

CHAPTER 50

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:27D-123.9 Definitions relative to playground safety.

1. For the purposes of this act:

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

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

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

"Playground" means an improved area designed, equipped, and set aside for play of six or more children 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.

"Supervision" means 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. This act shall not expand or reduce existing standards of care to which a playground operator is held.

C.52:27D-123.10 Rules, regulations pertinent to playgrounds.

2. The Department of Community Affairs in consultation with the Department of Education shall promulgate rules and regulations for the design, installation, inspection and maintenance regarding all playgrounds operated by any governmental entity, nonprofit entity or private entity. Those regulations shall meet any standard of care imposed by law on playground operators, and shall be those guidelines and criteria which are contained in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission or any successor. The rules and regulations shall include special provisions for playgrounds appropriate for children within the range of ages in day care settings. The department shall not be responsible for enforcement of any rules or regulations promulgated by this act, unless the department is otherwise responsible for enforcement pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.).

C.52:27D-123.11 Upgrading of playgrounds.

3. a. All governmental entities operating playgrounds shall upgrade their playgrounds by replacement or improvement as necessary to satisfy the rules and regulations promulgated pursuant to this act to the extent State funds are made available specifically for that purpose through State bonds or other means, or within five years for surfacing and eight years for all other elements whichever comes first, after the effective date of those rules and regulations promulgated pursuant to P.L.1999, c.50 (C.52:27D-123.9 et seq.).

All private entities shall upgrade their playgrounds by replacement or improvement as necessary to satisfy the rules and regulations promulgated pursuant to this act within five years for surfacing, and within eight years for all other elements, following the effective date of those rules and regulations promulgated pursuant to P.L.1999, c.50 (C.52:27D-123.9 et seq.).

All nonprofit entities shall upgrade the surfacing of their playgrounds by replacement or improvement as necessary to satisfy the rules and regulations promulgated pursuant to this act, on or before five years following the effective date of those rules and regulations promulgated pursuant to P.L.1999, c.50 (C.52:27D-123.9 et seq.), and shall upgrade all other elements of their playgrounds to satisfy the rules and regulations promulgated pursuant to this act, no later than 15 years following the effective date of those rules and regulations promulgated pursuant to P.L.1999, c.50 (C.52:27D-123.9 et seq.), but shall upgrade playground equipment prior to that date if the equipment is replaced or reconstructed. This section shall not affect the liability

or absence of liability of playground operators.

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

C.52:27D-123.12 Conformity to rules, regulations required for receipt of State funding.

4. a. Except in connection with the upgrading of a playground as provided in subsection a. of section 3 of P.L.1999, c.50 (C.52:27D-123.11), after the effective date of the rules and regulations promulgated pursuant to this act, 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 rules and regulations promulgated pursuant to this act. If, however, 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 rules and regulations to the extent the alterations can be made without adding more than 15% to the project cost.

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

5. This act shall take effect immediately.

Approved March 23, 1999.