



**Division of
Consumer Protection**

Consumer Protection Law

Playground Equipment Safety

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New York State
DEPARTMENT OF STATE
Division of Consumer Protection

<https://dos.ny.gov>

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Consumer Protection Law

Playground Equipment Safety

General Business

*** § 399-dd2. Construction or installation of playground or playground equipment.**

1. Definitions relative to playground safety. For the purposes of this section, the term "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.
2. The Department of State, in consultation with the Office of Parks, Recreation and Historic Preservation, shall promulgate rules and regulations for the design, installation, inspection and maintenance of playgrounds and playground equipment. Those regulations shall substantially comply with the 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.
3. (a) No person, firm, corporation, or other legal entity which constructs, assembles or installs a playground or playground equipment shall construct, assemble, or install in this State such playground or playground equipment unless such playground or playground equipment shall conform to the requirements of those rules and regulations promulgated pursuant to this section.

(b) Playgrounds or playground equipment constructed upon one, two and three-family residential real property are exempt from the requirements of this section.
4. Whenever the Attorney General shall believe from evidence satisfactory to him that any person, firm, corporation or association or agent or employee thereof has violated any provision of this section, he may bring an action in the Supreme Court of the State of New York for a judgment enjoining the continuance of such violation and for a civil penalty of not more than one thousand dollars for each violation, except that the court may impose a civil penalty of not more than ten thousand dollars if the violation is knowing and willful. If it shall appear to the satisfaction of the court or justice that the defendant has violated any provision of this section, no proof shall be required that any person has been injured thereby nor that the defendant knowingly or intentionally violated such provision. In such action, preliminary relief may be granted under article sixty-three of the Civil Practice Law and Rules. Before any violation of this section is sought to be enjoined, the Attorney General shall be required to give the person against whom such proceeding is contemplated notice by certified mail and an opportunity to show in writing within five business days after receipt of notice why proceedings should not be instituted against him, unless the Attorney General shall find, in any case in which he seeks preliminary relief, that to give such notice and opportunity is not in the public interest.

* NB There are 3 § 399-dd's

Miscellaneous

PART 223

DESIGN, INSTALLATION, INSPECTION AND MAINTENANCE OF PLAYGROUND EQUIPMENT

(Statutory Authority; General Business Law § 399-dd)

Section 223.1 Definitions.

- (a) Construct means the building of a new playground or the building or replacement of major types of playground equipment within a preexisting playground or the modification of major types of playground equipment within a preexisting playground. This definition shall not include routine maintenance on playground equipment.
- (b) Playground means equipment, related structures, surfacing, fencing, signs, internal pathways, land forms and vegetation for the use of six or more children. For purposes of this part, playground does not include areas on one, two or three family residential properties or areas intended to serve as athletic fields or athletic courts.

Section 223.2 Incorporation by reference.

The guidelines of the U.S. Consumer Product Safety Commission Handbook for Public Playground Safety are hereby incorporated by reference in this Part and have been filed in the Office of the Secretary of State of the State of New York, the publication so being filed being the booklet entitled: Handbook for Public Playground Safety, Publication No. 325, 2003. These guidelines incorporated by reference may be examined at the New York State Department of State, Division of Consumer Protection, 99 Washington Avenue, Suite 640, Albany, New York 12231, the New York State Department of State website at www.dos.ny.gov, at the law libraries of the New York State Supreme Court, the Legislative Library and the New York State Department of Parks, Recreation and Historic Preservation.