

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1443 Session of 2023

INTRODUCED BY GREEN, MADDEN, PROBST, KAZEEM, ABNEY, KINSEY, BURGOS, SANCHEZ, CEPEDA-FREYTIZ, PARKER AND OTTEN, JUNE 20, 2023

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 19, 2024

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, providing for playground safety; and <--
3 imposing duties on the Department of Community and Economic
4 Development. ESTABLISHING THE STATEWIDE ADVISORY COUNCIL ON <--
5 PLAYGROUND SAFETY; AND PROVIDING FOR DUTIES OF THE STATEWIDE
6 ADVISORY COUNCIL ON PLAYGROUND SAFETY.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 35 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 59 <--

12 PLAYGROUND SAFETY

13 Sec.

14 5901. Definitions.

15 5902. Rulemaking.

16 5903. Playground safety audit and hazard analysis.

17 5904. Repair, replacement or removal of major hazards.

18 5905. Less serious hazards.

19 5906. Playground safety plan.

1 ~~5907. New or renovated playgrounds.~~

2 ~~5908. Council.~~

3 ~~5909. Powers and duties.~~

4 ~~5910. Enforcement.~~

5 ~~§ 5901. Definitions.~~

6 CHAPTER 56A

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7 STATEWIDE ADVISORY COUNCIL ON PLAYGROUND SAFETY

8 SEC.

9 56A01. DEFINITIONS.

10 56A02. COUNCIL.

11 56A03. POWERS AND DUTIES.

12 § 56A01. DEFINITIONS.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Council." The Statewide Advisory Council ~~for~~ ON Playground <--
17 Safety established in section ~~5908~~ 56A02 (relating to council). <--

18 ~~"CPSC." The United States Consumer Product Safety~~ <--
19 ~~Commission.~~

20 "Department." The Department of Community and Economic
21 Development of the Commonwealth.

22 ~~"Less serious hazard." A condition or practice likely to~~ <--
23 ~~cause serious or minor, nondisabling injury or illness resulting~~
24 ~~in temporary disability.~~

25 ~~"Major hazard." A condition or practice likely to cause~~
26 ~~permanent disability, loss of life or body part.~~

27 "Playground." An improved outdoor area designed, equipped
28 and set aside for children's play which is not intended for use
29 as an athletic playing field or athletic court. The term shall
30 include any play equipment, surfacing, fencing, signs, internal

1 pathways, internal land forms, vegetation and related
2 structures. The term shall exclude home playgrounds, home
3 playground equipment, amusement park equipment, sports
4 equipment, fitness equipment and limited access contained play
5 systems.

6 "Playground safety audit and hazard analysis." A safety <--
7 inspection and examination of playground equipment and
8 conditions as established by the council.

9 "Responsible entity." The Commonwealth and its agencies,
10 political subdivisions, public, private or nonpublic elementary
11 or secondary schools, including charter schools, or approved
12 child care facilities which are subject to and in compliance
13 with regulations issued by the Department of Human Services or
14 any other entity operating or owning a playground open to the
15 public.

16 "Secretary." The Secretary of Community and Economic
17 Development of the Commonwealth.

18 § 5902. Rulemaking. <--

19 Within one year of the effective date of this section, the
20 department shall promulgate regulations establishing safety
21 standards for the design, installation and maintenance of all
22 playgrounds operated by a responsible entity. The regulations
23 shall establish safety standards which shall be at least as
24 protective as the guidelines in the Handbook for Public
25 Playground Safety produced by the CPSC. These regulations shall
26 be promulgated in the manner provided by law, but shall not be
27 subject to the act of June 25, 1982 (P.L.633, No.181), known as
28 the Regulatory Review Act.

29 § 5903. Playground safety audit and hazard analysis.

30 (a) Conduct. A responsible entity operating a playground

~~1 area shall conduct a comprehensive safety audit and hazard
2 analysis of every play area and piece of play equipment
3 designed, constructed, owned, operated or maintained by the
4 responsible entity.~~

~~5 (b) Procedure. The council shall develop a standard
6 procedure for conducting a playground safety audit and hazard
7 analysis.~~

~~8 (c) Initial audit and analysis. Within six months of the
9 final adoption of the safety audit and hazard analysis procedure
10 by the council, the responsible entity shall complete a safety
11 audit and hazard analysis.~~

~~12 (d) Submission to department. The responsible entity shall
13 submit a copy of its findings to the department.~~

~~14 § 5904. Repair, replacement or removal of major hazards.~~

~~15 (a) General rule. If the safety audit and hazard analysis
16 conducted by the responsible entity reveals unsafe equipment or
17 conditions which pose a major hazard to children, the play
18 equipment or conditions shall be immediately removed or upgraded
19 by replacement or improvement necessary to comply with the
20 regulations for safety standards adopted by the department.~~

~~21 (b) Major hazards described. Situations involving play
22 equipment or conditions that present major hazards to children
23 include:~~

~~24 (1) Entanglement hazards.~~

~~25 (2) Entrapment hazards.~~

~~26 (3) Hard hitting swings.~~

~~27 (4) Unsafe surfacing.~~

~~28 (5) Unstable equipment.~~

~~29 § 5905. Less serious hazards.~~

~~30 All equipment presenting hazards classified as less serious~~

1 ~~must be removed, repaired or replaced in order to comply with~~
2 ~~the regulations adopted by the department. In order to conform~~
3 ~~with this section, a responsible entity shall establish a~~
4 ~~playground safety plan.~~

5 ~~§ 5906. Playground safety plan.~~

6 ~~(a) Content. Each responsible entity shall devise a~~
7 ~~playground safety plan which shall include a timetable to ensure~~
8 ~~that playground hazards which are classified as less serious are~~
9 ~~systemically addressed. This plan shall include provisions for~~
10 ~~cyclical or periodically scheduled inspections of all play~~
11 ~~equipment and areas designed, constructed, owned, operated or~~
12 ~~maintained by the responsible entity. The plan shall also~~
13 ~~include provisions for preventive and responsive maintenance of~~
14 ~~equipment and conditions.~~

15 ~~(b) Compliance. The responsible entity shall have six~~
16 ~~months after the final adoption of the department regulations to~~
17 ~~comply with this section.~~

18 ~~§ 5907. New or renovated playgrounds.~~

19 ~~On or after the effective date of the regulations promulgated~~
20 ~~by the department under section 5902 (relating to rulemaking),~~
21 ~~any new or newly constructed, installed or renovated playground,~~
22 ~~play area, single unit or play structure shall comply with the~~
23 ~~safety standards adopted by the department.~~

24 ~~§ 5908 56A02. Council.~~

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25 ~~(a) Establishment.--The Statewide Advisory Council on~~
26 ~~Playground Safety is established. The council shall consist of~~
27 ~~20 25 members appointed by the Governor. The term of office of~~
28 ~~the members shall be three years, except for the cabinet~~
29 ~~officers or their designees who shall serve for as long as they~~
30 ~~are in office.~~

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1 (b) Membership.--The membership of the council shall be
2 representative of parents of school-age children, school
3 districts, school boards, local municipalities and government,
4 public and private providers of child care, nonpublic schools,
5 charter schools, safety and design experts of playgrounds and
6 play equipment, injury prevention specialists, the secretary or <--
7 a designee, the Secretary of Education or a designee, the
8 Secretary of Health or a designee, the Secretary of Labor and
9 Industry or a designee, the Secretary of Human Services or a
10 designee and the Secretary of Environmental Protection or a
11 designee. MANUFACTURERS AND RETAILERS OF PLAYGROUND EQUIPMENT, <--
12 HOMEOWNER ASSOCIATIONS, CHURCHES, RESORTS, INJURY PREVENTION
13 SPECIALISTS AND RELEVANT COMMONWEALTH AGENCIES. NO LESS THAN
14 THREE MEMBERS OF THE COUNCIL SHALL BE CERTIFIED PLAYGROUND
15 SAFETY INSPECTORS. THE MEMBERS OF THE COUNCIL SHALL INCLUDE THE
16 FOLLOWING MEMBERS:
17 (1) THE SECRETARY OR A DESIGNEE.
18 (2) THE SECRETARY OF CONSERVATION AND NATURAL RESOURCES
19 OR A DESIGNEE.
20 (3) THE SECRETARY OF EDUCATION OR A DESIGNEE.
21 (4) THE SECRETARY OF ENVIRONMENTAL PROTECTION OR A
22 DESIGNEE.
23 (5) THE SECRETARY OF HEALTH OR A DESIGNEE.
24 (6) THE SECRETARY OF HUMAN SERVICES OR A DESIGNEE.
25 (7) THE SECRETARY OF LABOR AND INDUSTRY OR A DESIGNEE.
26 (8) A REPRESENTATIVE FROM A CITY OF ANY CLASS.
27 (9) A REPRESENTATIVE FROM A BOROUGH.
28 (10) A REPRESENTATIVE FROM A FIRST CLASS TOWNSHIP.
29 (11) A REPRESENTATIVE FROM A SECOND CLASS TOWNSHIP.
30 (12) A REPRESENTATIVE SELECTED BY THE PENNSYLVANIA

1 RECREATION AND PARK SOCIETY.

2 (c) Designees.--The designees of cabinet officers under
3 subsection (b) must be deputy secretaries, commissioners or
4 bureau directors.

5 (d) Officers.--The chair of the council shall be appointed
6 by the Governor and must be selected from those members who are
7 neither employees of the Commonwealth nor elected officials.

8 (e) Committees.--The chair of the council may appoint
9 special committees, which may include nonmembers of the council,
10 to make recommendations to the council concerning key issues
11 related to this chapter.

12 (f) Compensation of members.--The members shall serve
13 without compensation but shall be reimbursed for reasonable and
14 necessary expenses incurred in accordance with the rules of the
15 Executive Board.

16 (g) Staff.--Staff services for the council shall be provided
17 by the department.

18 § ~~5909~~ 56A03. Powers and duties. <--

19 The council has the following powers and duties:

20 (1) To review and comment to the department, the
21 Department of Education, the Department of Health, the
22 Department of Human Services, the Department of Labor and
23 Industry, THE DEPARTMENT OF CONSERVATION AND NATURAL <--
24 RESOURCES and the Department of Environmental Protection on
25 draft regulations and standards as they pertain to playground
26 safety.

27 (2) To review and comment to the appropriate legislative
28 committees and the Independent Regulatory Review Commission
29 on regulations and standards proposed under this chapter. ANY <--
30 PROPOSED PLAYGROUND SAFETY REGULATIONS AND STANDARDS.

1 (3) To assist and advise Commonwealth agencies in their
2 effort to carry out the provisions of this chapter EFFORTS TO <--
3 IMPROVE PLAYGROUND SAFETY. This shall include the following:

4 (i) Recommendations for the implementation and
5 enforcement of regulations and standards, including the <--
6 definition of a safety audit and hazard analysis.

7 (ii) Suggestions regarding sources of fiscal and
8 other support from Federal, State, local and private
9 sources for the upgrade of playgrounds to comply with
10 regulations and standards for safety.

11 (iii) Recommendations regarding personnel training
12 in playground safety and inspection.

13 (iv) Recommendations for the implementation of <--
14 Statewide systemic inspection of playgrounds. IMPROVEMENT <--
15 OF PLAYGROUND SAFETY AND INSPECTION PROCEDURES.

16 (v) Recommendations for the development of a
17 reporting mechanism for parents and others in the
18 community who feel a playground may be unsafe.

19 (vi) Development of a plan for publicizing and <--
20 disseminating the standards adopted by the department.

21 (vii) Creation (VI) CONSIDERATION of safety plan <--
22 models to be utilized by communities and schools in
23 assisting with their own development of safety plans.

24 (4) To meet at least four times a year.

25 § 5910. Enforcement. <--

26 The department shall cause an inspection of a playground to
27 ensure that the playground complies with the safety standards
28 adopted under this chapter. If the department finds that the
29 playground does not comply with the safety standards, the
30 department shall order the playground closed until the

1 ~~playground is upgraded to comply with the standards.~~

2 Section 2. This act shall take effect immediately.