

SUBJECT: Prohibition of recalled children's products in certain child-care facilities

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Solomons, Menendez, Cook, Craddick, Farabee, Gallego, Geren, Harless, Jones, Maldonado, Oliveira, Swinford, S. Turner

0 nays

2 absent — Hilderbran, Lucio

WITNESSES: For — (*Registered, but did not testify*: Nancy Chick, Texas Licensed Child Care Association; Sandra Haverlah, Texas Consumer Association; Vicki Perkins, Christus Santa Rosa Children's Hospital)

Against — None

On — (*Registered, but did not testify*: Paula Anderson, Texas Department of State Health Services; Scott Silverthorne, Department of Family and Protective Services)

BACKGROUND: According to the Consumer Product Safety Commission (CPSC) children's products are recalled on an average of four times a week and constitute more than half of all products recalled. When a recall occurs, CPSC alerts the media and posts notices on their website.

DIGEST: CSHB 217 would amend the Human Resources Code to prohibit certain child-care facilities, including licensed day-care centers, licensed group day-care homes, or registered family homes, from using or having on the premises a children's product that had been recalled. An antique or collectible or a product being retrofitted to be made safe could remain on the premises but could not be accessible to any child in the facility.

CSHB 217 would require these child-care facilities to certify in writing, at least annually, that the bulletins and notices issued by CPSC had been reviewed and that there were no unauthorized recalled child products in the facility. The facilities also would be required to post, on currently required signage, information on how to access a listing of recalled child products.

The Department of Family and Protective Services (DFPS) would have to notify a child-care facility of these requirements and post on its website a link to CPSC's website.

The Health and Human Services Commission would have authority, by rule, to implement these provisions.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

CSHB 217 would keep dangerous items out of licensed childcare facilities and make it easier for families to obtain information on recalled products. On average, 66,400 children under age four are rushed to emergency rooms and 81 children die annually in incidents associated with children's products. When a recall occurs, the CPSC alerts the media and posts notices on their website, but usually no further action is taken. This means that dangerous products still end up in homes, child-care facilities, and other places where children's products are used.

The Federal Consumer Product Safety Improvement Act of 2008 has made great improvements in product safety oversight, but there needs to be more enforcement at the state level. CSHB 217 would augment areas not addressed by the federal legislation.

CSHB 217 would establish a more efficient notification process through which recalled children's product information was relayed to licensed child-care facilities. Day care facilities are already inspected to ensure they do not use items identified as unsafe or dangerous. This legislation would require them to make the information more readily available to parents.

**OPPONENTS  
SAY:**

No apparent opposition

**NOTES:**

The substitute differs from the bill as filed by:

- increasing the defined age of a child from under eight to under 13;
- changing the oversight from the DSHS to DFPS;
- clarifying the definition of child products; and
- strengthening the posting requirement the child-care facilities.

The companion bill, SB 95 by Van de Putte, passed the Senate on April 9 by 31-0 on the Local and Uncontested Calendar and was reported favorably, without amendment, by the House State Affairs Committee on April 27, making it eligible to be considered in lieu of HB 217.