

Amendment No. 01 (for drafter's use only)

|   | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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The Committee on Judicial Oversight offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

WHEREAS, the disability and death of infants resulting from injuries sustained in crib accidents are a serious threat to the public health, safety, and welfare of the people of the state, and

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

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

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

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1           WHEREAS, it is the intent of the Legislature to reduce  
2 the occurrence of injuries and deaths to infants as a result  
3 of unsafe cribs that do not conform to modern safety standards  
4 by making it illegal to manufacture, remanufacture, retrofit,  
5 sell, contract to sell or resell, lease, sublet, or otherwise  
6 place in the stream of commerce any full-size or non-full-size  
7 crib that is unsafe, and

8           WHEREAS, it is the intent of the Legislature to  
9 encourage public and private collaboration in disseminating  
10 materials relative to the safety of infant cribs to parents,  
11 child care providers, and those individuals who would be  
12 likely to place unsafe infant cribs in the stream of commerce,  
13 NOW, THEREFORE,

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Section 501.144, Florida Statutes, is  
18 created to read:

19           501.144 Florida Infant Crib Safety Act.--

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

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

23           (a) "Commercial user" means a dealer pursuant to s.  
24 212.06(2), including child care facilities licensed by the  
25 Department of Children and Family Services and local  
26 government agencies, or any person who is in the business of  
27 manufacturing, remanufacturing, retrofitting, selling,  
28 leasing, subletting, or otherwise placing in the stream of  
29 commerce full-size or non-full-size cribs.

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

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1           (c) "Department" means the Department of Agriculture  
2 and Consumer Services.

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

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

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

11           (g) "Person" means a natural person, firm,  
12 partnership, corporation, association, agent, or employee  
13 thereof.

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

18           (3) PROHIBITED PRACTICES.--

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

27           (b) No transient public lodging establishment shall  
28 offer, provide for use, or otherwise place in the stream of  
29 commerce on or after the effective date of this act a  
30 full-size or non-full-size crib that is unsafe for any infant  
31 using the crib because the crib does not conform to the

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1 standards set forth in paragraph (4)(a) or because the crib  
2 has any of the dangerous features or characteristics set forth  
3 in paragraph (4)(b). Further, violation of this section by a  
4 transient public lodging establishment is a violation of  
5 chapter 509 and is subject to the penalties set forth in s.  
6 509.261.

7 (c) A violation of this section is a deceptive and  
8 unfair trade practice and constitutes a violation of part II  
9 of chapter 501, the Florida Deceptive and Unfair Trade  
10 Practices Act.

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

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

14 1. 16 C.F.R. part 1303, relating to ban of  
15 lead-containing paint and certain consumer products bearing  
16 lead-containing paint; 16 C.F.R. part 1508, relating to  
17 requirements for full-size baby cribs; and 16 C.F.R. part  
18 1509, relating to requirements for non-full-size baby cribs.

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

21 3. Rules adopted by the department which incorporate  
22 amendments or supplements to the regulations or standards  
23 described in subparagraphs 1. and 2.

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

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

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

29 3. Mattress support that can be easily dislodged from  
30 any point of the crib. A mattress segment can be easily  
31 dislodged if it cannot withstand at least a 25-pound upward

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1 force from underneath the crib.

2 4. Cutout designs on the end panels.

3 5. Rail-height dimensions that do not conform to the  
4 following:

5 a. The height of the rail and end panel as measured  
6 from the top of the rail or panel in its lowest position to  
7 the top of the mattress support in its highest position is at  
8 least 9 inches.

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

13 6. Any screw, bolt, or hardware that is loose and not  
14 secured.

15 7. Any sharp edge, point, or rough surface or any wood  
16 surface that is not smooth and free from splinters, splits, or  
17 cracks.

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

20 9. With respect to portable folding cribs, latches  
21 that do not work automatically to prevent the unintentional  
22 collapse of the crib.

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

25 (5) EXEMPTIONS; CIVIL IMMUNITY.--

26 (a) A crib that is clearly not intended for use by an  
27 infant, including, but not limited to, a toy or display item,  
28 is exempt from this section if the crib is accompanied at the  
29 time of manufacturing, remanufacturing, retrofitting, selling,  
30 leasing, subletting, or placement in the stream of commerce by  
31 a notice to be furnished by the commercial user on forms

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1 prescribed by the department declaring that the crib is not  
2 intended to be used for an infant and is dangerous to use for  
3 an infant.

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

8 (6) PENALTY.--

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

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

16 (7) PUBLIC EDUCATION MATERIALS AND PROGRAMS.--The  
17 Department of Agriculture and Consumer Services and the  
18 Department of Business and Professional Regulation may  
19 collaborate with any public agency or private-sector entity to  
20 prepare public-education materials or programs designed to  
21 inform parents, child-care providers, commercial users, and  
22 any other person or entity that is likely to place unsafe  
23 cribs in the stream of commerce of the dangers posed by  
24 secondhand, hand-me-down, or heirloom cribs that do not  
25 conform to the standards set forth in this section or that  
26 have any of the dangerous features or characteristics set  
27 forth in this section.

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

31 Section 2. Subsection (10) is added to section

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1 509.221, Florida Statutes, to read:

2 509.221 Sanitary regulations.--

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

9 Section 3. This act shall take effect October 1, 2001.

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

13 And the title is amended as follows:

14 remove from the title of the bill: the entire title

15

16 and insert in lieu thereof:

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A bill to be entitled

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An act relating to infant cribs; creating s.

19

501.144, F.S., the Florida Infant Crib Safety

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Act; providing definitions; prohibiting

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commercial users from manufacturing,

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remanufacturing, retrofitting, selling,

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contracting to sell or resell, leasing, or

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subletting specified cribs determined to be

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unsafe for use by infants; prohibiting

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transient public lodging establishments from

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offering or providing for use specified cribs

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determined to be unsafe for use by infants;

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providing criteria for determining safety of

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infant cribs; providing exemptions; providing

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specified immunity from civil liability;

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1 providing a penalty; providing that violation  
 2 of the act constitutes an unfair and deceptive  
 3 trade practice; authorizing the Department of  
 4 Agriculture and Consumer Services and the  
 5 Department of Business and Professional  
 6 Regulation to collaborate with public agencies  
 7 and private sector entities to prepare  
 8 specified public education materials and  
 9 programs; authorizing the department to adopt  
 10 rules and prescribe forms; amending s. 509.221,  
 11 F.S.; providing for regulation by the Division  
 12 of Hotels and Restaurants and the Department of  
 13 Business and Professional Regulation; providing  
 14 an effective date.

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