

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 386
CHILDREN'S PRODUCT SAFETY

Section

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AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10/5.2] and the Children's Product Safety Act [430 ILCS 125].

SOURCE: Adopted at 24 Ill. Reg., effective November 1, 2000.

Section 386.10 Purpose

The purpose of this Part is to ensure:

- a) that all child care facilities licensed by the Department are aware of the provisions of the Children's Product Safety Act that apply to them.
- b) that all child care facilities licensed by the Department conduct ongoing surveys of their premises for any unsafe children's products.
- c) that all child care facilities licensed by the Department have applied the appropriate remedy to any unsafe children's product discovered on their premises pursuant to the Children's Product Safety Act.

Section 386.20 Definitions

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. "Child care facility" includes a relative who is licensed or who applies for a license as a foster family home under Section 4 of the Child Care Act of 1969. (Section 2.05 of the Child Care Act of 1969)

"Children's product" means a product, including but not limited to a full-size crib, non-full-size crib, toddler bed, bed, car seat, chair, high chair, booster chair, hook-on chair, bath seat, gate or other enclosure for confining a child, play yard, stationary activity center, carrier, stroller, walker, swing, or toy or play equipment, that meets the following criteria:

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- *the product is designed or intended for the care of, or use by, children under 6 years of age or is designed or intended for the care of, or use by, both children under 6 years of age and children 6 years of age or older; and*
- *the product is designed or intended to come into contact with the child while the product is used.*

Notwithstanding any other provision of this definition, a product is not a "children's product" for purposes of the Children's Product Safety Act if:

- *it may be used by or for the care of a child under 6 years of age, but it is designed or intended for use by the general population or segments of the general population and not solely or primarily for use by, or the care of, a child; or*
- *it is a medication, drug, or food or is intended to be ingested. [430 ILCS 125/10]*

"Crib" means a bed or containment designed to accommodate an infant. [430 ILCS 125/10]

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Full-size crib" means a full-size crib as defined in Section 1508.3 of Title 16 of the Code of Federal Regulations regarding the requirements for full-size cribs. [430 ILCS 125/10]

"Infant", for the purposes of this Part, means any person less than 35 inches tall and less than 3 years of age. [430 ILCS 125/10]

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Non-full-size crib" means a non-full-size crib as defined in Section 1509.2 of Title 16 of the Code of Federal Regulations regarding the requirements for non-full-size cribs. [430 ILCS 125/10]

"Person" means a natural person, firm, corporation, limited liability company, or association, or an employee or agent of a natural person or an entity included in this definition. [430 ILCS 125/10]

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Section 386.30 General Requirements

a) Notification

The Department of Children and Family Services shall, on or before July 1, 2000, notify all licensed child care facilities of the applicable provisions of the Children's Product Safety Act.

b) Information to be Provided

- 1) Facilities licensed at the time of the initial notification will receive:
 - A) A written explanation of the relevant provisions of Section 5.2 of the Child Care Act and the Children's Product Safety Act in plain, non-technical language.
 - B) A comprehensive list of children's products that have been identified by the Illinois Department of Public Health as being unsafe as defined in the Children's Product Safety Act.
 - C) Periodic updates of the Illinois Department of Public Health's list.
- 2) Facilities licensed after the date of the initial notification will receive as part of their initial licensing materials:
 - A) A written explanation of the relevant provisions of Section 5.2 of the Child Care Act and the Children's Product Safety Act in plain, non-technical language.
 - B) The comprehensive list sent to providers who were licensed at the time of the initial mailing and any periodic update sent before the initial application for licensure.
 - C) Periodic updates of the Illinois Department of Public Health's list.

Section 386.40 Licensing Compliance

a) Responsibility of Child Care Facilities

- 1) Upon notification of the provisions of the Children's Product Safety Act, either during the initial notification process or later as part of the new licensee's application process and with each periodic update, the facility shall inspect its premises and immediately dispose of any unsafe children's products discovered.
- 2) This inspection shall be documented by signing and dating the Department's initial notification and periodic updates in the space so designated on the notification.

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- 3) The signed notification and any periodic updates shall be maintained in the facility's files for inspection.

b) Responsibility of the Department

- 1) During the initial or renewal licensing review, the licensing representative shall document that the facility maintains the signed and dated notifications required in this Section.
- 2) Upon discovering any unsafe children's product, the licensing representative shall instruct the facility to immediately dispose of the product in accordance with the Act.
- 3) A licensing violation shall be substantiated if a facility has failed to dispose of an unsafe children's product after being made aware of it through the written notification described in this Part.