

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS of 1999

CHAPTER: 50

NJSA:52:27D-123.9
(Playground safety)

BILL NO:S206 (Substituted for A1798 -- 2nd Reprint)

SPONSOR(S):Sinagra

DATE INTRODUCED: Pre-filed

COMMITTEE:

*ASSEMBLY:*Local Government; Appropriations

*SENATE:*Community & Urban Affairs; Budget

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

*ASSEMBLY:*January 28, 1999

*SENATE:*February 25, 1999

DATE OF APPROVAL:March 23, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: *Yes*3rd Reprint
(Amendments during passage denoted by superscript numbers)

S206

SPONSORS STATEMENT: *Yes*(Begins on page 4 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:Yes

September 14, 1998

November 9, 1998

SENATE:Yes

February 10, 1998

[March 26, 1998](#)

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes* (3)

[April 17, 1998](#)

[December 2, 1998](#)

[February 23, 1999](#)

A1798

SPONSORS STATEMENT: *Yes*(Begins on page 4 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

[September 14, 1998](#)

Identical to 9-14-98 Assembly Statement to S206

[November 11, 1998](#)

Identical to 11-9-98 Assembly Statement to S206

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes* (2)

[December 2, 1998](#)

Identical to Legislative Fiscal Estimate of 12-2-98 for S206

[April 30, 1999](#)

Identical to Legislative Fiscal Estimate of 2-23-99 for S206

2nd REPRINT (Final version): *Yes*

GOVERNOR'S ACTIONS

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *No*

THE FOLLOWING WERE PRINTED:

*To check for circulating copies contact New Jersey State Government Publications at the State Library
(609) 278-2640 ext. 102 or refdesk@njstatelib.org*

REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

Document cited in Sec. 1 of bill:

Y3.C76/3:89P96/944

U.S. Consumer Product Safety Commission.

Handbook for public playground safety. USCPSC, 1994.

P.L. 1999, CHAPTER 50, *approved March 23, 1999*
Senate, No. 206 (*Third Reprint*)

1 **AN ACT** concerning playground safety and supplementing the "State
2 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
3 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. For the purposes of this act:

9 "Governmental Entity" means the State, its agencies and
10 instrumentalities, a county or municipality, or any agency or
11 instrumentality thereof, a school district, or any other similar public
12 entity or agency, but not the federal government or its agencies and
13 instrumentalities.

14 "Nonprofit entity" means a person or entity which operates a
15 playground open to the public or open to users of a facility operated
16 by the person or entity, and which is an exempt organization pursuant
17 to section 9 of P.L.1966, c.30 (C.54:32B-9), the "Sales and Use Tax
18 Act," but not a governmental entity or the federal government or its
19 agencies and instrumentalities.

20 "Private entity" means any person or entity which operates a
21 playground open to the public or open to users of a facility operated
22 by the person or entity, but not a governmental entity, a nonprofit
23 entity or the federal government or its agencies and instrumentalities.

24 "Playground" means an improved area designed, equipped, and set
25 aside for play of six or more children which is not intended for use as
26 an athletic playing field or athletic court, and shall include any play
27 equipment, surfacing, fencing, signs, internal pathways, internal land
28 forms, vegetation, and related structures.

29 "Supervision" means all general and specific supervision necessary
30 to protect children from unreasonable risk of harm from site hazards,
31 the acts of other children, or the use of the playground in a way that
32 was not intended by the designer or manager of the playground. This
33 act shall not expand or reduce existing standards of care to which a
34 playground operator is held.
35

36 2. The Department of Community Affairs in consultation with the
37 Department of Education shall promulgate rules and regulations for

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCU committee amendments adopted February 10, 1998.

² Assembly ALH committee amendments adopted September 14, 1998.

³ Assembly AAP committee amendments adopted November 9, 1998.

1 the design, installation, inspection¹ [,] and¹ maintenance¹ [,
 2 supervision where appropriate, and training of personnel]¹ regarding
 3 all playgrounds operated by any governmental entity, nonprofit entity
 4 or private entity. Those regulations shall meet any standard of care
 5 imposed by law on playground operators, and shall ¹[include] be
 6 those¹ guidelines and criteria which ¹[shall be as protective as the
 7 guidelines] are contained¹ in the Handbook for Public Playground
 8 Safety produced by the United States Consumer Products Safety
 9 Commission or any successor. The rules and regulations shall include
 10 special provisions for playgrounds appropriate for children within the
 11 range of ages in day care settings. The department shall not be
 12 responsible for enforcement of any rules or regulations promulgated
 13 by this act¹, unless the department is otherwise responsible for
 14 enforcement pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.)¹.
 15

16 3. a. All governmental entities operating playgrounds shall
 17 upgrade their playgrounds by replacement or improvement as
 18 necessary to satisfy the rules and regulations promulgated pursuant to
 19 this act to the extent State funds are made available specifically for
 20 that purpose through State bonds or other means, or within five years
 21 for surfacing and ³[15]eight³ years for all other elements whichever
 22 comes first, after the effective date of those rules and regulations
 23 promulgated pursuant to P.L. , c. (C.) (pending before the
 24 Legislature as this act).

25 ²[All private entities shall upgrade their playgrounds by
 26 replacement or improvement as necessary to satisfy the rules and
 27 regulations promulgated pursuant to this act, on or before five years
 28 following the effective date of those rules and regulations promulgated
 29 pursuant to P.L. , c. (C.) (pending before the Legislature as
 30 this bill).]²

31 ³All private entities shall upgrade their playgrounds by replacement
 32 or improvement as necessary to satisfy the rules and regulations
 33 promulgated pursuant to this act within five years for surfacing, and
 34 within eight years for all other elements, following the effective date
 35 of those rules and regulations promulgated pursuant to P.L. , c.
 36 (C.) (pending before the Legislature as this bill).³

37 All ³[²private and²]³ nonprofit entities shall upgrade the surfacing
 38 of their playgrounds by replacement or improvement as necessary to
 39 satisfy the rules and regulations promulgated pursuant to this act, on
 40 or before five years following the effective date of those rules and
 41 regulations promulgated pursuant to P.L. , c. (C.) (pending
 42 before the Legislature as this act), and shall upgrade all other elements
 43 of their playgrounds to satisfy the rules and regulations promulgated
 44 pursuant to this act, no later than 15 years following the effective date
 45 of those rules and regulations promulgated pursuant to P.L. , c.

1 (C.) (pending before the Legislature as this bill), but shall upgrade
 2 playground equipment prior to that date if the equipment is replaced
 3 or reconstructed. This section shall not affect the liability or absence
 4 of liability of playground operators.

5 ³~~2~~Notwithstanding any requirements of this section, no entity
 6 operating a playground shall be required to meet the surfacing
 7 requirements of rules and regulations promulgated pursuant to this act
 8 if the playground surface on the effective date of P.L. , c. (C.)
 9 (now before the Legislature as this bill) consists solely of grass.²³

10 b. All newly constructed playgrounds built by a governmental
 11 entity, a nonprofit entity, or a private entity more than six months after
 12 the effective date of the rules and regulations promulgated pursuant to
 13 this act shall conform to the requirements of those rules and
 14 regulations.

15
 16 4. a. ¹~~After~~ Except in connection with the upgrading of a
 17 playground as provided in subsection a. of section 3 of P.L. , c.
 18 (C.) (pending before the Legislature as this bill), after¹ the
 19 effective date of the rules and regulations promulgated pursuant to this
 20 act, no State funding shall be available for the planning, development,
 21 or redevelopment of any playground, unless the playground, after
 22 completion of the State-funded project, will conform to the applicable
 23 rules and regulations promulgated pursuant to this act. ¹~~However,~~
 24 ~~if~~ If, however,¹ State funds have been appropriated to, or allocated
 25 for, a playground project prior to the effective date of the regulations
 26 but the regulations become effective prior to the completion of the
 27 project, that funding shall be maintained, as long as the playground is
 28 altered to conform to the rules and regulations to the extent the
 29 alterations can be made without adding more than 15% to the project
 30 cost.

31 b. After the date by which an entity is required to conform its
 32 playground to satisfy the rules and regulations promulgated pursuant
 33 to this act, no State funding shall be available for the construction,
 34 operation, maintenance, or supervision of the playground unless the
 35 playground conforms to the applicable regulations adopted pursuant
 36 to this act.

37
 38 5. This act shall take effect immediately.
 39
 40
 41
 42

43 _____
 44 Supplements the “State Uniform Construction Code Act” concerning
 playground safety.

SENATE, No. 206

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:
Senator JACK SINAGRA
District 18 (Middlesex)

SYNOPSIS

Supplements the “State Uniform Construction Code Act” concerning playground safety.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S206 SINAGRA

2

1 AN ACT concerning playground safety and supplementing the "State
2 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
3 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. For the purposes of this act:

9 "Governmental Entity" means the State, its agencies and
10 instrumentalities, a county or municipality, or any agency or
11 instrumentality thereof, a school district, or any other similar public
12 entity or agency, but not the federal government or its agencies and
13 instrumentalities.

14 "Nonprofit entity" means a person or entity which operates a
15 playground open to the public or open to users of a facility operated
16 by the person or entity, and which is an exempt organization pursuant
17 to section 9 of P.L.1966, c.30(C.54:32B-9), the "Sales and Use Tax
18 Act," but not a governmental entity or the federal government or its
19 agencies and instrumentalities.

20 "Private entity" means any person or entity which operates a
21 playground open to the public or open to users of a facility operated
22 by the person or entity, but not a governmental entity, a nonprofit
23 entity or the federal government or its agencies and instrumentalities.

24 "Playground" means an improved area designed, equipped, and set
25 aside for play of six or more children which is not intended for use as
26 an athletic playing field or athletic court, and shall include any play
27 equipment, surfacing, fencing, signs, internal pathways, internal land
28 forms, vegetation, and related structures.

29 "Supervision" means all general and specific supervision necessary
30 to protect children from unreasonable risk of harm from site hazards,
31 the acts of other children, or the use of the playground in a way that
32 was not intended by the designer or manager of the playground. This
33 act shall not expand or reduce existing standards of care to which a
34 playground operator is held.
35

36 2. The Department of Community Affairs in consultation with the
37 Department of Education shall promulgate rules and regulations for
38 the design, installation, inspection, maintenance, supervision where
39 appropriate, and training of personnel regarding all playgrounds
40 operated by any governmental entity, nonprofit entity or private entity.
41 Those regulations shall meet any standard of care imposed by law on
42 playground operators, and shall include guidelines and criteria which
43 shall be as protective as the guidelines in the Handbook for Public
44 Playground Safety produced by the United States Consumer Products
45 Safety Commission or any successor. The rules and regulations shall
46 include special provisions for playgrounds appropriate for children

1 within the range of ages in day care settings. The department shall not
2 be responsible for enforcement of any rules or regulations promulgated
3 by this act.

4
5 3. a. All governmental entities operating playgrounds shall
6 upgrade their playgrounds by replacement or improvement as
7 necessary to satisfy the rules and regulations promulgated pursuant to
8 this act to the extent State funds are made available specifically for
9 that purpose through State bonds or other means, or within five years
10 for surfacing and 10 years for all other elements whichever comes first,
11 after the effective date of P.L. , c. (C.) (pending before the
12 Legislature as this act). All private entities shall upgrade their
13 playgrounds by replacement or improvement as necessary to satisfy the
14 rules and regulations promulgated pursuant to this act, on or before
15 January 1, 2000. All nonprofit entities shall upgrade the surfacing of
16 their playgrounds by replacement or improvement as necessary to
17 satisfy the rules and regulations promulgated pursuant to this act, on
18 or before January 1, 2000, and shall upgrade all other elements of their
19 playgrounds to satisfy the rules and regulations promulgated pursuant
20 to this act, no later than January 1, 2010, but shall upgrade playground
21 equipment prior to that date if the equipment is replaced or
22 reconstructed. This section shall not affect the liability or absence of
23 liability of playground operators.

24 b. All newly constructed playgrounds built by a governmental
25 entity, a nonprofit entity, or a private entity more than six months after
26 the effective date of the rules and regulations promulgated pursuant to
27 this act shall conform to the requirements of those rules and
28 regulations.

29
30 4. a. After the effective date of the rules and regulations
31 promulgated pursuant to this act, no State funding shall be available
32 for the planning, development, or redevelopment of any playground,
33 unless the playground, after completion of the State-funded project,
34 will conform to the applicable rules and regulations promulgated
35 pursuant to this act. However, if State funds have been appropriated
36 to, or allocated for, a playground project prior to the effective date of
37 the regulations but the regulations become effective prior to the
38 completion of the project, that funding shall be maintained, as long as
39 the playground is altered to conform to the rules and regulations to the
40 extent the alterations can be made without adding more than 15% to
41 the project cost.

42 b. After the date by which an entity is required to conform its
43 playground to satisfy the rules and regulations promulgated pursuant
44 to this act, no State funding shall be available for the construction,
45 operation, maintenance, or supervision of the playground unless the

1 playground conforms to the applicable regulations adopted pursuant
2 to this act.

3

4 5. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would require the Department of Community Affairs, in
10 consultation with the Department of Education, to promulgate rules
11 and regulations regarding public playground safety. The regulations
12 are to be based upon the guidelines in the Handbook for Public
13 Playground Safety produced by the United States Consumer Products
14 Safety Commission. These guidelines are patterned upon
15 recommendations of the COMSIS Corporation in "Development of
16 Human Factors Criteria for Playground Equipment Safety," and are
17 geared to the different needs of children from preschool age to 12
18 years old. Their purpose is to promote greater safety awareness
19 among those who purchase, install, and maintain public playground
20 equipment.

21 The guidelines would apply to any playground operated by a public
22 agency, nonprofit entity, or private entity, as defined under the bill, if
23 the playground were open to the public or to users of facilities
24 operated by the entity.

25 The regulations would apply to all playgrounds newly constructed
26 by a public agency or private entity more than six months after the
27 guidelines were promulgated.

28 Governmental entities would be required to upgrade existing
29 playgrounds to meet the guidelines as State funds are made available
30 for that purpose or within five years for surfacing and 10 years for all
31 other elements, whichever comes first, after the bill's effective date.
32 Nonprofit entities would be required to conform existing playgrounds
33 with the standards for surfacing to be provided in regulations
34 promulgated under the bill by January 1, 2000, and would be required
35 to conform existing playgrounds with other elements of the
36 promulgated playground standards by January 1, 2010, unless the
37 playground equipment were replaced or reconstructed prior to that
38 date. Private entities which operate playgrounds would be required to
39 conform all playground elements by January 1, 2000.

40 The bill specifies that playgrounds governed by the legislation are
41 those designed, equipped, and set aside for play by six or more
42 children.

43 The bill would not require the Department of Community Affairs to
44 enforce the regulations. In addition, the bill specifically provides that
45 the guidelines would not affect the liability or absence of liability of
46 playground operators. Rather, the bill provides that State funding for

S206 SINAGRA

5

- 1 the planning, development or redevelopment of a playground, or for
- 2 the operation, maintenance, and supervision of a playground, would
- 3 be withheld unless the playground conforms to the guidelines.

ASSEMBLY LOCAL GOVERNMENT AND HOUSING
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 206

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 1998

The Assembly Local Government and Housing Committee reports favorably Senate Bill No. 206 (1R), with committee amendments.

Senate Bill No. 206 (1R), as amended by the committee, requires the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The types of playgrounds covered by the legislation are those designed, equipped, and set aside for play by six or more children, but excluding areas intended for use as an athletic playing field or athletic court. The legislation would apply to any such playground that is operated by a public agency, or that is operated by a nonprofit entity or private entity if the playground is open to the public or to users of facilities operated by the entity.

The regulations are to cover the design, installation, inspection, and maintenance of playgrounds, and meet any standard of care imposed by law upon playground operations. The regulations are to embody guidelines contained in the *Handbook for Public Playground Safety*, produced by the United States Consumer Products Safety Commission. (Those guidelines are patterned upon recommendations of the COMSIS Corporation in "Development of Human Factors Criteria for Playground Equipment Safety," and are geared to the different needs of children from preschool age to 12 years old. Their purpose is to promote greater safety awareness among those who purchase, install, and maintain public playground equipment.)

All playgrounds newly constructed by a public agency or private entity more than six months after promulgation of the regulations establishing those guidelines would have to conform to the regulations. Pre-existing playground facilities would have to follow these rules:

(1) Governmental entities would be required to upgrade existing playgrounds to meet the guidelines as State funds are made available for that purpose or within five years for surfacing and 15 years for all other elements, whichever comes first, after the date on which those

rules and regulations become effective.

(2) Nonprofit and private entities would be required to conform playground facilities with those guidelines (a) in the case of surfacing, within five years following the effective date of those rules and regulations, and (b) in the case of other elements, within 15 years of the effective date, except that playground equipment shall be upgraded prior to that date if replaced or reconstructed.

As amended, a preexisting playground in which the surface consists solely of grass would not be required to follow the surfacing requirements of the bill. The bill specifically provides that these provisions regarding the conforming of new and pre-existing playground facilities to the guidelines established by the new safety regulations would not affect the liability or absence of liability of playground operators.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

Finally, except in the case of State expenditures made during the period of transition to full implementation of the new guidelines to upgrade the State's own pre-existing playgrounds or those of local governments, State funding for the planning, development or redevelopment of a playground, or for the operation, maintenance, and supervision of a playground, would be withheld unless the playground conforms to the guidelines. A limited exception would be allowed for a playground project for which State funds were appropriated before the guidelines took effect, but which became subject to the guidelines prior to its completion.

The committee amended the bill to provide that the time frames for compliance with the regulations to be promulgated under the bill be the same for private entities as non-profit entities. In addition, preexisting playgrounds with grass surfaces will be exempt from compliance with regulations regarding surfacing.

This bill, as amended by committee, is identical to Assembly Bill No. 1798 as amended by the committee and reported on September 14, 1998.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 206

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 1998

The Assembly Appropriations Committee reports favorably Senate Bill No. 206 (2R) with committee amendments.

Senate Bill No. 206 (2R), as amended, requires the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety for those playgrounds designed, equipped, and set aside for play by six or more children, excluding areas intended for use as an athletic playing field or athletic court. The bill applies to any such playground operated by a public agency, or operated by a nonprofit or private entity if the playground is open to the public or to users of facilities operated by the entity.

The regulations shall cover the design, installation, inspection, and maintenance of playgrounds, and meet any standard of care imposed by law upon playground operations. The regulations are to embody guidelines contained in the *Handbook for Public Playground Safety*, produced by the United States Consumer Products Safety Commission. Those guidelines are patterned upon recommendations of the COMSIS Corporation in "Development of Human Factors Criteria for Playground Equipment Safety," and are geared to the different needs of children from preschool age to 12 years old. The purpose of the guidelines is the promotion of greater safety awareness among those who purchase, install, and maintain public playground equipment.

All playgrounds newly constructed by a public agency or private entity more than six months after promulgation of the regulations implementing those guidelines must conform to the regulations. With respect to pre-existing playground facilities:

(1) Governmental entities are required to upgrade existing playgrounds to meet the guidelines by the earlier of the time that State funds are made available for that purpose or the expiration of the compliance period after the regulations become effective. The compliance period is five years for surfacing and eight years for all

other playground elements.

(2) Private entities are required to conform playground facilities with those guidelines within the same compliance periods as governmental entities after the regulations become effective: five years for surfacing and eight years for all other playground elements.

(3) Nonprofit entities are required to conform playground facilities with those guidelines within the same compliance period for resurfacing, five years. However, for all other playground elements they have 15 years to conform, except that they must upgrade playground equipment before that date if the equipment is replaced or reconstructed.

The bill specifically provides that these provisions regarding the conforming of new and pre-existing playground facilities to the guidelines established by the new safety regulations do not affect the liability or absence of liability of playground operators.

The bill does not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

Except in the case of State expenditures made during the period of transition to full implementation of the new guidelines to upgrade the State's own pre-existing playgrounds or those of local governments, State funding for the planning, development or redevelopment of a playground, or for the operation, maintenance, and supervision of a playground, will be withheld unless the playground conforms to the guidelines. A limited exception is allowed for a playground project for which State funds were appropriated before the guidelines took effect, but which became subject to the guidelines before its completion.

This bill as amended is identical to Assembly Bill No. 1798 (1R) as amended by this committee.

FISCAL IMPACT:

The Executive branch has supplied information to the Office of Legislative Services (OLS) indicating that the number of playgrounds owned and operated by governmental entities is: State government - 21, local governments and local housing authorities - 1,400, and elementary public schools - 1,520, for a total of 2,941. The New Jersey Recreation and Park Association estimates that the average cost of conforming playgrounds to the new surfacing standards will be about \$6,000 to cover the cost of impact-absorbing surfacing materials; it is assumed that governmental units will deploy existing maintenance personnel to install these materials, so that no additional cost for labor will be incurred.

The cost of materials to upgrade the safety of other elements of playground areas is not readily determinable, as the bill allows eight years from the date of promulgation for implementation of the applicable standards; it is not expected to constitute more than 10 percent of the total materials cost of the legislation. On the basis

of these data, OLS estimates that the overall cost of the legislation for existing playgrounds will be approximately: State government - \$0.1 million; local governments and housing authorities - \$8.4 million; and elementary public schools - \$9.1 million, for a total of \$17.6 million.

It may be noted that implementation of the guidelines might, by stabilizing liability insurance costs in many local governmental units, produce savings that would offset the costs of implementing the safety standards.

COMMITTEE AMENDMENTS:

The amendments change the time allowed for conformity with the regulations to be promulgated under the bill for playground elements other than surfacing (surfacing compliance time is uniformly 5 years after promulgation of regulations). For elements other than surfacing, the time period for playgrounds operated by governmental entities is shortened from 15 to eight years and for playgrounds operated by private entities the time period is extended from five to a consistent eight years. The 15 year time period for nonprofit entities remains at 15 years.

The amendments also delete a provision that would otherwise "grandfather" playgrounds consisting solely of grass from compliance with the surfacing requirements.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 206

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1998

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 206 with committee amendments.

Senate Bill 206, as amended by the committee, would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The regulations are to contain those guidelines included in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission. These guidelines are patterned upon recommendations of the COMSIS Corporation in "Development of Human Factors Criteria for Playground Equipment Safety," and are geared to the different needs of children from preschool age to 12 years old. Their purpose is to promote greater safety awareness among those who purchase, install, and maintain public playground equipment.

The guidelines would apply to any playground operated by a public agency, nonprofit entity, or private entity, as defined under the bill, if the playground were open to the public or to users of facilities operated by the entity.

The regulations would apply to all playgrounds newly constructed by a public agency or private entity more than six months after the guidelines were promulgated.

Governmental entities would be required to upgrade existing playgrounds to meet the guidelines as State funds are made available for that purpose or within five years for surfacing and 15 years for all other elements, whichever comes first, after the effective date of those rules and regulations promulgated under the bill's provisions. Nonprofit entities would be required to conform existing playgrounds with the standards for surfacing to be provided in regulations promulgated under the bill by five years following the effective date of those rules and regulations adopted under the bill's provisions, and would be required to conform existing playgrounds with other elements of the promulgated playground standards by 15 years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions, unless the playground equipment were replaced or reconstructed prior to that date. Private entities which

operate playgrounds would be required to conform all playground elements by five years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions.

The bill specifies that playgrounds governed by the legislation are those designed, equipped, and set aside for play by six or more children.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act." In addition, the bill specifically provides that the guidelines would not affect the liability or absence of liability of playground operators. Rather, the bill provides that State funding for the planning, development or redevelopment of a playground, or for the operation, maintenance, and supervision of a playground, would be withheld unless the playground conforms to the guidelines.

The committee amended the bill to change the deadlines by which governmental, nonprofit, and private entities would be required to conform existing playgrounds to those standards established by the Department of Community Affairs under the requirements of the bill. In addition, the amendments delete the requirement that the rules and regulations contain provisions regarding playground supervision and training of personnel. Finally, the amendments clarify that the department shall not be responsible for enforcement of rules and regulations, except if the department is otherwise responsible for enforcement under the "State Uniform Construction Code Act."

This bill was prefiled for introduction in the 1998 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 206

STATE OF NEW JERSEY

DATED: MARCH 26, 1998

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 206 (1R).

Senate Bill No. 206 (1R) requires the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The types of playgrounds covered by the legislation are those designed, equipped, and set aside for play by six or more children, but excluding areas intended for use as an athletic playing field or athletic court. The legislation would apply to any such playground that is operated by a public agency, or that is operated by a nonprofit entity or private entity if the playground is open to the public or to users of facilities operated by the entity.

The regulations are to cover the design, installation, inspection, and maintenance of playgrounds, and meet any standard of care imposed by law upon playground operations. The regulations are to embody guidelines contained in the *Handbook for Public Playground Safety*, produced by the United States Consumer Products Safety Commission. (Those guidelines are patterned upon recommendations of the COMSIS Corporation in "Development of Human Factors Criteria for Playground Equipment Safety," and are geared to the different needs of children from preschool age to 12 years old. Their purpose is to promote greater safety awareness among those who purchase, install, and maintain public playground equipment.)

All playgrounds newly constructed by a public agency or private entity more than six months after promulgation of the regulations establishing those guidelines would have to conform to the regulations. With respect to pre-existing playground facilities:

(1) Governmental entities would be required to upgrade existing playgrounds to meet the guidelines as State funds are made available for that purpose or within five years for surfacing and 15 years for all other elements, whichever comes first, after the date on which those rules and regulations become effective.

(2) Nonprofit entities would be required to conform playground facilities with those guidelines (a) in the case of surfacing, within five

years following the effective date of those rules and regulations, and (b) in the case of other elements, within 15 years of the effective date, except that playground equipment shall be upgraded prior to that date if replaced or reconstructed.

(3) Private entities that operate playgrounds would be required to conform all playground elements to the rules and regulations within five years following their promulgation.

The bill specifically provides that these provisions regarding the conforming of new and pre-existing playground facilities to the guidelines established by the new safety regulations would not affect the liability or absence of liability of playground operators.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

Finally, except in the case of State expenditures made during the period of transition to full implementation of the new guidelines to upgrade the State's own pre-existing playgrounds or those of local governments, State funding for the planning, development or redevelopment of a playground, or for the operation, maintenance, and supervision of a playground, would be withheld unless the playground conforms to the guidelines. A limited exception would be allowed for a playground project for which State funds were appropriated before the guidelines took effect, but which became subject to the guidelines prior to its completion.

FISCAL IMPACT:

The Executive branch has supplied information to the Office of Legislative Services (OLS) indicating that the number of playgrounds owned and operated by governmental entities is: State government - 21; local governments and local housing authorities - 1,400; elementary public schools - 1,520; total - 2,941. The New Jersey Recreation and Park Association estimates that the average cost of conforming playgrounds to the new surfacing standards will be about \$6,000 to cover the cost of impact-absorbing surfacing materials; it is assumed that governmental units will deploy existing maintenance personnel to install these materials, so that no additional cost for labor will be incurred. The cost of materials to upgrade the safety of other elements of playground areas is not readily determinable, since the bill allows 15 years from the date of promulgation for implementation of the applicable standards; it is not expected to constitute more than 10 percent of the total materials cost of the legislation. On the basis of these data, OLS estimates that the overall cost of the legislation for existing playgrounds will be approximately: State government - \$0.1 million; local governments and housing authorities - \$8.4 million; elementary public schools - \$9.1 million; total - \$17.6 million. It may

be noted that implementation of the guidelines might, by stabilizing liability insurance costs in many local governmental units, produce savings that would offset the costs of implementing the safety standards.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 206

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: APRIL 17, 1998

Senate Bill No. 206 (1R) of 1998 as amended by the committee, would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The purpose of the regulations is to promote greater safety awareness among those who purchase, install, and maintain public playground equipment.

The regulations would apply to any playground operated by a public agency, nonprofit entity, or private entity, if the playground were open to the public or to users of facilities operated by the entity.

The regulations would apply to all playgrounds newly constructed by a public agency or private entity more than six months after the guidelines were promulgated.

Governmental entities would be required to upgrade existing playgrounds to meet the guidelines as State funds are made available for that purpose or within five years for surfacing and 15 years for all other elements, whichever comes first, after the effective date of those rules and regulations promulgated under the bill's provisions. Nonprofit entities would be required to conform existing playgrounds with the standards for surfacing to be provided in regulations promulgated under the bill by five years following the effective date of those rules and regulations adopted under the bill's provisions, and would be required to conform existing playgrounds with other elements of the promulgated playground standards by 15 years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions, unless the playground equipment were replaced or reconstructed prior to that date. Private entities which operate playgrounds would be required to conform all playground elements by five years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions.

The bill specifies that playgrounds governed by the legislation are those designed, equipped, and set aside for play by six or more children.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

The Office of Legislative Services (OLS) has obtained data on the estimated number of playgrounds owned and operated by the State government and local government units requiring impact-absorbing surfacing materials from the State executive departments of Community Affairs, Education and Environmental protection, and information on the estimated average cost of impact-absorbing surfacing materials for playgrounds from the director of the New Jersey Recreation and Park Association (NJRPA) to prepare this fiscal estimate. The director of NJRPA estimates that 90% of the cost of the materials required to bring playgrounds into compliance with the new playground safety standards is the cost of impact-absorbing surfacing materials to be used in the playground fall zones. The OLS concurs and notes that the annual cost of materials for all other elements to remove hazards from playground areas is indeterminable since those other elements are not required to be upgraded until 15 years after the effective date of the regulations promulgated under this bill.

The OLS estimates that to bring public playgrounds into compliance with the impact-absorbing surfacing material standards to be established under this bill will cost the State government and local government units for the purchase of impact-absorbing surfacing materials an estimated \$17.6 million in FY 1999.

The State government cost is estimated at \$0.1 million starting in FY 1999 for upgrading existing impact-absorbing surfacing materials in State playgrounds using State Parks maintenance personnel. Local government units, if future State funding is not forthcoming as anticipated in the bill, would have an estimated purchasing cost for impact-absorbing surfacing materials for playgrounds of \$17.5 million starting in FY 1999. The Department of Community Affairs indicates that local government units could redeploy existing maintenance personnel to install this impact-absorbing surfacing material; thus, no labor cost has been included in this estimate for local government units.

According to the director of the NJRPA, insurance companies that carry general liability coverage for local government units generally do not segregate playgrounds for additional general liability premium costs and generally treat playgrounds no different than other recreational facilities. The NJRPA director indicated that a prominent local government insurance company has trained its risk evaluators in the playground guidelines as set forth in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission. The NJRPA director indicated that these guidelines, which include the installation of impact-absorbing surfacing

materials in playground fall zones, might serve when implemented to stabilize the current increasing liability insurance costs of many local government units.

ESTIMATED COST OF PLAYGROUND SAFETY BILL
SENATE, No. 206 (1R)

----- Surfacing Materials -----			
Govt. Playground Owner	Estimated Number of Playgrounds	Estimated. Cost Per Playground	Total Cost FY1999 (\$ Millions)
State Govt.	21	\$6,000	\$0.1
Local Gov'ts., & Local Housing Authorities	1,400	\$6,000	\$8.4
Elementary Public Schools	1,520	\$6,000	\$9.1
TOTALS	2,941	\$6,000	\$17.6

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 206

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: DECEMBER 2, 1998

Senate Bill No. 206 (2R) of 1998 as amended by the committee, would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The purpose of the regulations is to promote greater safety awareness among those who purchase, install, and maintain public playground equipment.

The regulations would apply to any playground operated by a public agency, nonprofit entity, or private entity, if the playground were open to the public or to users of facilities operated by the entity.

The regulations would apply to all playgrounds newly constructed by a public agency or private entity more than six months after the guidelines were promulgated.

The time frames for compliance would be the same for both private and non-profit entities, except that preexisting playgrounds with grass surfaces would be exempt from compliance with regulations regarding surfacing.

Governmental entities would be required to upgrade existing playgrounds to meet the guidelines as State funds are made available for that purpose or within five years for surfacing and 15 years for all other elements, whichever comes first, after the effective date of those rules and regulations promulgated under the bill's provisions. Nonprofit entities would be required to conform existing playgrounds with the standards for surfacing to be provided in regulations promulgated under the bill by five years following the effective date of those rules and regulations adopted under the bill's provisions, and would be required to conform existing playgrounds with other elements of the promulgated playground standards by 15 years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions, unless the playground equipment were replaced or reconstructed prior to that date. Private entities which operate playgrounds would be required to conform all playground elements by five years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions.

The bill specifies that playgrounds governed by the legislation are those designed, equipped, and set aside for play by six or more children.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

The Office of Legislative Services (OLS) has obtained data on the estimated number of playgrounds owned and operated by the State government and local government units requiring impact-absorbing surfacing materials from the State executive departments of Community Affairs, Education and Environmental protection, and information on the estimated average cost of impact-absorbing surfacing materials for playgrounds from the director of the New Jersey Recreation and Park Association (NJRPA) to prepare this fiscal estimate. The director of NJRPA estimates that 90% of the cost of the materials required to bring playgrounds into compliance with the new playground safety standards is the cost of impact-absorbing surfacing materials to be used in the playground fall zones. The OLS concurs and notes that the annual cost of materials for all other elements to remove hazards from playground areas is indeterminable since those other elements are not required to be upgraded until 15 years after the effective date of the regulations promulgated under this bill.

The OLS estimates that to bring public playgrounds into compliance with the impact-absorbing surfacing material standards to be established under this bill will cost the State government and local government units for the purchase of impact-absorbing surfacing materials an estimated \$17.6 million.

The State government cost is estimated at \$0.1 million starting in FY 1999 for upgrading existing impact-absorbing surfacing materials in State playgrounds using State Parks maintenance personnel. Local government units, if future State funding is not forthcoming, would have an estimated purchasing cost for impact-absorbing surfacing materials for playgrounds of \$17.5 million starting in FY 1999. The Department of Community Affairs indicates that local government units could redeploy existing maintenance personnel to install this impact-absorbing surfacing material; thus, no labor cost has been included in this estimate for local government units.

According to the director of the NJRPA, insurance companies that carry general liability coverage for local government units generally do not segregate playgrounds for additional general liability premium costs and generally treat playgrounds no different than other recreational facilities. The NJRPA director indicated that a prominent local government insurance company has trained its risk evaluators in the playground guidelines as set forth in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission. The NJRPA director indicated that these

guidelines, which include the installation of impact-absorbing surfacing materials in playground fall zones, might serve when implemented to stabilize the current increasing liability insurance costs of many local government units.

ESTIMATED COST OF PLAYGROUND SAFETY BILL

Senate, No. 206 (2R)

----- Surfacing Materials -----			
Govt. Playground Owner	Estimated Number of Playgrounds	Estimated Cost Per Playground	Estimated Total Cost (\$ Millions)
State Govt.	21	\$6,000	\$0.1
Local Gov'ts., & Local Housing Authorities	1,400	\$6,000	\$8.4
Elementary Public Schools	1,520	\$6,000	\$9.1
TOTALS	2,941	\$6,000	\$17.6

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 206

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: FEBRUARY 23, 1999

Senate Bill No. 206 (3R) of 1998 would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The purpose of the regulations is to promote greater safety awareness among those who purchase, install, and maintain playground equipment.

The regulations would apply to playgrounds operated by governmental, nonprofit, and private entities, if the playgrounds are open to the public or to users of facilities operated by those entities; and also to playgrounds newly constructed by a public or private entity more than six months after new guidelines were promulgated.

Those entities and their respective time constraints for compliance with and following the effective date of the rules and regulations promulgated for the improvement and replacement of playground surfaces and equipment are: a) governmental units to the extent State funds are made available through bonds or other means, or within five years for surfacing, and within eight years for all other elements; b) nonprofit units within five years for surfacing, and within 15 years for all other elements; and c) private units within five years for surfacing, and eight years for all other elements.

The bill specifies that playgrounds governed by the legislation are defined as improved areas designed, equipped, and set aside for play by six or more children.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

The Office of Legislative Services (OLS) has obtained data on the estimated number of playgrounds owned and operated by the State government and local government units from the Departments of Community Affairs, Education and Environmental protection, and information on the estimated average cost of impact-absorbing surfacing materials for playgrounds from the director of the New

Jersey Recreation and Park Association (NJRPA).

OLS approximates the total cost of this bill at \$19.0 million starting in FY2000. The Department of Community Affairs indicates that local government units could redeploy existing maintenance personnel to install this impact-absorbing surfacing material; thus, no labor cost has been included in this estimate.

**ESTIMATED COST OF PLAYGROUND SAFETY BILL
SENATE, No. 206 (3R)**

----- Surfacing Materials -----			
Govt. Playground Owner	Estimated Number of Playgrounds	Estimated Cost Per Playground	Estimated Total Cost (\$ Millions)
State Govt.	250	\$6,000	\$1.5
Local Gov'ts., & Local Housing Authorities	1,400	\$6,000	\$8.4
Elementary Public Schools	1,520	\$6,000	\$9.1
TOTALS	3,170	\$6,000	\$19.0

The number 250 which is the estimated number of playgrounds in State government does not represent an increase over the number stated in the previous fiscal estimate for this bill, but a number derived from a survey conducted by the Department of Environmental Protection and made available to OLS.

According to the director of the New Jersey Recreation and Park Association (NJRPA) insurance companies that carry general liability coverage for local governments have not segregated playgrounds for additional general liability premium costs. The NJRPA director indicated that general liability policies for local governments treat playgrounds no differently than other recreational facilities. The NJRPA director reports that a prominent local government insurance company trained its risk evaluators in the playground guidelines as set forth in the Handbook for public Playground Safety produced by the United States Consumer Products Safety Commission. The NJRPA director indicated that these guidelines when implemented might serve to stabilize or reduce the current liability insurance costs of local governments that operate playgrounds.

Senate bill 206 (3R) eliminates the provision to exempt grass

surface playgrounds from the requirements of this proposed act. At this time, the OLS has no data to identify which government-owned playgrounds have grass surfaces or the percentage that number may represent of the total.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 1798

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MARCH 9, 1998

Sponsored by:

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

Assemblyman DAVID C. RUSSO

District 40 (Bergen and Passaic)

SYNOPSIS

Supplements the "State Uniform Construction Code Act" concerning playground safety.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/12/1998)

1 AN ACT concerning playground safety and supplementing the "State
2 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
3 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. For the purposes of this act:

9 "Governmental Entity" means the State, its agencies and
10 instrumentalities, a county or municipality, or any agency or
11 instrumentality thereof, a school district, or any other similar public
12 entity or agency, but not the federal government or its agencies and
13 instrumentalities.

14 "Nonprofit entity" means a person or entity which operates a
15 playground open to the public or open to users of a facility operated
16 by the person or entity, and which is an exempt organization pursuant
17 to section 9 of P.L.1966, c.30 (C.54:32B-9), the "Sales and Use Tax
18 Act," but not a governmental entity or the federal government or its
19 agencies and instrumentalities.

20 "Private entity" means any person or entity which operates a
21 playground open to the public or open to users of a facility operated
22 by the person or entity, but not a governmental entity, a nonprofit
23 entity or the federal government or its agencies and instrumentalities.

24 "Playground" means an improved area designed, equipped, and set
25 aside for play of six or more children which is not intended for use as
26 an athletic playing field or athletic court, and shall include any play
27 equipment, surfacing, fencing, signs, internal pathways, internal land
28 forms, vegetation, and related structures.

29 "Supervision" means all general and specific supervision necessary
30 to protect children from unreasonable risk of harm from site hazards,
31 the acts of other children, or the use of the playground in a way that
32 was not intended by the designer or manager of the playground. This
33 act shall not expand or reduce existing standards of care to which a
34 playground operator is held.
35

36 2. The Department of Community Affairs in consultation with the
37 Department of Education shall promulgate rules and regulations for
38 the design, installation, inspection and maintenance regarding all
39 playgrounds operated by any governmental entity, nonprofit entity or
40 private entity. Those regulations shall meet any standard of care
41 imposed by law on playground operators, and shall be those guidelines
42 and criteria which are contained in the Handbook for Public
43 Playground Safety produced by the United States Consumer Products
44 Safety Commission or any successor. The rules and regulations shall
45 include special provisions for playgrounds appropriate for children
46 within the range of ages in day care settings. The department shall not

1 be responsible for enforcement of any rules or regulations promulgated
2 by this act, unless the department is otherwise responsible for
3 enforcement pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.).
4

5 3. a. All governmental entities operating playgrounds shall
6 upgrade their playgrounds by replacement or improvement as
7 necessary to satisfy the rules and regulations promulgated pursuant to
8 this act to the extent State funds are made available specifically for
9 that purpose through State bonds or other means, or within five years
10 for surfacing and 15 years for all other elements whichever comes first,
11 after the effective date of those rules and regulations promulgated
12 pursuant to P.L. , c. (C.) (pending before the Legislature as this
13 act).

14 All private entities shall upgrade their playgrounds by replacement
15 or improvement as necessary to satisfy the rules and regulations
16 promulgated pursuant to this act, on or before five years following the
17 effective date of those rules and regulations promulgated pursuant to
18 P.L. , c. (C.) (pending before the Legislature as this bill).

19 All nonprofit entities shall upgrade the surfacing of their
20 playgrounds by replacement or improvement as necessary to satisfy the
21 rules and regulations promulgated pursuant to this act, on or before
22 five years following the effective date of those rules and regulations
23 promulgated pursuant to P.L. , c. (C.) (pending before the
24 Legislature as this act), and shall upgrade all other elements of their
25 playgrounds to satisfy the rules and regulations promulgated pursuant
26 to this act, no later than 15 years following the effective date of those
27 rules and regulations promulgated pursuant to P.L. , c. (C.)
28 (pending before the Legislature as this bill), but shall upgrade
29 playground equipment prior to that date if the equipment is replaced
30 or reconstructed. This section shall not affect the liability or absence
31 of liability of playground operators.

32 b. All newly constructed playgrounds built by a governmental
33 entity, a nonprofit entity, or a private entity more than six months after
34 the effective date of the rules and regulations promulgated pursuant to
35 this act shall conform to the requirements of those rules and
36 regulations.
37

38 4. a. Except in connection with the upgrading of a playground as
39 provided in subsection a. of section 3 of P.L. , c. (C.)
40 (pending before the Legislature as this bill), after the effective date of
41 the rules and regulations promulgated pursuant to this act, no State
42 funding shall be available for the planning, development, or
43 redevelopment of any playground, unless the playground, after
44 completion of the State-funded project, will conform to the applicable
45 rules and regulations promulgated pursuant to this act. If, however,
46 State funds have been appropriated to, or allocated for, a playground

1 project prior to the effective date of the regulations but the regulations
2 become effective prior to the completion of the project, that funding
3 shall be maintained, as long as the playground is altered to conform to
4 the rules and regulations to the extent the alterations can be made
5 without adding more than 15% to the project cost.

6 b. After the date by which an entity is required to conform its
7 playground to satisfy the rules and regulations promulgated pursuant
8 to this act, no State funding shall be available for the construction,
9 operation, maintenance, or supervision of the playground unless the
10 playground conforms to the applicable regulations adopted pursuant
11 to this act.

12

13 5. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill would require the Department of Community Affairs, in
19 consultation with the Department of Education, to promulgate rules
20 and regulations regarding public playground safety. The regulations
21 are to contain those guidelines included in the Handbook for Public
22 Playground Safety produced by the United States Consumer Products
23 Safety Commission. These guidelines are patterned upon
24 recommendations of the COMSIS Corporation in "Development of
25 Human Factors Criteria for Playground Equipment Safety," and are
26 geared to the different needs of children from preschool age to 12
27 years old. Their purpose is to promote greater safety awareness
28 among those who purchase, install, and maintain public playground
29 equipment.

30 The guidelines would apply to any playground operated by a public
31 agency, nonprofit entity, or private entity, as defined under the bill, if
32 the playground were open to the public or to users of facilities
33 operated by the entity.

34 The regulations would apply to all playgrounds newly constructed
35 by a public agency or private entity more than six months after the
36 guidelines were promulgated.

37 Governmental entities would be required to upgrade existing
38 playgrounds to meet the guidelines as State funds are made available
39 for that purpose or within five years for surfacing and 15 years for all
40 other elements, whichever comes first, after the effective date of those
41 rules and regulations promulgated under the bill's provisions.
42 Nonprofit entities would be required to conform existing playgrounds
43 with the standards for surfacing to be provided in regulations
44 promulgated under the bill by five years following the effective date of
45 those rules and regulations adopted under the bill's provisions, and
46 would be required to conform existing playgrounds with other

1 elements of the promulgated playground standards by 15 years
2 following the effective date of those rules and regulations promulgated
3 pursuant to the bill's provisions, unless the playground equipment were
4 replaced or reconstructed prior to that date. Private entities which
5 operate playgrounds would be required to conform all playground
6 elements by five years following the effective date of those rules and
7 regulations promulgated pursuant to the bill's provisions.

8 The bill specifies that playgrounds governed by the legislation are
9 those designed, equipped, and set aside for play by six or more
10 children.

11 The bill would not require the Department of Community Affairs to
12 enforce the regulations, except in cases in which the department is the
13 enforcing agency under the "State Uniform Construction Code Act."
14 In addition, the bill specifically provides that the guidelines would not
15 affect the liability or absence of liability of playground operators.
16 Rather, the bill provides that State funding for the planning,
17 development or redevelopment of a playground, or for the operation,
18 maintenance, and supervision of a playground, would be withheld
19 unless the playground conforms to the guidelines.

ASSEMBLY LOCAL GOVERNMENT AND HOUSING
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1798

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 1998

The Assembly Local Government and Housing Committee reports favorably Assembly Bill No. 1798, with committee amendments.

This bill, as amended by the committee, would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The types of playgrounds covered by the legislation are those designed, equipped, and set aside for play by six or more children, but excluding areas intended for use as an athletic playing field or athletic court. The legislation would apply to any such playground that is operated by a public agency, or that is operated by a nonprofit entity or private entity if the playground is open to the public or to users of facilities operated by the entity.

The regulations are to cover the design, installation, inspection, and maintenance of playgrounds, and meet any standard of care imposed by law upon playground operations. The regulations are to embody guidelines contained in the *Handbook for Public Playground Safety*, produced by the United States Consumer Products Safety Commission. (Those guidelines are patterned upon recommendations of the COMSIS Corporation in "Development of Human Factors Criteria for Playground Equipment Safety," and are geared to the different needs of children from preschool age to 12 years old. Their purpose is to promote greater safety awareness among those who purchase, install, and maintain public playground equipment.)

All playgrounds newly constructed by a public agency or private entity more than six months after promulgation of the regulations establishing those guidelines would have to conform to the regulations. Pre-existing playground facilities would have to follow these rules:

(1) Governmental entities would be required to upgrade existing playgrounds to meet the guidelines as State funds are made available for that purpose or within five years for surfacing and 15 years for all other elements, whichever comes first, after the date on which those rules and regulations become effective.

(2) Nonprofit and private entities would be required to conform

playground facilities with those guidelines (a) in the case of surfacing, within five years following the effective date of those rules and regulations, and (b) in the case of other elements, within 15 years of the effective date, except that playground equipment shall be upgraded prior to that date if replaced or reconstructed.

As amended, a preexisting playground in which the surface consists solely of grass would not be required to follow the surfacing requirements of the bill. The bill specifically provides that these provisions regarding the conforming of new and pre-existing playground facilities to the guidelines established by the new safety regulations would not affect the liability or absence of liability of playground operators.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

Finally, except in the case of State expenditures made during the period of transition to full implementation of the new guidelines to upgrade the State's own pre-existing playgrounds or those of local governments, State funding for the planning, development or redevelopment of a playground, or for the operation, maintenance, and supervision of a playground, would be withheld unless the playground conforms to the guidelines. A limited exception would be allowed for a playground project for which State funds were appropriated before the guidelines took effect, but which became subject to the guidelines prior to its completion.

The committee amended the bill to provide that the time frames for compliance with the regulations to be promulgated under the bill be the same for private entities as non-profit entities. In addition, preexisting playgrounds with grass surfaces will be exempt from compliance with regulations regarding surfacing.

This bill, as amended by the committee, is identical to Senate Bill No. 206 (1R) as amended by the committee and reported on September 14, 1998.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1798

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 11, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1798 (1R) with committee amendments.

Assembly Bill No. 1798 (1R), as amended, requires the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety for those playgrounds designed, equipped, and set aside for play by six or more children, excluding areas intended for use as an athletic playing field or athletic court. The bill applies to any such playground operated by a public agency, or operated by a nonprofit or private entity if the playground is open to the public or to users of facilities operated by the entity.

The regulations shall cover the design, installation, inspection, and maintenance of playgrounds, and meet any standard of care imposed by law upon playground operations. The regulations are to embody guidelines contained in the *Handbook for Public Playground Safety*, produced by the United States Consumer Products Safety Commission. Those guidelines are patterned upon recommendations of the COMSIS Corporation in "Development of Human Factors Criteria for Playground Equipment Safety," and are geared to the different needs of children from preschool age to 12 years old. The purpose of the guidelines is the promotion of greater safety awareness among those who purchase, install, and maintain public playground equipment.

All playgrounds newly constructed by a public agency or private entity more than six months after promulgation of the regulations implementing those guidelines must conform to the regulations. With respect to pre-existing playground facilities:

(1) Governmental entities are required to upgrade existing playgrounds to meet the guidelines by the earlier of the time that State funds are made available for that purpose or the expiration of the compliance period after the regulations become effective. The compliance period is five years for surfacing and eight years for all

other playground elements.

(2) Private entities are required to conform playground facilities with those guidelines within the same compliance periods as governmental entities after the regulations become effective: five years for surfacing and eight years for all other playground elements.

(3) Nonprofit entities are required to conform playground facilities with those guidelines within the same compliance period for resurfacing, five years. However, for all other playground elements they have 15 years to conform, except that they must upgrade playground equipment before that date if the equipment is replaced or reconstructed.

The bill specifically provides that these provisions regarding the conforming of new and pre-existing playground facilities to the guidelines established by the new safety regulations do not affect the liability or absence of liability of playground operators.

The bill does not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

Except in the case of State expenditures made during the period of transition to full implementation of the new guidelines to upgrade the State's own pre-existing playgrounds or those of local governments, State funding for the planning, development or redevelopment of a playground, or for the operation, maintenance, and supervision of a playground, will be withheld unless the playground conforms to the guidelines. A limited exception is allowed for a playground project for which State funds were appropriated before the guidelines took effect, but which became subject to the guidelines before its completion.

This bill as amended is identical to Senate Bill No. 206 (2R) as amended by this committee.

FISCAL IMPACT:

The Executive branch has supplied information to the Office of Legislative Services (OLS) indicating that the number of playgrounds owned and operated by governmental entities is: State government - 21, local governments and local housing authorities - 1,400, and elementary public schools - 1,520, for a total of 2,941. The New Jersey Recreation and Park Association estimates that the average cost of conforming playgrounds to the new surfacing standards will be about \$6,000 to cover the cost of impact-absorbing surfacing materials; it is assumed that governmental units will deploy existing maintenance personnel to install these materials, so that no additional cost for labor will be incurred.

The cost of materials to upgrade the safety of other elements of playground areas is not readily determinable, as the bill allows eight years from the date of promulgation for implementation of the applicable standards; it is not expected to constitute more than 10 percent of the total materials cost of the legislation. On the basis

of these data, OLS estimates that the overall cost of the legislation for existing playgrounds will be approximately: State government - \$0.1 million; local governments and housing authorities - \$8.4 million; and elementary public schools - \$9.1 million, for a total of \$17.6 million.

It may be noted that implementation of the guidelines might, by stabilizing liability insurance costs in many local governmental units, produce savings that would offset the costs of implementing the safety standards.

COMMITTEE AMENDMENTS:

The amendments change the time allowed for conformity with the regulations to be promulgated under the bill for playground elements other than surfacing (surfacing compliance time is uniformly 5 years after promulgation of regulations). For elements other than surfacing, the time period for playgrounds operated by governmental entities is shortened from 15 to eight years and for playgrounds operated by private entities the time period is extended from five to a consistent eight years. The 15 year time period for nonprofit entities remains at 15 years.

The amendments also delete a provision that would otherwise "grandfather" playgrounds consisting solely of grass from compliance with the surfacing requirements.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1798

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: DECEMBER 2, 1998

Assembly Bill No. 1798 (1R) of 1998 as amended by the committee, would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The purpose of the regulations is to promote greater safety awareness among those who purchase, install, and maintain public playground equipment.

The regulations would apply to any playground operated by a public agency, nonprofit entity, or private entity, if the playground were open to the public or to users of facilities operated by the entity.

The regulations would apply to all playgrounds newly constructed by a public agency or private entity more than six months after the guidelines were promulgated.

The time frames for compliance would be the same for both private and non-profit entities, except that preexisting playgrounds with grass surfaces would be exempt from compliance with regulations regarding surfacing.

Governmental entities would be required to upgrade existing playgrounds to meet the guidelines as State funds are made available for that purpose or within five years for surfacing and 15 years for all other elements, whichever comes first, after the effective date of those rules and regulations promulgated under the bill's provisions. Nonprofit entities would be required to conform existing playgrounds with the standards for surfacing to be provided in regulations promulgated under the bill by five years following the effective date of those rules and regulations adopted under the bill's provisions, and would be required to conform existing playgrounds with other elements of the promulgated playground standards by 15 years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions, unless the playground equipment were replaced or reconstructed prior to that date. Private entities which operate playgrounds would be required to conform all playground elements by five years following the effective date of those rules and regulations promulgated pursuant to the bill's provisions.

The bill specifies that playgrounds governed by the legislation are those designed, equipped, and set aside for play by six or more children.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

The Office of Legislative Services (OLS) has obtained data on the estimated number of playgrounds owned and operated by the State government and local government units requiring impact-absorbing surfacing materials from the State executive departments of Community Affairs, Education and Environmental protection, and information on the estimated average cost of impact-absorbing surfacing materials for playgrounds from the director of the New Jersey Recreation and Park Association (NJRPA) to prepare this fiscal estimate. The director of NJRPA estimates that 90% of the cost of the materials required to bring playgrounds into compliance with the new playground safety standards is the cost of impact-absorbing surfacing materials to be used in the playground fall zones. The OLS concurs and notes that the annual cost of materials for all other elements to remove hazards from playground areas is indeterminable since those other elements are not required to be upgraded until 15 years after the effective date of the regulations promulgated under this bill.

The OLS estimates that to bring public playgrounds into compliance with the impact-absorbing surfacing material standards to be established under this bill will cost the State government and local government units for the purchase of impact-absorbing surfacing materials an estimated \$17.6 million.

The State government cost is estimated at \$0.1 million starting in FY 1999 for upgrading existing impact-absorbing surfacing materials in State playgrounds using State Parks maintenance personnel. Local government units, if future State funding is not forthcoming, would have an estimated purchasing cost for impact-absorbing surfacing materials for playgrounds of \$17.5 million starting in FY 1999. The Department of Community Affairs indicates that local government units could redeploy existing maintenance personnel to install this impact-absorbing surfacing material; thus, no labor cost has been included in this estimate for local government units.

According to the director of the NJRPA, insurance companies that carry general liability coverage for local government units generally do not segregate playgrounds for additional general liability premium costs and generally treat playgrounds no different than other recreational facilities. The NJRPA director indicated that a prominent local government insurance company has trained its risk evaluators in the playground guidelines as set forth in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission. The NJRPA director indicated that these

guidelines, which include the installation of impact-absorbing surfacing materials in playground fall zones, might serve when implemented to stabilize the current increasing liability insurance costs of many local government units.

**ESTIMATED COST OF PLAYGROUND SAFETY BILL
ASSEMBLY, No. 1798 (1R)**

----- Surfacing Materials -----			
Govt. Playground Owner	Estimated Number of Playgrounds	Estimated Cost Per Playground	Estimated Total Cost (\$ Millions)
State Govt.	21	\$6,000	\$0.1
Local Gov'ts., & Local Housing Authorities	1,400	\$6,000	\$8.4
Elementary Public Schools	1,520	\$6,000	\$9.1
TOTALS	2,941	\$6,000	\$17.6

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 1798

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: APRIL 30, 1999

Assembly Bill No. 1798 (2R) of 1998 would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations regarding public playground safety. The purpose of the regulations is to promote greater safety awareness among those who purchase, install, and maintain playground equipment.

The regulations would apply to playgrounds operated by governmental, nonprofit, and private entities, if the playgrounds are open to the public or to users of facilities operated by those entities; and also to playgrounds newly constructed by a public or private entity more than six months after new guidelines were promulgated.

Those entities and their respective time constraints for compliance with and following the effective date of the rules and regulations promulgated for the improvement and replacement of playground surfaces and equipment are: a) governmental units to the extent State funds are made available through bonds or other means, or within five years for surfacing, and within eight years for all other elements; b) nonprofit units within five years for surfacing, and within 15 years for all other elements; and c) private units within five years for surfacing, and eight years for all other elements.

The bill specifies that playgrounds governed by the legislation are defined as improved areas designed, equipped, and set aside for play by six or more children.

The bill would not require the Department of Community Affairs to enforce the regulations, except in cases in which the department is the enforcing agency under the "State Uniform Construction Code Act."

The Office of Legislative Services (OLS) has obtained data on the estimated number of playgrounds owned and operated by the State government and local government units from the Departments of Community Affairs, Education and Environmental protection, and information on the estimated average cost of impact-absorbing surfacing materials for playgrounds from the director of the New Jersey Recreation and Park Association (NJRPA).

OLS approximates the total cost of this bill at \$19.0 million starting in FY2000. The Department of Community Affairs indicates that local government units could redeploy existing maintenance personnel to

install this impact-absorbing surfacing material; thus, no labor cost has been included in this estimate.

**ESTIMATED COST OF PLAYGROUND SAFETY BILL
ASSEMBLY, No. 1798 (2R)**

----- Surfacing Materials -----			
Govt. Playground Owner	Estimated Number of Playgrounds	Estimated Cost Per Playground	Estimated Total Cost (\$ Millions)
State Govt.	250	\$6,000	\$1.5
Local Gov'ts., & Local Housing Authorities	1,400	\$6,000	\$8.4
Elementary Public Schools	1,520	\$6,000	\$9.1
TOTALS	3,170	\$6,000	\$19.0

The number 250 which is the estimated number of playgrounds in State government does not represent an increase over the number stated in the previous fiscal estimate for this bill, but a number derived from a survey conducted by the Department of Environmental Protection and made available to OLS.

According to the director of the New Jersey Recreation and Park Association (NJRPA) insurance companies that carry general liability coverage for local governments have not segregated playgrounds for additional general liability premium costs. The NJRPA director indicated that general liability policies for local governments treat playgrounds no differently than other recreational facilities. The NJRPA director reports that a prominent local government insurance company trained its risk evaluators in the playground guidelines as set forth in the Handbook for public Playground Safety produced by the United States Consumer Products Safety Commission. The NJRPA director indicated that these guidelines when implemented might serve to stabilize or reduce the current liability insurance costs of local governments that operate playgrounds.

Assembly bill 1798 (2R) eliminates the provision to exempt grass surface playgrounds from the requirements of this proposed act. At this time, the OLS has no data to identify which government-owned playgrounds have grass surfaces or the percentage that number may represent of the total.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

[Second Reprint]

ASSEMBLY, No. 1798

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MARCH 9, 1998

Sponsored by:

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

Assemblyman DAVID C. RUSSO

District 40 (Bergen and Passaic)

Co-Sponsored by:

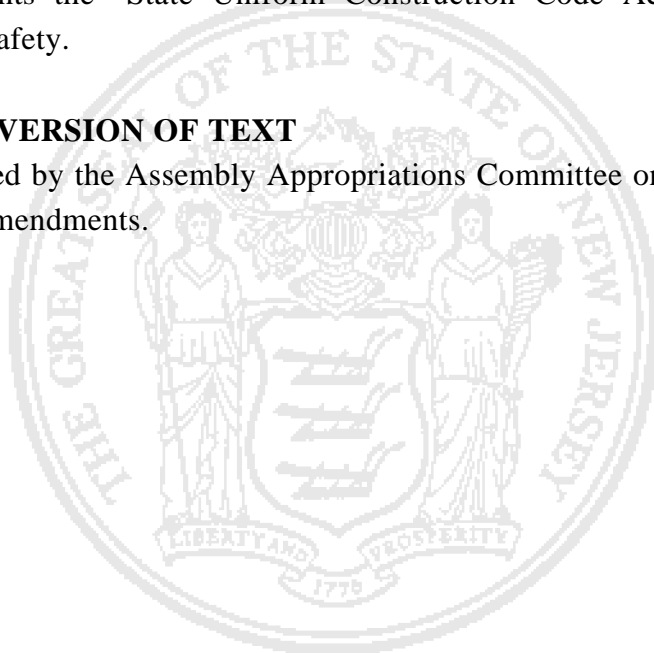
Assemblyman Barnes, Assemblywoman Buono and Assemblyman Weingarten

SYNOPSIS

Supplements the "State Uniform Construction Code Act" concerning playground safety.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on November 9, 1998, with amendments.



(Sponsorship Updated As Of: 1/8/1999)

1 AN ACT concerning playground safety and supplementing the "State
2 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
3 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. For the purposes of this act:

9 "Governmental Entity" means the State, its agencies and
10 instrumentalities, a county or municipality, or any agency or
11 instrumentality thereof, a school district, or any other similar public
12 entity or agency, but not the federal government or its agencies and
13 instrumentalities.

14 "Nonprofit entity" means a person or entity which operates a
15 playground open to the public or open to users of a facility operated
16 by the person or entity, and which is an exempt organization pursuant
17 to section 9 of P.L.1966, c.30 (C.54:32B-9), the "Sales and Use Tax
18 Act," but not a governmental entity or the federal government or its
19 agencies and instrumentalities.

20 "Private entity" means any person or entity which operates a
21 playground open to the public or open to users of a facility operated
22 by the person or entity, but not a governmental entity, a nonprofit
23 entity or the federal government or its agencies and instrumentalities.

24 "Playground" means an improved area designed, equipped, and set
25 aside for play of six or more children which is not intended for use as
26 an athletic playing field or athletic court, and shall include any play
27 equipment, surfacing, fencing, signs, internal pathways, internal land
28 forms, vegetation, and related structures.

29 "Supervision" means all general and specific supervision necessary
30 to protect children from unreasonable risk of harm from site hazards,
31 the acts of other children, or the use of the playground in a way that
32 was not intended by the designer or manager of the playground. This
33 act shall not expand or reduce existing standards of care to which a
34 playground operator is held.
35

36 2. The Department of Community Affairs in consultation with the
37 Department of Education shall promulgate rules and regulations for
38 the design, installation, inspection and maintenance regarding all
39 playgrounds operated by any governmental entity, nonprofit entity or
40 private entity. Those regulations shall meet any standard of care
41 imposed by law on playground operators, and shall be those guidelines

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALH committee amendments adopted September 14, 1998.

² Assembly AAP committee amendments adopted November 9, 1998.

1 and criteria which are contained in the Handbook for Public
2 Playground Safety produced by the United States Consumer Products
3 Safety Commission or any successor. The rules and regulations shall
4 include special provisions for playgrounds appropriate for children
5 within the range of ages in day care settings. The department shall not
6 be responsible for enforcement of any rules or regulations promulgated
7 by this act, unless the department is otherwise responsible for
8 enforcement pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.).

9
10 3. a. All governmental entities operating playgrounds shall
11 upgrade their playgrounds by replacement or improvement as
12 necessary to satisfy the rules and regulations promulgated pursuant to
13 this act to the extent State funds are made available specifically for
14 that purpose through State bonds or other means, or within five years
15 for surfacing and ²[15]eight² years for all other elements whichever
16 comes first, after the effective date of those rules and regulations
17 promulgated pursuant to P.L. , c. (C.) (pending before the
18 Legislature as this act).

19 ¹[All private entities shall upgrade their playgrounds by
20 replacement or improvement as necessary to satisfy the rules and
21 regulations promulgated pursuant to this act, on or before five years
22 following the effective date of those rules and regulations promulgated
23 pursuant to P.L. , c. (C.) (pending before the Legislature as
24 this bill).]¹

25 ²All private entities shall upgrade their playgrounds by replacement
26 or improvement as necessary to satisfy the rules and regulations
27 promulgated pursuant to this act within five years for surfacing, and
28 within eight years for all other elements, following the effective date
29 of those rules and regulations promulgated pursuant to P.L. , c.
30 (C.) (pending before the Legislature as this bill).²

31 All ²[¹private and¹]² nonprofit entities shall upgrade the surfacing
32 of their playgrounds by replacement or improvement as necessary to
33 satisfy the rules and regulations promulgated pursuant to this act, on
34 or before five years following the effective date of those rules and
35 regulations promulgated pursuant to P.L. , c. (C.) (pending
36 before the Legislature as this act), and shall upgrade all other elements
37 of their playgrounds to satisfy the rules and regulations promulgated
38 pursuant to this act, no later than 15 years following the effective date
39 of those rules and regulations promulgated pursuant to P.L. , c.
40 (C.) (pending before the Legislature as this bill), but shall upgrade
41 playground equipment prior to that date if the equipment is replaced
42 or reconstructed. This section shall not affect the liability or absence
43 of liability of playground operators.

44 ²[¹Notwithstanding any requirements of this section, no entity
45 operating a playground shall be required to meet the surfacing
46 requirements of rules and regulations promulgated pursuant to this act

1 if the playground surface on the effective date of P.L. , c.
2 (C.) (now before the Legislature as this bill) consists solely of
3 grass.¹]²

4 b. All newly constructed playgrounds built by a governmental
5 entity, a nonprofit entity, or a private entity more than six months after
6 the effective date of the rules and regulations promulgated pursuant to
7 this act shall conform to the requirements of those rules and
8 regulations.

9
10 4. a. Except in connection with the upgrading of a playground as
11 provided in subsection a. of section 3 of P.L. , c. (C.)
12 (pending before the Legislature as this bill), after the effective date of
13 the rules and regulations promulgated pursuant to this act, no State
14 funding shall be available for the planning, development, or
15 redevelopment of any playground, unless the playground, after
16 completion of the State-funded project, will conform to the applicable
17 rules and regulations promulgated pursuant to this act. If, however,
18 State funds have been appropriated to, or allocated for, a playground
19 project prior to the effective date of the regulations but the regulations
20 become effective prior to the completion of the project, that funding
21 shall be maintained, as long as the playground is altered to conform to
22 the rules and regulations to the extent the alterations can be made
23 without adding more than 15% to the project cost.

24 b. After the date by which an entity is required to conform its
25 playground to satisfy the rules and regulations promulgated pursuant
26 to this act, no State funding shall be available for the construction,
27 operation, maintenance, or supervision of the playground unless the
28 playground conforms to the applicable regulations adopted pursuant
29 to this act.

30

31 5. This act shall take effect immediately.