

SENATE No. 32

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to safety in day care facilities..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of Chapter 28A of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by adding at the end thereof:-

3 “Unsafe”, a product is unsafe if it meets one or more of the following criteria:

4 (1) The children’s product does not conform to all federal laws and regulations setting
5 forth standards for the children’s product.

6 (2) The children’s product has been recalled for any reason by a federal agency, the
7 product’s manufacturer, distributor, or importer; the recall has not been rescinded; and the
8 children’s product has been listed by the U.S. Consumer Product Safety Commission created by
9 the consumer product safety act, Public Law 92-573, 86 Stat. 1207 (“CPSC”) as a recalled
10 product.

11 (3) A federal agency has issued a warning that a specific children's product's intended
12 use constitutes a safety hazard and the warning has not been rescinded.

13 (4) For the purposes of this act, a crib is unsafe if it does not conform to the standards
14 endorsed or established by the CPSC.

15 (5) An unsafe children's product, as determined under subsection (1), (2), (3) or (4), may
16 be retrofitted if the retrofit has been approved by the federal agency issuing the recall or warning
17 or the federal agency responsible for approving the retrofit if it is different from the federal
18 agency issuing the recall or warning.

19 SECTION 2. Section 9 of Chapter 28A of the General Laws, as appearing in the 2006
20 Official Edition, is hereby amended by adding at the end thereof:-

21 “Unsafe”, a product is unsafe if it meets one or more of the following criteria:

22 (1) The children’s product does not conform to all federal laws and regulations setting
23 forth standards for the children’s product.

24 (2) The children’s product has been recalled for any reason by a federal agency, the
25 product’s manufacturer, distributor, or importer; the recall has not been rescinded; and the
26 children’s product has been listed by the U.S. Consumer Product Safety Commission created by
27 the consumer product safety act, Public Law 92-573, 86 Stat. 1207 (“CPSC”) as a recalled
28 product.

29 (3) A federal agency has issued a warning that a specific children's product's intended
30 use constitutes a safety hazard and the warning has not been rescinded.

31 (4) For the purposes of this act, a crib is unsafe if it does not conform to the standards
32 endorsed or established by the CPSC.

33 (5) An unsafe children's product, as determined under subsection (1), (2), (3) or (4), may
34 be retrofitted if the retrofit has been approved by the federal agency issuing the recall or warning
35 or the federal agency responsible for approving the retrofit if it is different from the federal
36 agency issuing the recall or warning.

37 SECTION 3. Section 10 of Chapter 28A of the General Laws, as appearing in the 2006
38 Official Edition, is hereby amended by adding in line 53 after the words, "civil fines and other
39 sanctions." the following:-

40 Such regulations, as they relate to standards and requirements for licensure and approval
41 of school age child care programs, day care centers, family day care homes or large family day
42 care homes which are not part of a family day care system, family foster care which is not
43 supervised and approved by a placement agency, placement agencies, group care facilities, and
44 temporary shelter facilities shall require that all facilities regularly certify that no unsafe products
45 are being used or kept on the premises, with the exception that antique or collectible children's
46 products may be kept if they are not used by, or accessible to, a child in the child care facility.

47 SECTION 4. Section 4(l) of Chapter 28A of the General Laws as appearing in the 2006
48 Official Edition is hereby amended by removing the word, "and" from the end of line 47.

49 SECTION 5. Section 4(m) of Chapter 28A of the General Laws as appearing in the 2006
50 Official Edition is hereby amended by removing the period at the end of line 60 and replacing it
51 with the following:-

52 ; and

53 SECTION 6. Section 4 of Chapter 28A of the General Laws as appearing in the 2006
54 Official Edition is hereby amended by adding at the end thereof the following: -
55 (n) posting and maintaining a web site that includes an updated list of unsafe child
56 products.