

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 856

SPONSOR: Agriculture and Consumer Services Committee and Senator Wasserman Schultz

SUBJECT: Florida Infant Crib Safety Act

DATE: March 7, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Poole	AG	Favorable/CS
2.	_____	_____	CM	_____
3.	_____	_____	JU	_____
4.	_____	_____	AGG	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill creates the Florida Infant Safety Crib Act (Act) to prohibit “commercial users”, as defined in the bill, from manufacturing, remanufacturing, or retrofitting specified cribs determined to be unsafe for use by infants. The Act prohibits commercial users from transacting in any manner regarding unsafe cribs and prohibits transient public lodging establishments from providing unsafe cribs for use. It sets forth criteria that a crib must meet or it will be presumed to be unsafe. Violations of the Act are also violations of Part II of Chapter 501, the Florida Deceptive and Unfair Trade Practices Act, which provides remedies such as declaratory judgments, injunctions, actions for damages, and civil penalties. Further, a person who willfully and knowingly violates the Act can be charged with a first degree misdemeanor. Violations of the Act by a transient public lodging establishment is also a violation of Chapter 509, Lodging and Food Service Establishments which can result in a fine or suspension or revocation of their license.

This bill creates section 501.144 of the Florida Statutes.

This bill amends section 509.221 of the Florida Statutes.

## II. Present Situation:

More than 13, 000 infants are injured in crib accidents each year as reported in the bill. Federal regulations contain requirements that must be followed in the manufacture of new cribs but these requirements do not apply to cribs that are older or previously used before the federal regulations were adopted in 1973. Controls over the type of cribs provided by transient public lodging establishments are non-existent. There is no state agency responsible for informing the public about the dangers of using secondhand, hand-me-down, or heirloom cribs.

### III. Effect of Proposed Changes:

**Section 1.** Creates the Florida Infant Crib Safety Act. The Act would:

Regulate transactions and business dealings regarding older infant cribs still in use but manufactured before current federal standards were adopted.

Prohibit commercial users from manufacturing, remanufacturing, retrofitting, selling, contracting to sell or resell, leasing, or subletting unsafe infant cribs. Specify that infant cribs must conform to safety standards set forth in the Act and not have any of the unsafe features listed in the Act. Prohibit transient public lodging establishments from offering or providing for use unsafe cribs.

Define “commercial user” as a dealer pursuant to, s. 212.06(2), F.S., Tax On Sales, Use, And Other Transactions, and further includes licensed child care facilities and persons in the business of placing cribs in the stream of commerce. Define “crib” as a bed for an infant and includes full-size and non-full-size cribs intended for use by infants. Define infants as persons less than three years old and less than 35 inches tall. Define transient public lodging establishments as those business enterprises, excluding nontransient units, so classified in s. 509.242, F.S, Public Lodging And Public Food Service Establishments.

Establish a presumption that a crib is unsafe if it does not conform to all the following:

- Ban on lead-containing paint products contained in 16 CFR, part 1303.
- Requirements for full-size cribs set forth in 16 CFR, part 1508.
- Requirements for non-full-size cribs set forth in 16 CFR, part 1509.
- Design and testing requirements for infant cribs set forth in F966-96, F1169-99, and F1822-97, American Society for Testing and Materials Voluntary Standards.
- Any new or additional regulations that may be adopted to amend or supplement the aforementioned requirements and guidelines.

Declare cribs to be unsafe if any of the following features are present:

- Slats that are too wide and extended corner posts.
- Mattress support that can be easily dislodged.
- Cutout designs on end panels.
- Rail heights less than a specified minimum in up and down position.
- Loose hardware, sharp edges, rough surface, and tear in mesh or fabric sides.
- Latches that don't prevent unintentional collapse.
- Use of sheets not properly matched to size of mattress.

Exempt a crib from the standards if it is clearly not intended for use by an infant and it is accompanied by a notice to that effect before being put into the stream of commerce. Provide immunity from civil liability resulting from the use of such a crib for a commercial user who complies with this notice requirement.

State that a violation of the Act is also a violation of Part II of Chapter 501, the Florida Deceptive and Unfair Trade Practices Act, which provides remedies such as declaratory judgments, injunctions, and actions for damages. Impose a civil penalty up to \$10,000 for a willful violation. Provide that the Act would be enforced by the state attorney or the Department of Legal Affairs depending on the circumstances. State that a violation of the act by a transient public lodging establishment is also a violation of Chapter 509, Lodging and Food Service Establishments, which can result in a fine or suspension, or revocation of their license.

Provide that a commercial user or transient public lodging establishment that willfully and knowingly fails to comply with the Act commits a misdemeanor of the first degree, punishable by a fine not to exceed \$10,000 and imprisonment for a term not more than one year.

Authorize the Department of Agriculture and Consumer Affairs (DACCS) to collaborate with any entity to prepare materials or programs designed to inform the public of the dangers posed by placing secondhand, hand-me-down, or heirloom cribs in the stream of commerce that are unsafe.

Authorize DACCS to adopt rules pursuant to the Florida Administrative Procedures Act to administer this section.

**Section 2.** Amends 509.221, F.S. by adding a provision prohibiting a transient public lodging establishment from using a crib that is unsafe pursuant to the standards of the Infant Crib Act.

**Section 3.** Provides that the Act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Commercial users whose business involves older, used cribs may be prevented from making sales of items in their possession or they may have to incur expenditures to make the items meet the required safety standards. Transient public lodging establishments may have to replace some of the cribs in use or may incur expense to make some of their cribs meet the required safety standards. It would be highly speculative to assign a dollar amount to either of these possible scenarios.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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