

Bill No. CS for CS for SB 784

Amendment No.      Barcode 965720

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Senator Wasserman Schultz moved the following amendment:

**Senate Amendment (with title amendment)**

On page 26, line 31,

insert:

Section 20. Section 501.144, Florida Statutes, is created to read:

501.144 Florida Infant Crib Safety Act.--

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

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

(a) "Commercial user" means a dealer pursuant to s. 212.06(2), or any person who is in the business of manufacturing, remanufacturing, retrofitting, selling, leasing, or subletting full-size or non-full-size cribs. The term includes a child care facility, family day care home, large family child care home, and specialized child care facility for the care of mildly ill children, licensed by the Department of Children and Family Services or local licensing agencies.

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

3           (c) "Department" means the Department of Agriculture  
4 and Consumer Services.

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

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

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

13           (g) "Transient public lodging establishment" means any  
14 hotel, motel, resort condominium, transient apartment,  
15 roominghouse, bed and breakfast inn, or resort dwelling, as  
16 defined in s. 509.242.

17           (3) PROHIBITED PRACTICES.--

18           (a) A commercial user may not manufacture,  
19 remanufacture, retrofit, sell, contract to sell or resell,  
20 lease, or sublet a full-size or non-full-size crib that is  
21 unsafe for any infant using the crib because the crib does not  
22 conform to the standards set forth in paragraph (4)(a) or  
23 because the crib has any of the dangerous features or  
24 characteristics set forth in paragraph (4)(b).

25           (b) No transient public lodging establishment shall  
26 offer or provide for use a full-size or non-full-size crib  
27 that is unsafe for any infant using the crib because the crib  
28 does not conform to the standards set forth in paragraph  
29 (4)(a) or because the crib has any of the dangerous features  
30 or characteristics set forth in paragraph (4)(b). Further,  
31 violation of this section by a transient public lodging

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1 establishment is a violation of chapter 509 and is subject to  
2 the penalties set forth in s. 509.261.

3 (c) A violation of this section is a deceptive and  
4 unfair trade practice and constitutes a violation of part II  
5 of chapter 501, the Florida Deceptive and Unfair Trade  
6 Practices Act.

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

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

10 1. 16 C.F.R. part 1303, relating to ban of  
11 lead-containing paint and certain consumer products bearing  
12 lead-containing paint; 16 C.F.R. part 1508, relating to  
13 requirements for full-size baby cribs; and 16 C.F.R. part  
14 1509, relating to requirements for non-full-size baby cribs.

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

17 3. Rules adopted by the department which implement the  
18 provisions of this subsection.

19 (b) Cribs are unsafe which have any of the following  
20 dangerous features or characteristics:

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

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

23 3. A mattress support that can be easily dislodged  
24 from any point of the crib. A mattress segment can be easily  
25 dislodged if it cannot withstand at least a 25-pound upward  
26 force from underneath the crib. For portable folding cribs,  
27 this subparagraph shall not apply to mattress supports or  
28 mattress segments that are designed to allow the crib to be  
29 folded, provided that the crib is equipped with latches that  
30 work automatically to prevent the unintentional collapse of  
31 the crib.

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- 1           4. Cutout designs on the end panels.
- 2           5. Rail-height dimensions that do not conform to the
- 3 following:
- 4           a. The height of the rail and end panel as measured
- 5 from the top of the rail or panel in its lowest position to
- 6 the top of the mattress support in its highest position is at
- 7 least 9 inches.
- 8           b. The height of the rail and end panel as measured
- 9 from the top of the rail or panel in its highest position to
- 10 the top of the mattress support in its lowest position is at
- 11 least 26 inches.
- 12           6. Upon completion of assembly, any screw, bolt, or
- 13 hardware that is loose and not secured.
- 14           7. Any sharp edge, point, or rough surface or any wood
- 15 surface that is not smooth and free from splinters, splits, or
- 16 cracks.
- 17           8. A tear in mesh or fabric sides for a non-full-size
- 18 crib.
- 19           9. With respect to portable folding cribs, latches
- 20 that do not work automatically to prevent the unintentional
- 21 collapse of the crib.
- 22           10. Crib sheets used on mattresses must be sized to
- 23 match the mattress size.
- 24           (5) EXEMPTIONS; CIVIL IMMUNITY.--
- 25           (a) A crib that is clearly not intended for use by an
- 26 infant, including, but not limited to, a toy or display item,
- 27 is exempt from this section if the crib is accompanied, at the
- 28 time of manufacturing, remanufacturing, retrofitting, selling,
- 29 leasing, or subletting by a notice to be furnished by the
- 30 commercial user on forms prescribed by the department
- 31 declaring that the crib is not intended to be used for an

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1 infant and is dangerous to use for an infant.

2 (b) A commercial user, other than a child care  
3 facility, family day care home, large family child care home,  
4 or specialized child care facility for the care of mildly ill  
5 children, that has complied with the notice requirements set  
6 forth under paragraph (a) is immune from civil liability  
7 resulting from the use of a crib, notwithstanding the  
8 provisions of this section.

9 (6) PENALTY.--

10 (a) A commercial user, other than a commercial user  
11 subject to the penalties provided in paragraph (b) or  
12 paragraph (c), that willfully and knowingly violates  
13 subsection (3) commits a misdemeanor of the first degree,  
14 punishable by a fine of not more than \$10,000 and imprisonment  
15 for a term of not more than 1 year.

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

19 (c) A child care facility, family day care home, large  
20 family child care home, or specialized child care facility for  
21 the care of mildly ill children that violates subsection (3)  
22 shall be subject to the penalties set forth in ss.  
23 402.301-402.319.

24 (7) PUBLIC EDUCATION MATERIALS AND PROGRAMS.--The  
25 Department of Agriculture and Consumer Services, the  
26 Department of Business and Professional Regulation, and the  
27 Department of Children and Family Services may collaborate  
28 with any public agency or private sector entity to prepare  
29 public education materials or programs designed to inform  
30 parents, child care providers, commercial users, and any other  
31 person or entity that is likely to place unsafe cribs in the

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1 stream of commerce of the dangers posed by secondhand,  
2 hand-me-down, or heirloom cribs that do not conform to the  
3 standards set forth in this section or that have any of the  
4 dangerous features or characteristics set forth in this  
5 section.

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

9 Section 21. Subsection (10) is added to section  
10 509.221, Florida Statutes, to read:

11 509.221 Sanitary regulations.--

12 (10) No transient public lodging establishment shall  
13 offer or provide for use a full-size or non-full-size crib  
14 that is unsafe for any infant using the crib because it is not  
15 in conformity with the requirements of s. 501.144.

16 Section 22. Section 509.032, Florida Statutes, is  
17 reenacted to read:

18 509.032 Duties.--

19 (1) GENERAL.--The division shall carry out all of the  
20 provisions of this chapter and all other applicable laws and  
21 rules relating to the inspection or regulation of public  
22 lodging establishments and public food service establishments  
23 for the purpose of safeguarding the public health, safety, and  
24 welfare. The division shall be responsible for ascertaining  
25 that an operator licensed under this chapter does not engage  
26 in any misleading advertising or unethical practices.

27 (2) INSPECTION OF PREMISES.--

28 (a) The division has responsibility and jurisdiction  
29 for all inspections required by this chapter. The division  
30 has responsibility for quality assurance. Each licensed  
31 establishment shall be inspected at least biannually and at

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1 such other times as the division determines is necessary to  
2 ensure the public's health, safety, and welfare. The division  
3 shall establish a system to determine inspection frequency.  
4 Public lodging units classified as resort condominiums or  
5 resort dwellings are not subject to this requirement, but  
6 shall be made available to the division upon request. If,  
7 during the inspection of a public lodging establishment  
8 classified for renting to transient or nontransient tenants,  
9 an inspector identifies vulnerable adults who appear to be  
10 victims of neglect, as defined in s. 415.102, or, in the case  
11 of a building that is not equipped with automatic sprinkler  
12 systems, tenants or clients who may be unable to self-preserve  
13 in an emergency, the division shall convene meetings with the  
14 following agencies as appropriate to the individual situation:  
15 the Department of Health, the Department of Elderly Affairs,  
16 the area agency on aging, the local fire marshal, the landlord  
17 and affected tenants and clients, and other relevant  
18 organizations, to develop a plan which improves the prospects  
19 for safety of affected residents and, if necessary, identifies  
20 alternative living arrangements such as facilities licensed  
21 under part II or part III of chapter 400.

22 (b) For purposes of performing required inspections  
23 and the enforcement of this chapter, the division has the  
24 right of entry and access to public lodging establishments and  
25 public food service establishments at any reasonable time.

26 (c) Public food service establishment inspections  
27 shall be conducted to enforce provisions of this part and to  
28 educate, inform, and promote cooperation between the division  
29 and the establishment.

30 (d) The division shall adopt and enforce sanitation  
31 rules consistent with law to ensure the protection of the

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1 public from food-borne illness in those establishments  
2 licensed under this chapter. These rules shall provide the  
3 standards and requirements for obtaining, storing, preparing,  
4 processing, serving, or displaying food in public food service  
5 establishments, approving public food service establishment  
6 facility plans, conducting necessary public food service  
7 establishment inspections for compliance with sanitation  
8 regulations, cooperating and coordinating with the Department  
9 of Health in epidemiological investigations, and initiating  
10 enforcement actions, and for other such responsibilities  
11 deemed necessary by the division. The division may not  
12 establish by rule any regulation governing the design,  
13 construction, erection, alteration, modification, repair, or  
14 demolition of any public lodging or public food service  
15 establishment. It is the intent of the Legislature to preempt  
16 that function to the Florida Building Commission and the State  
17 Fire Marshal through adoption and maintenance of the Florida  
18 Building Code and the Florida Fire Prevention Code. The  
19 division shall provide technical assistance to the commission  
20 and the State Fire Marshal in updating the construction  
21 standards of the Florida Building Code and the Florida Fire  
22 Prevention Code which govern public lodging and public food  
23 service establishments. Further, the division shall enforce  
24 the provisions of the Florida Building Code and the Florida  
25 Fire Prevention Code which apply to public lodging and public  
26 food service establishments in conducting any inspections  
27 authorized by this part.

28 (e)1. Relating to facility plan approvals, the  
29 division may establish, by rule, fees for conducting plan  
30 reviews and may grant variances from construction standards in  
31 hardship cases, which variances may be less restrictive than

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1 the provisions specified in this section or the rules adopted  
2 under this section. A variance may not be granted pursuant to  
3 this section until the division is satisfied that:

4 a. The variance shall not adversely affect the health  
5 of the public.

6 b. No reasonable alternative to the required  
7 construction exists.

8 c. The hardship was not caused intentionally by the  
9 action of the applicant.

10 2. The division's advisory council shall review  
11 applications for variances and recommend agency action. The  
12 division shall make arrangements to expedite emergency  
13 requests for variances, to ensure that such requests are acted  
14 upon within 30 days of receipt.

15 3. The division shall establish, by rule, a fee for  
16 the cost of the variance process. Such fee shall not exceed  
17 \$150 for routine variance requests and \$300 for emergency  
18 variance requests.

19 (f) In conducting inspections of establishments  
20 licensed under this chapter, the division shall determine if  
21 each coin-operated amusement machine that is operated on the  
22 premises of a licensed establishment is properly registered  
23 with the Department of Revenue. Each month the division shall  
24 report to the Department of Revenue the sales tax registration  
25 number of the operator of any licensed establishment that has  
26 on location a coin-operated amusement machine and that does  
27 not have an identifying certificate conspicuously displayed as  
28 required by s. 212.05(1)(i).

29 (g) In inspecting public food service establishments,  
30 the department shall provide each inspected establishment with  
31 the food-recovery brochure developed under s. 570.0725.

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1 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD  
2 SERVICE EVENTS.--The division shall:

3 (a) Prescribe sanitary standards which shall be  
4 enforced in public food service establishments.

5 (b) Inspect public lodging establishments and public  
6 food service establishments whenever necessary to respond to  
7 an emergency or epidemiological condition.

8 (c) Administer a public notification process for  
9 temporary food service events and distribute educational  
10 materials that address safe food storage, preparation, and  
11 service procedures.

12 1. Sponsors of temporary food service events shall  
13 notify the division not less than 3 days prior to the  
14 scheduled event of the type of food service proposed, the time  
15 and location of the event, a complete list of food service  
16 vendor owners and operators participating in each event, and  
17 the current license numbers of all public food service  
18 establishments participating in each event. Notification may  
19 be completed orally, by telephone, in person, or in writing.  
20 A public food service establishment or food service vendor may  
21 not use this notification process to circumvent the license  
22 requirements of this chapter.

23 2. The division shall keep a record of all  
24 notifications received for proposed temporary food service  
25 events and shall provide appropriate educational materials to  
26 the event sponsors, including the food-recovery brochure  
27 developed under s. 570.0725.

28 3.a. A public food service establishment or other food  
29 vendor must obtain a license from the division for each  
30 temporary food service event in which it participates.

31 b. Public food service establishments holding current

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1 licenses from the division may operate under the regulations  
2 of such a license at temporary food service events of 3 days  
3 or less in duration.

4 (4) STOP-SALE ORDERS.--The division may stop the sale,  
5 and supervise the proper destruction, of any food or food  
6 product when the director or the director's designee  
7 determines that such food or food product represents a threat  
8 to the public safety or welfare. If the operator of a public  
9 food service establishment licensed under this chapter has  
10 received official notification from a health authority that a  
11 food or food product from that establishment has potentially  
12 contributed to any instance or outbreak of food-borne illness,  
13 the food or food product must be maintained in safe storage in  
14 the establishment until the responsible health authority has  
15 examined, sampled, seized, or requested destruction of the  
16 food or food product.

17 (5) REPORTS REQUIRED.--The division shall send the  
18 Governor a written report, which shall state, but not be  
19 limited to, the total number of inspections conducted by the  
20 division to ensure the enforcement of sanitary standards, the  
21 total number of inspections conducted in response to emergency  
22 or epidemiological conditions, the number of violations of  
23 each sanitary standard, and any recommendations for improved  
24 inspection procedures. The division shall also keep accurate  
25 account of all expenses arising out of the performance of its  
26 duties and all fees collected under this chapter. The report  
27 shall be submitted by September 30 following the end of the  
28 fiscal year.

29 (6) RULEMAKING AUTHORITY.--The division shall adopt  
30 such rules as are necessary to carry out the provisions of  
31 this chapter.

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1           (7) PREEMPTION AUTHORITY.--The regulation of public  
2 lodging establishments and public food service establishments,  
3 the inspection of public lodging establishments and public  
4 food service establishments for compliance with the sanitation  
5 standards adopted under this section, and the regulation of  
6 food safety protection standards for required training and  
7 testing of food service establishment personnel are preempted  
8 to the state. This subsection does not preempt the authority  
9 of a local government or local enforcement district to conduct  
10 inspections of public lodging and public food service  
11 establishments for compliance with the Florida Building Code  
12 and the Florida Fire Prevention Code, pursuant to ss. 553.80  
13 and 633.022.

14           Section 23. Section 402.3031, Florida Statutes, is  
15 created to read:

16           402.3031 Infant crib safety.--No child care facility,  
17 family day care home, large family child care home, or  
18 specialized child care facility for the care of mildly ill  
19 children shall offer or provide for use a full-size or  
20 non-full-size crib that is not in conformity with the  
21 requirements of s. 501.144. The department shall enforce the  
22 provisions of this section and may adopt rules pursuant to ss.  
23 120.536(1) and 120.54 to administer this Section.

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26 ===== T I T L E   A M E N D M E N T =====

27 And the title is amended as follows:

28           On page 2, line 18, following the semicolon

29  
30 insert:

31           creating s. 501.144, F.S., the Florida Infant



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1           certain facilities; providing for enforcement  
2           and rulemaking powers of the Department of  
3           Children and Family Services;  
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