



**House
Legislative
Analysis
Section**

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PLAYGROUND EQUIPMENT SAFETY ACT

**House Bills 5868 and 5869 as passed
by the House
Revised Second Analysis (10-25-96)**

**Sponsor: Rep. Beverly Hammerstrom
House Committee: Regulatory Affairs**

THE APPARENT PROBLEM:

The mother of Nancy Sibley, an Ann Arbor child who died when the drawstring of her coat snagged in a gap at the top of a school playground slide, has waged a safety campaign since her child's death to promote safer clothing and safer playground equipment for children. Mrs. Sibley first conducted a letter-writing crusade that galvanized the U.S. Consumer Product Safety Commission (CPSC) to persuade manufacturers to remove drawstrings from children's clothes. She then directed her campaign toward companies that manufacture children's playground equipment. As a result of her efforts, drawstrings have virtually disappeared from children's clothing, and some states have enacted laws requiring safety standards for playground equipment. Mrs. Sibley's campaign has spurred legislation to improve the safety of playground equipment in Michigan. Legislation is proposed that would require the manufacturers of playground equipment to comply with American Society for Testing and Materials (ASTM) safety guidelines. Appropriately, the bills, which were introduced during National Child Safety Week, have been named the "Nancy Bills," in memory of Nancy Sibley, and fines collected from violations of the bills' provisions would be deposited into the Children's Trust Fund.

THE CONTENT OF THE BILLS:

The bills would create the Playground Equipment Safety Act and would designate fines collected for violations of the act to the Children's Trust Fund.

House Bill 5868 would create the Playground Equipment Safety Act to require that a person engaged in the manufacture or assembly of public playground equipment in the state comply with standards set forth in the "Standard Consumer Safety Performance Specification for Playground Equipment for Public Use, ASTM F1487-95" published by the American Society for Testing and Materials. The publication would be incorporated by reference.

A violation of the provisions of the bill would be a state civil infraction, subject to a civil fine of \$10,000 or less. Nonpayment of any fine or installment of a fine or costs could be remedied by means authorized under the Revised Judicature Act of 1961 (MCL)600.101 et al. Money collected under the bill would be deposited in the Children's Trust Fund within the state treasury.

"Person" would be defined as an individual, partnership, corporation, association, governmental entity, or other legal entity. "Public playground equipment" would include but not be limited to slides, climbers, seesaws, and swings that were designed for the recreational use of children and were located on public grounds.

House Bill 5869 would amend Public Act 249 of 1982 (MCL)21.171 to specify that any amounts received from civil fines imposed under the Playground Equipment Safety Act would be credited to the Children's Trust Fund. This would be in addition to amounts currently specified in the act appropriated under provisions of the Income Tax Act of 1967 (MCL)206.475 and the Child Abuse and Neglect Prevention Act (MCL 722.608).

The bills are tie-barred to each other, and would take effect April 1, 1997.

FISCAL IMPLICATIONS:

The House Fiscal Agency estimates House Bill 5869 would have no impact on state funds (9-3-96), and that the civil fines imposed by House Bill 5868 would result in an indeterminate increase in state funds. (9-9-96)

ARGUMENTS:

For:

House Bills 5868 and 5869 would signify that Michigan aspires to a higher level of safety in its playgrounds. A nationwide survey of 443 playgrounds, conducted by the Consumer Federation of America and the U.S. Public Interest Research Group, and reported in an August 14, 1995, *Wall Street Journal* news article, indicated that

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more than 90 percent of playgrounds pose serious health and safety risks. In fact, the U.S. Consumer Product Safety Commission (CPSC) reports that more than 240,000 children required emergency care for injuries received in playground accidents in 1995. In addition, 19 children died between 1985 and 1996 from playground injuries. However, as the *Journal* news article indicates, there are no national safety standards in the U.S. for playground equipment, and only a handful of states have passed -- or are contemplating -- legislation requiring safety standards for them. (In contrast, European countries have adopted strict safety standards.)

The importance of requiring specific safety standards was demonstrated by the issue of drawstrings on children's clothing. When the problem was brought to the attention of the CPSC after the death of a child who died when the drawstring on her coat snagged in a gap at the top of a playground slide, tests were conducted on playground equipment to devise safety standards to prevent this from recurring. After two years, it was decided that no test could be devised to assure that drawstrings wouldn't catch in small gaps, and the CPSC persuaded clothing manufacturers to voluntarily remove drawstrings from children's clothes. Since then, there have been no accidents involving drawstrings, except for situations involving clothing manufactured prior to their removal.

Against:

As written, House Bill 5868 does not specify who will be responsible for the inspection and review of the design and safety standards of playground equipment. In addition, the bill does not specify which agency will enforce the safety standards specified in the bill, and how the costs of enforcement will be paid. The bill should be amended to address to these concerns.

Response:

The bill would define "public playground equipment" to include apparatus designed for the children's recreational use that was "located on grounds open to the public." Therefore, the provisions of the bill would apply to playground equipment in each public park maintained by the state or by a local community. While the bill does not require that these entities enforce the proposed safety standards, it would be in a community's best interest to do so, both to protect it's children and to avoid possible litigation in situations involving faulty equipment.

POSITIONS:

The Michigan PTA (Parent Teacher Association) adopted a position statement in 1995 supporting efforts to promote safety guidelines for public playground fall zones, which -- according to the CPSC -- is where 80 percent of playground accidents occur. However, the association has not yet adopted a position on the bills. (10-16-96)

The Michigan Townships Association supports the concept of the bills, but has expressed the concern that the \$10,000 civil fine provided under House Bill 5868 could encourage lawsuits against public entities. (10-21-96)

The Michigan Association of School Boards has no position on the bills. (10-23-96)

The Michigan Association of Counties supports the concept of the bills but has no position. (10-23-96)

The Michigan Consumers Federation has no position on the bills. (10-23-96)

The Michigan Manufacturers Association has no position on the bills. (10-23-96)

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.