



The Commission also worked with the American Society for Testing and Materials (ASTM) on industry voluntary safety standards for cribs, which included provisions to address entanglement on corner posts and, most recently in 1999, to address the integrity of crib slats.

In Florida, there are currently no statutory controls over the types of cribs provided by transient public lodging establishments. In vetoing a similar bill after the 2001 regular legislative session, the Governor stated that he was “directing Department of Business and Professional Regulation Secretary Kim Binkley-Seyer to immediately begin an aggressive campaign to provide hotel and motel licensees with infant crib safety information.”

### **III. Effect of Proposed Changes:**

**Section 1.** Creates the “Florida Infant Crib Safety Act” as s. 501.144, F.S.

#### **Manufacture and Sale of Unsafe Cribs Prohibited**

This bill prohibits the manufacture, remanufacture, retrofit, sale, contract to sell or resell, lease, or sublet of unsafe infant cribs. These prohibitions apply to a “commercial user,” which is defined as a “dealer” who collect sales and use taxes or any person who is in the business of manufacturing, remanufacturing, retrofitting, selling, leasing, or subletting full-size or non-full-size cribs. Thus, these prohibitions apply to virtually all businesses that would sell an infant crib. The term also includes a child care facility or similar, specified facilities.

#### **Use of Unsafe Cribs by Transient Public Lodging Establishments Prohibited**

The bill prohibits transient public lodging establishments from offering or providing for use unsafe cribs. These establishments include hotels, motels, resort condominiums, transient apartments, roominghouses, bed-and-breakfast inns, and resort dwellings. The license of any transient public lodging establishment that commits a violation is subject to discipline by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation (DBPR).

#### **Unsafe Cribs**

The bill defines a “crib” as a bed for an infant and includes full-size and non-full-size cribs intended to accommodate an infant. An infant is defined as a person less than 3 years old and less than 35 inches tall.

The bill creates a presumption that an infant crib is unsafe if it does not conform to all of the following federal regulations and industry standards:

##### ***United States Consumer Product Safety Commission:***

- Ban on lead-containing paint products in 16 C.F.R. part 1303.
- Requirements for full-size cribs in 16 C.F.R. part 1508.
- Requirements for non-full-size cribs in 16 C.F.R. part 1509.

***American Society for Testing and Materials:***

- Design and testing requirements for infant cribs in Voluntary Standards F966-96, F1169-99, and F1822-97.

***Department of Agriculture and Consumer Services(DACS):***

- Rules adopted by the DACS which implement the provisions of the Florida Infant Crib Safety Act.

The bill further declares that infant cribs are unsafe if any of the following features are present:

- Spaces between side slats are too wide or corner posts are extended.
- Mattress support can be easily dislodged.
- Cutout designs on end panels.
- Rail heights are less than a specified minimum.
- Loose hardware (upon completion of assembly), sharp edges, rough surface, and tear in mesh or fabric sides.
- Latches do not prevent unintentional collapse of the crib.
- Use of sheets that are not properly matched to size of mattress.

The bill will primarily affect cribs manufactured before the regulations took effect because adherence to the federal regulations is required for all new cribs. However, as the bill requires conformance to the voluntary standards published by the ASTM, it may impose requirements for new infant cribs that are not necessarily required by the federal regulations.

**Penalties/Liability**

Violations are deemed to be deceptive and unfair trade practices under Florida law, which provides remedies such as declaratory judgments, injunctions, and actions for damages. In addition, transient public lodging establishments and child care facilities are subject to penalties governed by their respective regulatory statutes. Further, a willful and knowing violation by a commercial user, other than transient public lodging establishments and child care facilities, subjects one to a criminal penalty (first degree misdemeanor) and a fine (up to \$10,000).

The bill exempts an infant crib from these standards if the crib is clearly not intended for use by an infant and the crib is accompanied by a notice, in a format determined by DACS, to that effect at the time of manufacturing, remanufacturing, retrofitting, selling, leasing, or subletting. A commercial user, other than a child care facility or similar, specified facilities, that complies with this notice requirement is granted immunity from civil liability, resulting from the use of a crib.

**Public Education**

The bill authorizes DACS, DBPR, and the Department of Children and Family Services to collaborate with any public agency or private-sector entity to prepare materials or programs

designed to inform the public about the dangers posed by the use of unsafe, secondhand, hand-me-down, or heirloom cribs that do not conform to the standards required by this bill.

### **Rulemaking**

The bill authorizes DACS to adopt rules under the Florida Administrative Procedure Act for the administration of the act.

**Section 2.** Amends s. 509.221, F.S., which governs sanitary regulations for public lodging establishments, in order to conform to the provisions of the Florida Infant Crib Safety Act and to cross-reference the new act

**Section 3.** reenacts s. 509.032, F.S., relating to duties of the Division of Hotels and Restaurants of the DBPR, in order to incorporate the policies contained in the new act.

**Section 4.** creates s. 402.3031, F.S., to incorporate the Florida Infant Crib Safety Act into the chapter of the Florida Statutes governing the regulation of child care facilities and to authorize the Department of Children and Family Services to adopt any necessary rules.

**Section 5.** provides that the act shall take effect October 1, 2002.

## **IV. Constitutional Issues:**

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

None.

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

None.

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

None.

### **D. Other Constitutional Issues:**

None.

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

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

None.

### **B. Private Sector Impact:**

Commercial users whose businesses involve older, used cribs may be prevented from selling these cribs, or they may have to incur costs to make the cribs meet the required

safety standards. Transient public lodging establishments may have to replace some of the cribs in use or may incur expenses to make some of their cribs meet the required safety standards. The precise impact of these circumstances is not known.

**C. Government Sector Impact:**

In vetoing a similar bill after the 2001 regular legislative session, the Governor stated that he was concerned that “the bill would consume an unknown and substantial amount of agency resources and could impede the Department’s ability to perform its other inspection responsibilities” and that “enforcement of this bill would not have the intended effectiveness as applied to transient lodging establishments and would lead to a false sense of security that could increase danger to infants.”

The Department of Business and Professional Regulation indicates that it does not have the current resources to perform the required inspections and estimates that passage of this bill would cause recurring expenditures in excess of \$1,000,000 and non-recurring expenditures in the first year of approximately \$150,000. The agency asserts other barriers, such as lack of access, expertise, and equipment, would be encountered in the performance of its inspection duties.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.