

**As Introduced**

**127th General Assembly  
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**H. B. No. 585**

**Representative Bolon**

**Cosponsors: Representatives Chandler, Harwood, Brown, Brady, Luckie,  
Williams, B., Newcomb, Foley**

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**A BILL**

To enact sections 3755.01, 3755.02, 3755.03, 3755.04, 1  
3755.05, 3755.06, 3755.07, and 3755.08 of the 2  
Revised Code to prohibit the sale of unsafe 3  
children's products and to require commercial 4  
dealers and retailers to take specific actions in 5  
respect to unsafe children's products they have 6  
sold or are selling. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3755.01, 3755.02, 3755.03, 3755.04, 8  
3755.05, 3755.06, 3755.07, and 3755.08 of the Revised Code be 9  
enacted to read as follows: 10

**Sec. 3755.01.** As used in this chapter: 11

(A)(1) "Children's product" means any product, including, but 12  
not limited to, a crib, a toddler bed, a bed, a car seat, a chair, 13  
a high chair, a booster chair, a hook-on chair, a bath seat, a 14  
gate or another enclosure for confining a child, a play yard, a 15  
stationary activity center, a carrier, a stroller, a walker, a 16  
swing, or a toy or play equipment, that fulfills both of the 17  
following criteria: 18

(a) The product is designed or intended for use by or for the care of any child under the age of nine; 19  
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(b) The product is designed or intended to come into contact with a child under the age of nine while the product is used. 21  
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(2) Notwithstanding division (A)(1) of this section, "children's product" does not include products that satisfy one of the following criteria: 23  
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(a) The product may be used by or for the care of a child under the age of nine, but is designed or intended for use by the general population or segments of the general population and not solely or primarily for use by or for the care of a child under the age of nine; 26  
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(b) A product that is a drug, as defined in section 3715.01 of the Revised Code or food, as defined in that section, or a product that is intended to be ingested. 31  
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(B) "Commercial dealer" means a person who deals in children's products or who otherwise by occupation holds one's self out as having knowledge or skill peculiar to children's products, or any person who is in the business of remanufacturing, retrofitting, selling, leasing, subletting, or otherwise placing children's products into the stream of commerce and includes manufacturers, importers, distributors, and wholesalers. 34  
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(C) "Crib" means a bed or containment designed to accommodate an infant. 41  
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(D) "Distributor" and "wholesaler" mean a person, other than a manufacturer or retailer, who sells, resells, or otherwise places children's products into the stream of commerce. 43  
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(E) "End consumer" means a person who purchases a children's product for personal, family, or household use or a person who initially purchases a children's product for personal, family, or 46  
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household use and subsequently resells the item. 49

(F) "First seller" means a retailer who sells a children's product that has not been used or owned previously. 50  
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(G) "Importer" means a person who brings children's products into this country and places them into the stream of commerce. 52  
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(I) "Infant" means a person less than thirty-five inches tall and less than three years of age. 54  
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(J) "Manufacturer" means a person who makes and places children's products into the stream of commerce. 56  
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(K) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes limited liability companies. 58  
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(M) "Retailer" means a person who sells, leases, or sublets children's products to the public or an end consumer. 60  
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(N) "Unsafe children's product" means a children's product to which any of the following statements apply: 62  
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(1) The children's product does not conform to all applicable federal laws and regulations setting forth standards for the children's product; 64  
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(2) The children's product has been recalled for any reason by or in cooperation with an agency of the federal government or the commercial dealer of the children's product, and the recall has not been rescinded; 67  
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(3) An agency of the federal government or the children's product's commercial dealer has issued a warning that the intended use of a specific children's product constitutes a safety hazard, and the warning has not been rescinded; 71  
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(4) The children's product is a crib that fails to conform to the standards for crib safety endorsed or established by the consumer product safety commission of the United States, including, but not limited to, 16 C.F.R. 1303 and 1509 and 17 75  
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C.F.R. 1508, or the standards for crib safety endorsed or 79  
established by the American society for testing and materials 80  
international, including, but not limited to, standards F 406, F 81  
966, and F 1169 of the American society for testing and materials 82  
international. 83

Sec. 3755.02. (A) On or after the effective date of this 84  
section, no commercial dealer or retailer may manufacture, 85  
remanufacture, retrofit, distribute, sell at wholesale or retail, 86  
contract to sell or resell, lease, sublet, import, or otherwise 87  
place into the stream of commerce an unsafe children's product. 88

(B) A commercial dealer or retailer did not violate division 89  
(A) of this section if the unsafe children's product the 90  
commercial dealer or retailer sold was not included on the 91  
comprehensive list maintained by the department of commerce 92  
pursuant to division (A) of section 3755.03 of the Revised Code at 93  
least twenty-four hours prior to the time the commercial dealer or 94  
retailer sold that unsafe children's product. 95

(C) A commercial dealer is not violating division (A) of this 96  
section if the unsafe children's product the commercial dealer 97  
sells is retrofitted and all of the following conditions apply: 98

(1) The retrofit was approved by an agency of the federal 99  
government; 100

(2) At the time the commercial dealer sells or transfers the 101  
retrofitted children's product, the retrofitted children's product 102  
is accompanied by a notice declaring that the retrofitted 103  
children's product is safe for use by a child under the age of 104  
nine; 105

(3) The notice required by division (C)(2) of this section 106  
contains a description of the original problem that made the 107  
children's product unsafe, a description of the retrofit that 108

explains how the original problem was eliminated, the name and address of the commercial dealer who accomplished the retrofit and who is certifying that the work was done, and the name and model number of the children's product that was retrofitted. 109  
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(D) A commercial dealer or retailer is not violating division (A) of this section if the unsafe children's product the commercial dealer or retailer is selling is accompanied, at the time of sale or transfer by the commercial dealer or retailer, by supplies and instructions for the consumer to accomplish a retrofit that is approved by an agency of the federal government. 113  
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(E) A retailer is not violating division (A) of this section if the retailer is a first seller and the retailer accomplishes, prior to the sale of the unsafe children's product, the retrofit that is approved by an agency of the federal government. 119  
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Sec. 3755.03. The director of commerce shall do all of the following: 123  
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(A) Maintain and update a comprehensive list of unsafe children's products; 125  
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(B) Update the comprehensive list required by division (A) of this section within twenty-four hours after the children's product is publicly identified as an unsafe children's product by virtue of the processes for making this determination as described in division (N) of section 3755.01 of the Revised Code; 127  
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(C) Make the list required by division (A) of this section available to the public at no cost; 132  
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(D) Post on the web site maintained by the department the list required by division (A) of this section, a hyperlink to the specific recall notice or warning issued for each children's product included on that list for which such a hyperlink exists, and a hyperlink to [www.recalls.gov](http://www.recalls.gov) or its successor uniform 134  
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<u>resource locator;</u>	139
<u>(E) Review and update the hyperlinks described in division</u>	140
<u>(D) of this section as frequently as is practicable;</u>	141
<u>(F) Include information regarding the list required by</u>	142
<u>division (A) of this section in regular publications or mailings</u>	143
<u>issued by the department on the subject of consumer protection;</u>	144
<u>(G) Adopt rules pursuant to Chapter 119. of the Revised Code</u>	145
<u>that are necessary and proper to implement this section.</u>	146
<u>Sec. 3755.04. If a commercial dealer places into the stream</u>	147
<u>of commerce a children's product for which that commercial dealer</u>	148
<u>or an agency of the federal government subsequently issues a</u>	149
<u>recall or warning, within the twenty-four hours after the</u>	150
<u>commercial dealer issues that recall or within twenty-four hours</u>	151
<u>after the commercial dealer receives a recall or warning notice</u>	152
<u>concerning that children's product from an agency of the federal</u>	153
<u>government, whichever is applicable, or if both are applicable,</u>	154
<u>the earlier of those times, the commercial dealer shall initiate</u>	155
<u>each of the following steps:</u>	156
<u>(A) Provide the recall notice or warning and other pertinent</u>	157
<u>information concerning that children's product to all of the</u>	158
<u>commercial dealer's commercial customers, other than end</u>	159
<u>consumers, to whom the commercial dealer sold, leased, sublet, or</u>	160
<u>transferred that children's product in this state;</u>	161
<u>(B) Provide the information described in division (A) of this</u>	162
<u>section to the person designated by the commercial customer to</u>	163
<u>receive information concerning recalls or warnings for that</u>	164
<u>children's product;</u>	165
<u>(C) If the commercial dealer maintains a web site, place all</u>	166
<u>of the following on the web site:</u>	167
<u>(1) On the home page or first entry point of the web site, a</u>	168

hyperlink of the uniform resource locator for the web site that 169  
contains the specific recall notice or warning that was issued for 170  
that children's product; 171

(2) A description of that children's product; 172

(3) The reason for the recall or warning; 173

(4) A picture of that children's product; 174

(5) Instructions on how to participate in the recall or 175  
warning. 176

(D) When providing the information required by divisions (A) 177  
and (B) of this section, the commercial dealer shall not include 178  
sales or marketing information for that children's product or any 179  
other product, but may include return and exchange policies; 180

**Sec. 3755.05.** (A) If a retailer receives a notice of a recall 181  
or warning about a children's product from a commercial dealer or 182  
federal agency, and if the retailer at any time offered that 183  
children's product for sale in this state, the retailer shall do 184  
all of the following with respect to that children's product: 185

(1) Within three business days after receipt of the recall or 186  
warning notice, remove that children's product from the shelves of 187  
its stores or program its registers to ensure that the children's 188  
product cannot be sold; 189

(2) If that children's product is sold through the retailer's 190  
web site, within three business days after receipt of the recall 191  
or warning notice, remove all offers to sell that children's 192  
product from the web site or disable the function that allows 193  
consumers to purchase that children's product through the web 194  
site; 195

(3) Within thirty days after the retailer receives the recall 196  
or warning notice, send to any purchaser of that children's 197  
product who provided an e-mail or shipping address at the time of 198

<u>purchase, to either address provided, a notice that includes all</u>	199
<u>of the following:</u>	200
<u>(a) A description of the children's product;</u>	201
<u>(b) The reason for the recall or warning;</u>	202
<u>(c) A picture of the children's product;</u>	203
<u>(d) Instructions on how to participate in the recall or</u>	204
<u>warning.</u>	205
<u>(4) Not include sales or marketing information on that</u>	206
<u>children's product or any other product when providing the recall</u>	207
<u>or warning information required by division (A)(3) of this</u>	208
<u>section, but the retailer may include return and exchange</u>	209
<u>policies;</u>	210
<u>(5) Within five business days after the retailer receives the</u>	211
<u>recall or warning notice from a commercial dealer or federal</u>	212
<u>agency, post the recall or warning notice in a conspicuous</u>	213
<u>location in each retail store operated by that retailer in this</u>	214
<u>state for at least one hundred twenty days;</u>	215
<u>(6) If the children's product for which a recall or warning</u>	216
<u>was issued was sold on the retailer's web site, within five</u>	217
<u>business days after the receipt of the notice of the recall or</u>	218
<u>warning from a commercial dealer, place on its web site all of the</u>	219
<u>following:</u>	220
<u>(a) On the home page or the first entry point of the</u>	221
<u>retailer's web site, a hyperlink of the uniform resource locator</u>	222
<u>for the web site that contains the specific recall notice or</u>	223
<u>warning that was issued for the children's product in question;</u>	224
<u>(b) A description of the children's product;</u>	225
<u>(c) The reason for the recall or warning;</u>	226
<u>(d) A picture of the children's product;</u>	227



(e) Instructions on how to participate in the recall or 228  
warning. 229

(B) A retailer who is not a first seller shall comply with 230  
division (A) of this section except that a retailer who is not a 231  
first seller shall have five days following the placement of a 232  
recalled children's product on the list maintained by the director 233  
of commerce as required under division (A) of section 3755.03 of 234  
the Revised Code to comply with divisions (A)(1) and (2) of this 235  
section. 236

(C) A retailer who is both a first seller and a secondhand or 237  
resale seller shall comply with division (A) of this section in 238  
respect to products for which the retailer is the first seller and 239  
shall comply with division (B) of this section in respect to 240  
products for which the retailer is not the first seller. 241

(D) A commercial dealer who also performs as a retailer shall 242  
comply with section 3755.04 of the Revised Code for activities the 243  
commercial dealer engages in as a commercial dealer and shall 244  
comply with this section for activities the commercial dealer 245  
engages in as a retailer. 246

**Sec. 3755.06.** Nothing in this chapter shall be interpreted to 247  
allow any department, board, or other agency of the state or a 248  
political subdivision of the state to issue recalls. 249

**Sec. 3755.07.** Nothing in this chapter relieves a commercial 250  
dealer or retailer from complying with requirements that may be 251  
imposed on the commercial dealer or retailer by an agency of the 252  
federal government. 253

**Sec. 3755.08.** (A) If, by the attorney general's own inquiries 254  
or as a result of complaints the attorney general receives, the 255  
attorney general has reasonable cause to believe that a person has 256

engaged in or is engaging in an act or practice that violates this 257  
chapter, the attorney general may do any of the following: 258

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(1) Exercise the same powers as those described in section 260  
1345.06 of the Revised Code, except that information acquired as 261  
described in division (E) of section 1345.06 of the Revised Code 262  
shall be usable in an action for damages under division (A)(3) of 263  
this section; 264

(2) Bring an action to obtain a temporary restraining order, 265  
preliminary injunction, or permanent injunction to restrain the 266  
act or practice that violates this chapter; 267

(3) Bring an action for a civil penalty in a court of 268  
competent jurisdiction against the person. 269

(B) If the attorney general brings an action for a civil 270  
penalty pursuant to division (A)(3) of this section, the court may 271  
impose a civil penalty of not more than five hundred dollars for 272  
each day that the violation continues. Civil penalties collected 273  
pursuant to this division shall be paid as follows: one-fourth of 274  
the amount to the treasurer of the county in which the action is 275  
brought and three-fourths to the attorney general reimbursement 276  
fund created by section 109.11 of the Revised Code. 277