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2002 Survey of Rhode Island Law: Legislation: Public Health and Safety: An Act Relating to Health and Safety - Child Product Safety

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Products Liability. *An Act Relating to Health and Safety – Child Product Safety.* The Act provides that it is unlawful to remanufacture, retrofit, sell, contract to sell or resell, lease, sublet, or otherwise place an unsafe children’s product in the stream of commerce. The Act also provides that the Department of Health will maintain an ongoing comprehensive list of all unsafe children’s products, which will be available to the public and posted on the Internet. Additionally, any unsafe children’s product for which an appropriate federal agency approves a retrofit may be sold only if accompanied by a notice describing the original problem, explaining how the retrofit addresses the problem and declaring the product safe. Effective June 28, 2002. 2002 R.I. Pub. Laws ch. 410.

SUMMARY

This legislation amends title 23 of the Rhode Island General Laws entitled Health and Safety by adding chapter 75. The Children’s Product Safety Act (Act) prohibits any commercial user from remanufacturing, retrofitting, selling, contracting to sell or resell, leasing, subletting, or otherwise placing an unsafe children’s product in the stream of commerce on or after January 1, 2004.¹ The Act defines a “commercial user” as any “person who deals in children’s products” or who “holds oneself out as having knowledge or skill peculiar to children’s products” or who is “in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce children’s products.”²

Under the Act, a children’s product is unsafe if it does not meet federal standards for the children’s product, has been recalled, or if an agency of the federal government has issued a warning about the safety of the product.³ Additional requirements for children’s cribs are listed, which if not met, would render a crib unsafe.⁴ The Act also provides that the Department of Health will maintain a list of all children’s products found to be unsafe.⁵ This

1. 2002 R.I. Pub. Laws ch. 410 (codified as amended at R.I. GEN LAWS § 23-75-3(a) (2002)).

2. R.I. GEN LAWS § 23-75-2(2) (2002).

3. *Id.* § 23-75-3(b)(1)-(3).

4. *Id.* § 23-75-3(c)-(d).

5. *Id.* § 23-75-4(a).

list will be made available to the public at no cost and will be posted on the Internet.⁶

In addition, the Act mandates that all child day care centers remove any unsafe children's product from its premises on or before January 1, 2004.⁷ The Department of Children, Youth and Families (DCYF) will inform child day care centers of the Act's provisions and provide ongoing notice of any products found to be unsafe.⁸ The child day care centers shall maintain a file of all such notices and bulletins from DCYF and/or the Department of Health.⁹ This file must be accessible to parents and staff of the child day care center.¹⁰ As part of the licensing process, child day care centers will be required to certify in writing that all bulletins and notices from DCYF have been reviewed and filed, and that the facility is free of all unsafe children's products.¹¹

Finally, the Act requires that any children's product to be sold after a federally approved retrofit must be accompanied by a notice declaring that the product is safe for use by children under six years of age.¹² The notice must state the original problem, explain how the retrofit addresses this problem, and include the name and address of the commercial user who performs the retrofit along with the product name and model number.¹³ Retrofits are only exempt if the child's product is assembled by the consumer and the retrofit, along with instructions, is provided at the time of sale or if it is sold for the first time after a retrofit is completed.¹⁴

Knowing and willful violation of this act by a commercial user is a misdemeanor.¹⁵

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6. *Id.* § 23-75-4(b).

7. *Id.* § 23-75-5(a).

8. *Id.* § 23-75-5(b).

9. *Id.* § 23-75-5(e).

10. *Id.*

11. *Id.* § 23-75-5(d).

12. *Id.* § 23-75-6(a).

13. *Id.* § 23-75-6(a)(1)-(3).

14. *Id.* § 23-75-6(b)(1)-(2).

15. *Id.* § 23-75-8.

