

April 3, 2008

To the Members of the House of Representatives:

Governor's Veto Message for House Bill 1240

I am returning House Bill 1240, "AN ACT TO CREATE THE CHILDREN'S PRODUCT SAFETY ACT; TO PROVIDE WHEN A CHILDREN'S PRODUCT IS DEEMED UNSAFE; TO REQUIRE THE ATTORNEY GENERAL TO CREATE, MAINTAIN AND UPDATE A COMPREHENSIVE LIST OF UNSAFE CHILDREN'S PRODUCTS; TO PROHIBIT A SELLER FROM RESELLING UNSAFE CHILDREN'S PRODUCTS; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ACT; AND FOR RELATED PURPOSES;" without my approval and assign the following reasons for my veto:

I am vetoing House Bill 1240 because it would undermine the comprehensive tort reform law the Legislature enacted in 2004. Specifically, HB 1240 would allow claims for alleged defective children's products to be filed under the Mississippi Consumer Protection Act (MCPA), which has different standards than Mississippi's existing products liability laws.

A fair and just legal system provides appropriate compensation to those who have been injured and provides certainty and predictability to those being sued. Mississippi's statutory products liability scheme is fair and just, because it provides clear rights to both those who are injured by defective products and those who manufacture products. It also protects "innocent sellers."

House Bill 1240 would set up a separate, poorly defined scheme for alleged defective children's products without indicating what, if any, of the provisions of our existing products liability laws would apply. If House Bill 1240 became law, would "innocent sellers" be protected against suit? Or, can a local hardware store be sued for selling a product it had no reason to believe was defective? House Bill 1240 does not answer these questions.

Furthermore, House Bill 1240 fails to define the term "children's product." This is a glaring omission which opens the door for almost any type of products liability case to be filed under the Mississippi Consumer Protection Act.

These issues were settled when the Legislature passed comprehensive tort reform in 2004. HB 1240 would undermine that effective law.

There are components of House Bill 1240 which have merit that I encourage the Legislature to reconsider. I support the creation of a list of defective children's products and this list should be made available at no cost and over the internet to the general public, day care facilities, family child care homes, and licensed pediatricians. Given their roles in protecting the health and welfare of children and their daily interaction with child care facilities, this is a natural fit for either the Department of Health or the Department of Human Services.

For these reasons, I encourage the members to reject House Bill 1240 and to sustain my veto.

Respectfully submitted,

HALEY BARBOUR
GOVERNOR