

By the Committees on Commerce and Economic Opportunities;
Agriculture and Consumer Services; and Senators Wasserman
Schultz and Crist

310-1573-01

1 A bill to be entitled
2 An act relating to infant cribs; creating s.
3 501.144, F.S., the Florida Infant Crib Safety
4 Act; providing definitions; prohibiting
5 commercial users from manufacturing,
6 remanufacturing, retrofitting, selling,
7 contracting to sell or resell, leasing, or
8 subletting specified cribs determined to be
9 unsafe for use by infants; prohibiting
10 transient public lodging establishments from
11 offering or providing for use specified cribs
12 determined to be unsafe for use by infants;
13 providing criteria for determining safety of
14 infant cribs; providing exemptions; providing
15 specified immunity from civil liability;
16 providing a penalty; providing that violation
17 of the act constitutes an unfair and deceptive
18 trade practice; authorizing the Department of
19 Agriculture and Consumer Services and the
20 Department of Business and Professional
21 Regulation to collaborate with public agencies
22 and private sector entities to prepare
23 specified public education materials and
24 programs; authorizing the department to adopt
25 rules and prescribe forms; amending s. 509.221,
26 F.S.; providing for regulation by the Division
27 of Hotels and Restaurants of the Department of
28 Business and Professional Regulation; providing
29 an effective date.
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1 WHEREAS, the disability and death of infants resulting
2 from injuries sustained in crib accidents are a serious threat
3 to the public health, safety, and welfare of the people of the
4 state, and

5 WHEREAS, the design and construction of an infant crib
6 must ensure that it is safe, and a parent or caregiver has a
7 right to believe that an infant crib in use is a safe
8 containment in which to place an infant, and

9 WHEREAS, more than 13,000 infants are injured in unsafe
10 cribs every year, and

11 WHEREAS, prohibiting the manufacture, remanufacture,
12 retrofitting, sale, contracting to sell or resell, leasing, or
13 subletting of unsafe infant cribs, particularly unsafe
14 secondhand, hand-me-down, or heirloom cribs, will reduce
15 injuries and deaths caused by cribs, and

16 WHEREAS, it is the intent of the Legislature to reduce
17 the occurrence of injuries and deaths to infants as a result
18 of unsafe cribs that do not conform to modern safety standards
19 by making it illegal to manufacture, remanufacture, retrofit,
20 sell, contract to sell or resell, lease, sublet, or otherwise
21 place in the stream of commerce any full-size or non-full-size
22 crib that is unsafe, and

23 WHEREAS, it is the intent of the Legislature to
24 encourage public and private collaboration in disseminating
25 materials relative to the safety of infant cribs to parents,
26 child care providers, and those individuals who would be
27 likely to place unsafe infant cribs in the stream of commerce,

28 NOW, THEREFORE,

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30 Be It Enacted by the Legislature of the State of Florida:

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1 Section 1. Section 501.144, Florida Statutes, is
2 created to read:

3 501.144 Florida Infant Crib Safety Act.--

4 (1) SHORT TITLE.--This section may be cited as the
5 "Florida Infant Crib Safety Act."

6 (2) DEFINITIONS.--As used in this section, the term:

7 (a) "Commercial user" means a dealer pursuant to s.
8 212.06(2), including child care facilities licensed by the
9 Department of Children and Family Services and local
10 government agencies, or any person who is in the business of
11 manufacturing, remanufacturing, retrofitting, selling,
12 leasing, subletting, or otherwise placing in the stream of
13 commerce full-size or non-full-size cribs.

14 (b) "Crib" means a bed or containment designed to
15 accommodate an infant.

16 (c) "Department" means the Department of Agriculture
17 and Consumer Services.

18 (d) "Full-size crib" means a full-size baby crib as
19 defined in 16 C.F.R. part 1508, relating to requirements for
20 full-size baby cribs.

21 (e) "Infant" means a person less than 35 inches tall
22 and less than 3 years of age.

23 (f) "Non-full-size crib" means a non-full-size baby
24 crib as defined in 16 C.F.R. part 1509, relating to
25 requirements for non-full-size baby cribs.

26 (g) "Person" means a natural person, firm,
27 partnership, corporation, association, agent, or employee
28 thereof.

29 (h) "Transient public lodging establishment" means any
30 hotel, motel, resort condominium, transient apartment,
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1 roominghouse, bed and breakfast inn, or resort dwelling, as
2 defined in s. 509.242.

3 (3) PROHIBITED PRACTICES.--

4 (a) A commercial user may not manufacture,
5 remanufacture, retrofit, sell, contract to sell or resell,
6 lease, sublet, or otherwise place in the stream of commerce a
7 full-size or non-full-size crib that is unsafe for any infant
8 using the crib because the crib does not conform to the
9 standards set forth in paragraph (4)(a) or because the crib
10 has any of the dangerous features or characteristics set forth
11 in paragraph (4)(b).

12 (b) No transient public lodging establishment shall
13 offer, provide for use, or otherwise place in the stream of
14 commerce on or after the effective date of this act a
15 full-size or non-full-size crib that is unsafe for any infant
16 using the crib because the crib does not conform to the
17 standards set forth in paragraph (4)(a) or because the crib
18 has any of the dangerous features or characteristics set forth
19 in paragraph (4)(b). Further, violation of this section by a
20 transient public lodging establishment is a violation of
21 chapter 509 and is subject to the penalties set forth in s.
22 509.261.

23 (c) A violation of this section is a deceptive and
24 unfair trade practice and constitutes a violation of part II
25 of chapter 501, the Florida Deceptive and Unfair Trade
26 Practices Act.

27 (4) PRESUMPTION AS UNSAFE; CRITERIA.--

28 (a) A crib is presumed to be unsafe under this section
29 if it does not conform to all of the following:

30 1. 16 C.F.R. part 1303, relating to ban of
31 lead-containing paint and certain consumer products bearing

1 lead-containing paint; 16 C.F.R. part 1508, relating to
2 requirements for full-size baby cribs; and 16 C.F.R. part
3 1509, relating to requirements for non-full-size baby cribs.

4 2. American Society for Testing and Materials
5 Voluntary Standards F966-96, F1169-99, and F1822-97.

6 3. Rules adopted by the department which incorporate
7 amendments or supplements to the regulations or standards
8 described in subparagraphs 1. and 2.

9 (b) Cribs that are unsafe include, but are not limited
10 to, cribs that have any of the following dangerous features or
11 characteristics:

12 1. Corner posts that extend more than 1/16 of an inch.

13 2. Spaces between side slats more than 2 3/8 inches.

14 3. Mattress support that can be easily dislodged from
15 any point of the crib. A mattress segment can be easily
16 dislodged if it cannot withstand at least a 25-pound upward
17 force from underneath the crib.

18 4. Cutout designs on the end panels.

19 5. Rail-height dimensions that do not conform to the
20 following:

21 a. The height of the rail and end panel as measured
22 from the top of the rail or panel in its lowest position to
23 the top of the mattress support in its highest position is at
24 least 9 inches.

25 b. The height of the rail and end panel as measured
26 from the top of the rail or panel in its highest position to
27 the top of the mattress support in its lowest position is at
28 least 26 inches.

29 6. Any screw, bolt, or hardware that is loose and not
30 secured.

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1 7. Any sharp edge, point, or rough surface or any wood
2 surface that is not smooth and free from splinters, splits, or
3 cracks.

4 8. A tear in mesh or fabric sides for a non-full-size
5 crib.

6 9. With respect to portable folding cribs, latches
7 that do not work automatically to prevent the unintentional
8 collapse of the crib.

9 10. Crib sheets used on mattresses must be sized to
10 match the mattress size.

11 (5) EXEMPTIONS; CIVIL IMMUNITY.--

12 (a) A crib that is clearly not intended for use by an
13 infant, including, but not limited to, a toy or display item,
14 is exempt from this section if the crib is accompanied at the
15 time of manufacturing, remanufacturing, retrofitting, selling,
16 leasing, subletting, or placement in the stream of commerce by
17 a notice to be furnished by the commercial user on forms
18 prescribed by the department declaring that the crib is not
19 intended to be used for an infant and is dangerous to use for
20 an infant.

21 (b) A commercial user who has complied with the notice
22 requirements set forth under paragraph (a) is immune from
23 civil liability resulting from the use of a crib,
24 notwithstanding the provisions of this section.

25 (6) PENALTY.--

26 (a) A commercial user that willfully and knowingly
27 violates subsection (3) commits a misdemeanor of the first
28 degree, punishable by a fine of not more than \$10,000 and
29 imprisonment for a term of not more than 1 year.

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1 (b) A transient public lodging establishment that
2 violates subsection (3) shall be subject to the penalties set
3 forth in s. 509.261.

4 (7) PUBLIC EDUCATION MATERIALS AND PROGRAMS.--The
5 Department of Agriculture and Consumer Services and the
6 Department of Business and Professional Regulation may
7 collaborate with any public agency or private-sector entity to
8 prepare public-education materials or programs designed to
9 inform parents, child-care providers, commercial users, and
10 any other person or entity that is likely to place unsafe
11 cribs in the stream of commerce of the dangers posed by
12 secondhand, hand-me-down, or heirloom cribs that do not
13 conform to the standards set forth in this section or that
14 have any of the dangerous features or characteristics set
15 forth in this section.

16 (8) RULEMAKING AUTHORITY.--The department may adopt
17 rules pursuant to ss. 120.536(1) and 120.54 to administer this
18 section.

19 Section 2. Subsection (10) is added to section
20 509.221, Florida Statutes, to read:

21 509.221 Sanitary regulations.--

22 (10) No transient public lodging establishment shall
23 offer, provide for use, or otherwise place in the stream of
24 commerce, on or after the effective date of s. 501.144, a
25 full-size or non-full-size crib that is unsafe for any infant
26 using the crib because it is not in conformity with the
27 requirements of that section.

28 Section 3. This act shall take effect October 1, 2001.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 856

The committee substitute allows the Department of Agriculture and Consumer Services to adopt rules that incorporate changes to infant crib safety regulations adopted by the federal Consumer Product Safety Commission and design standards published by the American Society for Testing and Materials; allows the Department of Business and Professional Regulation to collaborate with public and private entities on the preparation of public-education materials and programs; requires the Department of Agriculture and Consumer Services to prescribe the forms for notice that a crib is not intended for use by an infant; and extends the effective date until October 1, 2001.