

Senate Bill No. 2733

CHAPTER 1163

An act to add Chapter 4.5 (commencing with Section 24 to Division 20 of the Health and Safety Code, relating to playgrounds, and making an appropriation therefore,

[Approved by Governor September 20, 1990. Filed with
Secretary of State September 21, 1990)

I am deleting the \$75,000 appropriation contained in Section 3 of Senate Bill No. 2330.

This bill would appropriate \$75,000 to the Department of Health Services (DHS) from the General Fund and would require the DHS, in consultation with various agencies, to adopt regulations by January 1, 1992, governing the design, installation, and maintenance of playgrounds

The demands placed on budget resources require all of us to set priorities. With Legislation, I will be signing and the budget enacted in July 1990, more than \$54 billion in state funds will be appropriated this fiscal year. This amount is more than adequate to provide the necessary services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

It is more appropriate to consider funding the provisions of this bill during the budget process for fiscal year 1991- 92. Only at that time can the relative merits of this program be reviewed in comparison to all other funding projects. The budget process weighs all of the demands on the state's revenues and directs the resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Senate Bill No. 2733

GEORGE DEUKMEJIAN

LEGISLATIVE COUNCIL'S DIGEST

SB 2733. Rosenthal. Playground safety.

Existing law does not provide for safety standards for playgrounds either operated by public agencies or open to the public.

This bill would require that State Department of Health Services, in consultation with the office of the State Architect, the California Parks and Recreation Society, the League of California Cities, the Department of Parks and Recreation, the State Department of Education, and the California Council of the American Society of Landscape Architects, to adopt regulations by January 1, 1992, for the design, installation, maintenance, inspection, supervision where appropriate, and training of personnel involved in the designs, installation, and maintenance, of playgrounds, is described, either operated by public agencies, including state agencies, cities, counties, a city and county, school districts, and other districts, or *operated by* any entity where the playground is open to the public, as described. The bill would require the regulations to meet the standard of care imposed by courts of law on playground operators, and to be at least as protective as guidelines published by the United States Consumer Products Safety Commission. The bill would require the regulations to include special provisions for playgrounds in day care settings, to be developed in consultation with the State Department of Social Services and the California Childrens lobby.

The bill would provide that the State Department of Health Services is not responsible for enforcing the regulations.

The bill would require those public agencies, to upgrade their playgrounds by replacement or improvement as necessary to satisfy those regulations to the extent state funds are made available specifically for those purposes, as specified, and would require all entities operating a playground

open to the public to upgrade their playgrounds by replacement or improvement as necessary to comply with the regulations by January 1, 2000. The bill would prohibit these provisions from affecting the liability or absence of liability of playground operators,

The bill would require the state department to include in all of the above-described regulations special provisions for the needs of the developmentally disabled, as specified.

The bill would prohibit state funding from being available, after the effective date of the above-described regulations, for the planning, development, or redevelopment *or* a playground unless the playground, after completion of the state funded project, would conform to the applicable regulations adopted pursuant to the provisions of the bill. It would prohibit state funding from being available, after the date by which an entity is required to conform to applicable regulations, for the operation, maintenance, or supervision of a playground unless the playground conforms to the applicable regulations adopted pursuant to the provisions of the bill. It would provide that where state funds have been appropriated prior to the effective date of the regulations but the regulations become effective prior to the completion of the project that the funding be maintained as long as the playground is altered to conform to the regulations, except as specified.

The bill would require all new playgrounds open to the public built by a public agency or any other entity more than six months after the effective date of the regulations to conform to the regulations, except that where the playground developer knows of the regulations before undertaking expenses, the 6-month grace period would not apply.

The bill would appropriate \$75,000 to the State Department of Health Services for the purposes of adopting the regulations required by the bill.

Appropriation: yes.

The people of the State of California do enact as follows

SECTION 1. The Legislature finds and declares the following:

(a) Nationwide, at least 15 children were killed and 192,000 injured in 1983 in playground accidents, including three children aged three and four killed *in Los Angeles* and Orange Counties.

(b) The proper design, installation, inspection, maintenance, and supervision of playgrounds would prevent many costly injuries and deaths in California.

(c) California has fallen behind other states and the federal government in providing guidelines and other support for safe playgrounds, which develop skill and confidence in children without imposing undue risks.

(d) Generally applicable standards for public playgrounds are needed to protect children and to stem the increasing exposure of public and private resources to lawsuits.

(e) It is the intent of the Legislature in enacting this chapter to encourage playground safety, and to prevent costly accidents by requiring regulations which, as accurately as possible, approximate the standard of care applicable to playground operators. It is expected that these regulations will improve the conditions in those playgrounds that are not properly designed, built, maintained, or supervised by warning of safety risks, and will simplify the task of building safe playgrounds in the future. It is not the intent of the Legislature that these regulations shall serve either to shield against liability or to create liability for a playground operator.

SEC. 2. Chapter 45 (commencing with Section 24450) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 4.5. PLAYGROUND SAFETY

24450. On or before January 1, 1992, the state department, in consultation with the office of the State Architect, the California Parks and Recreation Society, the League of California Cities, the

Department of Parks and Recreation, the State Department of Education and the California Council of the American Society of Landscape Architects, shall adopt regulation for the design, installation, inspection, maintenance, and supervision where appropriate, anti training of personnel involved in the design, installation, and maintenance of all playgrounds either operated by public agencies, including a state agency, city, county, city and county, school district, and any other district, or operated by any entity where the playground is open to the public. Those regulations shall meet the standard of care imposed by courts of law on playground operators, and shall, at a minimum impose guidelines and ail term which shall be at least as protective as the guidelines in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission, shall give due consideration to any successor to the Handbook for Public Playground Safety which may be published, and shall include more protective requirements where the state department finds those guidelines will provide inadequate protection. The regulations shall include specifications for playgrounds in day care settings, which shall be developed in consultation with the State Department of Social Services and the California Children's Lobby, and which shall be appropriate for children within the range of ages in day care settings. The state department shall not be responsible for enforcement of any regulations pursuant to this section.

24451. All public agencies operating playgrounds, including a state agency, city, county, city and county, and district, shall upgrade their playgrounds by replacement or improvement as necessary *to* satisfy the regulations adopted pursuant to Section 24450 to the extent state funds are made available specifically for that purpose through state bonds or other means. All other entities operating playgrounds open to the public shall upgrade their playgrounds by replacement or improvement, as necessary to satisfy the regulations adopted pursuant to Section 24450, on or before January 1, 2000. This section shall not affect the liability or absence of liability of playground operators.

21452. For purposes of this chapter, all of the following shall apply;

(a) An "entity operating a playground open to the public" shall include, but not be limited to, a church, subdivision, hotel, motel, resort, camp, office, hospital, stopping center, day care setting, and restaurant.

(b) "Playground" shall refer to an improved outdoor area designed, equipped, and set aside for children's play which is not intended for use as an athletic playing field or athletic court; and shall include any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

(c) "Supervision shall include all general and specific supervision necessary to protect children from unreasonable risk of harm from site hazards, the acts of other children, or the use of the playground in a way that was not intended by the designer or manager of the playground. The regulations required pursuant to this chapter shall not expand on the periods or circumstances when supervision shall be provided beyond the periods or circumstances already determined to be within the existing standard of care to which a playground operator is held,

24453. Regulations adopted pursuant to this chapter shall include special provisions where appropriate, as determined the state department, for the needs of the developmentally disabled in state institutions, pursuant to Division 41 (commencing with Section 4400) of, and Division 4.5 (commencing with Section 4500) of, the welfare and Institute Code, and in community care facilities, and other public and private institutions that provide residential or day tare specifically for the developmentally disabled.

24454. (a) After the effective date of the regulations adopted pursuant to this chapter, no state funding shall be available for the planning, development, or redevelopment of any playground, unless the playground, after completion of the state-funded project, will conform to the applicable regulations adopted pursuant to this chapter. However, where state funds have been appropriated to, or allocated for, a playground project prior to the effective date of the regulations but the regulations become effective prior to the completion of the project, that funding shall be maintained, as long as the playground is altered to conform to the regulations to the extent the alterations can be made without adding significantly to the project cost.

(b) After the date by which an entity is required to conform its playground to satisfy regulations adopted

pursuant to this chapter, no state funding be available for the operation, maintenance, or supervision of the playground unless the playground conforms to the applicable regulations adopted pursuant to this chapter.

24455. All new playgrounds open to the public built by a public agency or any other entity snore than six months after the effective date of the regulations adopted pursuant to this chapter shall conform to t he requirements of those regulations Where the playground developer knows of the regulations before undertaking any expense related to designing or building the playground, this six-month green period shall not apply.

SEC. 3. The sum of seventy-five thousand dollars (\$75,000) is hereby appropriated from the General Fund to the State Department of Health Services for the purposes of adopting the regulations required by ampler 43 (commencing with Section 24450) of Division 20 of the Health and Safety Code.