

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require the Department of General Services to publish a master list of public recreational spaces in the District, to require the Mayor to transmit to the Council a study on the safety of synthetic materials used in construction at public recreational spaces, to prohibit the use of those synthetic materials that fail to adhere to certain health and safety standards and to require the Department to make publicly available a list of those materials that are approved or disapproved for use, to require the Department to assess public recreational spaces for materials containing known carcinogens or toxins and to require the Department to provide the Council with a remediation plan for such spaces, to require the regular testing of public recreational spaces for adherence to certain health and safety standards, to require the Department to develop protocols for the regular testing of public recreational spaces, to require the Department to provide notice to DCPS, DPR, and the public regarding the failure of a public recreational space to meet certain health and safety standards, to require the Department to undertake a study on testing of synthetic turf fields for unsafe ambient and surface temperatures; to require that the Department adhere to industry best practices regarding solicitation of and entering into contracts for the construction, replacement, and maintenance of the District's public recreational spaces; and to clarify that this act does not create a private right of action against the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Safe Fields and Playgrounds Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "ASTM International" means the organization formerly know as the American Society for Testing and Materials that develops technical standards for certain materials, products, systems, and services.

(2) "Construction project" means any construction, resurfacing, renovation, equipment replacement, or other similar activity with a contract value greater than \$10,000 at a public recreational space.

(3) "DGS" means the Department of General Services.

(4) "DPR" means the Department of Park and Recreation.

(5) "DCPS" means the District of Columbia Public Schools.

(6) “G-max test” means any method for measuring the shock-attenuation performance of a field or sport surface.

(7) “Improvement” means any installed or constructed surface or structure at a public recreational space.

(8) “Public recreational space” means a park, dog park, playground, spray park, athletic field, or other space used for recreational activities that is owned or maintained by the District.

(9) “Public Recreational Space Master List” means a master list of all public recreational spaces in the District.

Sec. 3. Public Recreational Space Master List.

(a) By June 1, 2019, DGS, with assistance from DPR and DCPS, shall:

(1) Create the Public Recreational Space Master List, which shall include for each public recreational space:

(A) The address of the public recreational space;

(B) The District agency or agencies that own or maintain the public recreational space;

(C) A list of the synthetic materials of which any improvements to the public recreational space are composed;

(D) The date of installation or construction of any improvements to the public recreational space;

(E) The natural life, according to manufacturer specifications or, where the manufacturer specifications are not available, industry standards, of any improvements to the public recreational space;

(F) The results of tests conducted pursuant to section 5; and

(G) The anticipated date of the next tests to be conducted pursuant to section 5 at the public recreational space; and

(2) Publish the Public Recreational Space Master List on the DGS website.

(b) DGS shall update the Public Recreational Space Master List within 30 days after the completion of a construction project or receipt of final results from testing at a public recreational space conducted pursuant to section 5.

Sec. 4. Assessment of synthetic materials.

(a)(1) The Department of Energy and the Environment and the Department of Health shall conduct a study assessing the safety of all synthetic materials currently used in construction at District public recreational spaces. The study shall identify whether a synthetic material:

(A) Contains known carcinogens or other toxins, and whether the synthetic material poses a health risk if it is ingested, inhaled, or comes into contact with a person’s skin or eyes;

(B) Meets ASTM International standards for shock-attenuation, where the synthetic material is used for surfacing; or

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(C) Can, under normal weather conditions as determined by DGS, exhibit ambient or surface temperatures that cause burns, dehydration, heat stroke, or heat exhaustion.

(2) The Mayor shall transmit the results of the study to the Council within one year after the effective date of this act.

(b) Within 30 days after the Mayor transmits the study to the Council, DGS shall:

(1) Prohibit all District employees, contractors, and subcontractors from using a synthetic material in a construction project at a public recreational space if the synthetic material:

(A) Poses a serious health risk when it is ingested, inhaled, or comes in contact with a person's skin or eyes; or

(B) Scores a g-max test value that is greater than or equal to the standard for shock-attenuation set by ASTM International, when the synthetic material is maintained in accordance with manufacturer standards;

(2) Issue notice to all contractors or subcontractors bidding on or holding a construction project contract with the District of those synthetic materials banned pursuant to paragraph (1) of this subsection; and

(3) Publish on the DGS website:

(A) A list of all synthetic materials approved for use, including the following information for each synthetic material:

(i) Manufacturer material product sheets or similar documentation;

(ii) The concentration of any known toxins, including lead, cadmium, chromium, mercury, tin, and zinc;

(iii) An assessment of the risk to human health posed by the synthetic material, including:

(I) Through eye or skin contact, ingestion, or inhalation;

(II) Any known carcinogenic properties;

(iv) Data on the synthetic material's flammability;

(v) Maintenance or other service requirements to ensure quality control of the synthetic material;

(vi) Any other hazards posed by the synthetic material under regular use; and

(vii) Any precautions needed for the synthetic material; and

(B) A list of all synthetic materials that DGS has prohibited for use pursuant to paragraph (1) of this subsection, that shall include the basis upon which DGS has prohibited the synthetic material, including any test results, studies, or other documentation used by DGS to make its determination.

(c) Neither DGS nor any contractor or subcontractor holding a contract with the District shall be permitted to use a synthetic material in a construction project unless it has been approved for use pursuant to subsection (b)(3)(A) of this section.

(d) Within 180 days after the Mayor transmits the study to the Council required in subsection (a) of this section, DGS shall transmit to the Council:

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(1) A list of all public recreational spaces that are composed, in whole or in part, of synthetic materials prohibited pursuant to subsection (b)(1) of this section, including a description of the health or safety risk posed by the synthetic material in use at the public recreational space; and

(2) A remediation plan for the removal of the synthetic material from each public recreational space, including the anticipated period of time that the public recreational space will be closed to public use, if any.

Sec. 5. Annual testing.

(a) The Department of General Services (“DGS”) shall conduct an annual g-max test on all fields and sport surfaces in a public recreational space with surfaces composed of synthetic materials, with tests occurring at least once in June or July of each year.

(b)(1) Within 90 days after the effective date of this act, DGS shall establish protocols for the testing of a field or sport surface in a public recreational space as described in subsection (a) of this section. Under these protocols, a field or sport surface in a public recreational space shall be considered failing if the synthetic material would be prohibited under section 4(b)(1)(B).

(2) DGS shall conduct tests under subsection (a) of this section using the testing practices and equipment recommended by ASTM International. If ASTM International updates its recommendations for testing equipment, DGS shall procure the equipment within one year after the date when ASTM International publishes the update on its website.

(3) DGS shall conduct tests on a field or sport surface in a public recreational space with a surface composed of synthetic materials under subsection (a) in a manner that the tests will minimize interruption of DCPS, DPR, or permitted activities.

(c)(1) If any portion of a field or sport surface in a public recreational space, in whole or in part, fails a test conducted pursuant to subsection (a) of this section, DGS shall take remedial action within 24 hours after receiving the failing test results. If the remedial action is not completed within 24 hours after receiving the failing test result, DGS shall close the affected field or sport surface of the public recreational space to the public. DGS shall not reopen the field or sport surface until the remedial action is completed and the field or sport surface passes a subsequent g-max test.

(2) Within 24 hours after DGS receives a test result resulting in the closure of a public recreational space under this section, DGS shall send the test results and a remediation plan to the following:

(A) The Chief Operating Officer of DCPS, if the public recreational space is owned or maintained by DCPS; or

(B) The Director of DPR, if the public recreational space is owned or maintained by DPR.

(3) Within 2 business days of receiving a test result resulting in the closure of a public recreational space under this section, DGS shall:

(A) Publish notice on the DGS website; and

(B) Post a conspicuous sign at the public recreational space that clearly communicates information about the closure of the space, including:

(i) The reason for the closure,
(ii) The date and nature of any planned remediation efforts, and
(iii) Contact information for a DGS employee responsible for addressing questions about the remediation.

Sec. 6. Study of unsafe surface and ambient temperatures at public recreational spaces.

Within one year after the effective date of this act, DGS shall transmit to the Council a study on methods for testing of surfaces in public recreational spaces for unsafe surface and ambient temperatures. This study shall include:

- (1) Information on the methods available to test the surface and ambient temperature of surfaces composed of synthetic materials, including information on each method's cost and reliability;
- (2) A summary of existing research on the health and safety risks posed by particular surface or ambient temperatures on surfaces composed of synthetic materials, including information on any specific temperature threshold that, when exceeded, can create a health and safety risk to individuals using the turf surface; and
- (3) A summary of steps that DGS and other District agencies would need to take to implement a protocol to test the District's public recreational spaces for unsafe surface and ambient temperatures.

Sec. 7. Contracting best practices.

DGS shall adhere to industry best practices regarding solicitation of and entering into a contract for a construction project in a public recreational space. This shall include prioritizing maintenance contract proposals that would not void existing warranties.

Sec. 8. No private right of action against the District.

Nothing in this act shall create a private right of action against the the District or its officers, employees, agents, representatives, contractors, successors, and assigns based upon compliance or noncompliance with its provisions. No person or entity may assert any claim or right as a beneficiary or protected class under this section in any civil, criminal, or administrative action against the District.

Sec. 9. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 10. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia