

Act No. 16
Public Acts of 1997
Approved by the Governor
June 11, 1997
Filed with the Secretary of State
June 11, 1997
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Rep. Hammerstrom

Reps. Anthony, Bankes, Bodem, Brackenridge, Brater, Brown, Byl, Callahan, Cassis, Crissman, Dalman, DeHart, DeVuyst, Dobb, Dobronski, Fitzgerald, Frank, Freeman, Gagliardi, Geiger, Gernaat, Gire, Goschka, Gubow, Gustafson, Hale, Horton, Jansen, Jelinek, Jellema, Johnson, Kelly, Kilpatrick, LaForge, Law, Llewellyn, London, Mans, McBryde, McNutt, Middleton, Owen, Palamara, Parks, Profit, Prusi, Raczkowski, Rhead, Richner, Rocca, Schauer, Schermesser, Schroer, Scott, Sikkema, Tesanovich, Thomas, Voorhees, Wallace and Wojno named co-sponsors

ENROLLED HOUSE BILL No. 4102

AN ACT to regulate the manufacturing and assembling of public playground equipment; and to provide penalties.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as "the playground equipment safety act".

Sec. 2. As used in this act:

- (a) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (b) "Public playground equipment" means apparatus, including but not limited to slides, climbers, seesaws, and swings, designed for the recreational use of children and owned and operated by a local unit of government, school district, or any other governmental entity.

Sec. 3. (1) The standards identified in section 4 determine responsibility for a state civil infraction under this act and do not establish liability in a separate civil action that is brought to recover damages caused by the maintenance, repair, upkeep, manufacture or assembly of public playground equipment.

(2) The standards identified in section 4 shall have only the relevance as allowed by law or court rule in a separate civil action.

Sec. 4. On and after May 1, 1998, a person, who for compensation manufactures or assembles public playground equipment, that fails to comply with the following standards is subject to a state civil infraction under this act:

(a) The "handbook for public playground safety" published for the U.S. consumer products safety commission, which is incorporated by reference and is based upon recommendations provided to the commission by the COMSIS corporation in March 1990 in "development of human factors criteria for playground equipment safety" by Donna Rattle, Melanie Morrison, and Neil Lerner.

(b) The "standard consumer safety performance specification for playground equipment for public use, ASTM F1487-93", published by the American society for testing and materials, which is hereby incorporated by reference.

Sec. 5. (1) A person who violates this act in the manufacture of public playground equipment is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$10,000.00.

(2) A person who violates this act in the assembly of public playground equipment is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00.

(3) A default in the payment of a civil fine or costs ordered under this act or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

(4) Money collected under this section shall be deposited into the children's trust fund established under section 1 of 1982 PA 249, MCL 21.171.

Sec. 6. (1) Except as otherwise provided in subsection (2), the local unit of government, school district, or governmental entity that owns and operates the public playground equipment shall be responsible for the maintenance, repair, and upkeep of the public playground equipment according to the standards identified by this act.

(2) For the maintenance, repair, and upkeep of public playground equipment that existed before the effective date of this act, the standards required by section 4 shall apply only to the extent that such application is possible without requiring substantial alteration, removal, or replacement of the existing equipment.

Sec. 7. (1) Evidence of a finding of responsibility for a state civil infraction under this act shall not be admissible in a civil action brought to recover damages incurred as a result of the manufacture or assembly of public playground equipment.

(2) This act does not expand, restrict, or otherwise alter the immunity from liability granted by law to a local unit of government, school district, or governmental entity.

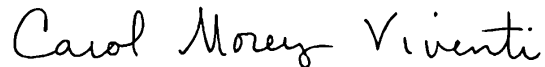
(3) This act does not limit or alter and shall be in addition to any other defenses, limitations, remedies, or rights a person may have by law.

Enacting section 1. This act takes effect May 1, 1998.

Enacting section 2. This act does not take effect unless House Bill No. 4101 of the 89th Legislature is enacted into law.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.