entity that is physically separate from any
63 manufacturer or private labeler whose toy will be tested by the
64 entity and that is not owned, managed, controlled, or directed
65 by a manufacturer or private labeler.

66 (4) Each manufacturer and each private labeler of a toy,
67 if it bears a private label, which makes children's toys that
68 are to be sold in this state and that are subject to the
69 consumer product safety standards of the United States Consumer
70 Product Safety Commission must notify each retailer selling the
71 manufacturer's toys whenever it has been determined by an
72 independent third party that one of its toys is not in
73 compliance with the consumer product safety standards and is a
74 hazardous product under the standards. If the retailer chooses
75 to sell the unsafe children's toy, the manufacturer must affix
76 on each toy delivered to the retailer a label that states that
77 the toy does not meet the consumer product safety standards of
78 the United States Consumer Product Safety Commission.

79 (5) If a retailer selling children's toys has been advised
80 by a manufacturer that an independent third party has determined
81 that a toy sold by the retailer is not in compliance with the
82 consumer product safety standards and is a hazardous product
83 under the standards and if the retailer nevertheless chooses to

84 sell the toy, the retailer must erect signs in every retail
85 aisle in which toys are sold identifying the toy that does not
86 meet the consumer product safety standards.

87 (6) Any test or testing program to determine the safety of
88 toys to be sold must be conducted by an independent third party
89 that is qualified to perform such tests or testing programs.

90 (7) (a) The enforcing authority may bring an action for
91 injunctive relief against any manufacturer that violates this
92 section.

93 (b) If the enforcing authority finds that a children's toy
94 being distributed does not meet the consumer product safety
95 standards of the United States Consumer Product Safety
96 Commission and does not have a label warning the consumer that
97 it is an unsafe toy, the enforcing authority shall issue and
98 enforce a written stop-sale order. The stop-sale order must warn
99 distributors to segregate any lot of toys in any manner until
100 written permission is given by the enforcing authority to
101 recommence distribution. The enforcing authority shall release
102 for distribution the lot of children's toys subject to a stop-
103 sale order only after the manufacturer has affixed to each toy a
104 label that states that the toy does not meet the applicable
105 consumer product safety standards.

106 (c)1. A manufacturer shall be fined \$500 for each
107 children's toy found in a retail store which is not in
108 compliance with the consumer product safety standards and does
109 not have a warning label affixed to the toy.

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110 2. A retailer shall be fined \$1,000 for each retail store
111 aisle in which an unsafe children's toy is found and which does
112 not have a sign identifying each unsafe toy sold in the aisle.

113 Section 2. This act shall take effect July 1, 2008.