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DATE: February 6, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON CHILD & FAMILY SECURITY
ANALYSIS**

BILL #: HB 85

RELATING TO: Infant Cribs

SPONSOR(S): Representative(s) Meadows

TIED BILL(S):

ORIGINATING COMMITTEE (S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMITTEE ON CHILD & FAMILY SECURITY YEAS 9 NAYS 0
- (2) JUDICIAL OVERSIGHT
- (3) COUNCIL FOR HEALTHY COMMUNITIES
- (4)
- (5)

I. SUMMARY:

Current Federal regulations by the Consumer Product Safety Commission (the CPSC) govern standards and safety hazards associated with the manufacture of new cribs, but not standards and safety hazards associated with cribs that are older or previously used before the standards were in place. It is these older cribs still in use and in commercial circulation that this bill targets.

House Bill 141 creates the Florida Infant Crib Safety Act. The act prohibits a commercial user, as defined in the bill, from manufacturing, retrofitting, selling, contracting to sell or resell, leasing, or subletting or placing in the stream of commerce a full-size or non-full-size crib that has not met certain standards and regulations. These standards are delineated in the bill and track Consumer Product Safety Commission and American Society for Testing and Materials standards for infant cribs. The act also prohibits a public lodging establishment from offering for use a full-size or non-full-size crib that has not met the same standards and regulations.

It allows a person to seek an injunction or restraining order against a commercial user for retrofitting, selling, contracting to sell or resell, leasing, or subletting a full-size or non-full-size crib that is unsafe for infant use and allows the recovery of attorney fees and other costs. A violation of the provisions of this act is classified as a misdemeanor of the first degree and allows for a fine of not more than \$1000. A violation of this act is also classified as a deceptive and unfair trade practice and constitutes a violation of part II of ch. 501, F.S., the Florida Deceptive and Unfair Trade Practices Act.

Cribs not intended for infant use, including but not limited to, a toy display item, are exempt from the standards and regulations of this act provided that the commercial user furnishes notice that the crib is not intended for infant use.

The bill gives the Department of Agriculture and Consumer Services the authority to adopt rules to implement the provisions of the Florida Infant Crib Safety Act.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: The bill creates a new regulations effecting the use, selling and other transaction involving infant cribs. It also creates new responsibilities for the Department of Agriculture and Consumer Services.

B. PRESENT SITUATION:

According to the DANNY foundation (a non-profit organization that has dedicated itself to educating the public about crib dangers), over 9,000 children annually are injured in a crib-related accident seriously enough to require hospital treatment. In addition, there are approximately 50 crib-related infant deaths nationally every year in baby cribs, usually in previously used or owned cribs. Federal regulations by the Consumer Product Safety Commission (the CPSC) govern safety hazards associated with the manufacture of new cribs, but not safety hazards associated with cribs that are older or previously used. According to DANNY, approximately 10 million cribs in use, and 20 million in storage, do not conform to federal regulations prescribed in the Code of Federal Regulations (CFR) under the Federal Hazardous Substances Act of 1982.

Since 1973, the CPSC has set standards for safer cribs that, according to the CPSC, have reduced crib-related infant deaths from 150 to 200 a year to approximately 50. All new cribs on the market most meet CPSC standards.

According to the CPSC, cribs account for more infant deaths than any other nursery item, and in most cases occurred when an infant became trapped in a crib side or end that had separated due to loose or missing hardware. In other cases, infants have become trapped between an undersized mattress and the side of the crib or been caught in areas between broken or improperly spaced slats. As stated earlier, the majority of cribs involved in these incidents were previously owned or used. Parents and caregivers reported obtaining these used cribs as "hand-me-downs" gifts from friends and relatives or by purchasing them at yard sales, flea markets, and used furniture stores.

The CPSC enforces two baby crib regulations; one applies to full size cribs, 16 CFR part 1508 and the other to non-full-size cribs, 16 CFR part 1509. Both regulations contain requirements regarding the spacing of components. The CPSC regulations require that all new cribs manufactured meet the following safety guidelines:

- No missing, loose, broken, or improperly installed screws, brackets, or other loose hardware on the crib or the mattress support.

- No more than 2 3/8 inches between crib slats so a baby's body cannot fit through the slats. If a soda can fits easily through the slats on a crib, the spaces between the slats are too wide.
- A firm snug-fitting mattress so a baby cannot get trapped between the mattress and the side of the crib.
- No corner posts over 1/16 of an inch above the end panels (unless they are over 16 inches high for a canopy) so baby cannot catch clothing and strangle.
- No cutout areas on the headboard or footboard so a baby's head cannot get trapped.
- A mattress support that does not easily pull apart from the corner posts so a baby cannot get trapped between the mattress and crib.
- No cracked or peeling paint to prevent lead poisoning.
- No splinters or rough edges.
- Hardware in a non-full-size baby crib must eliminate pinching, bruising, lacerating, crushing, amputating or other injury.

In 16 CFR part 1303, the Consumer Product Safety Commission declares that paint and similar surface-coating materials for consumer use that contain lead or lead compounds, and in which the lead content (calculated as lead metal) is in excess of 0.06 percent, are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2057, 2058. Lead-based paints cannot be used on infant cribs.

The American Society for Testing and Materials (ASTM) publishes engineering and technical standards for product manufacturing. ASTM has three standards that apply to the manufacturing of infant cribs.

- ASTM standard F966-96 establishes design requirements for corner posts of full-size and non-full-size baby cribs to minimize the potential for strangulation of infants and young children who may attempt to climb out of the crib. It also provides information in the instructions furnished with cribs of the potential hazard to children wearing pacifiers, necklaces, or any other items around their necks.
- ASTM standard F1169-99 establishes testing requirements for the structural integrity of cribs. It also provides requirements for labeling and instructional material.
- ASTM standard F1822-97 establishes testing requirements for the structural integrity and design requirements for non-full-size cribs, both rigid sided and mesh/fabric assemblies. It also provides requirements for labeling and instructional material.

Part II of ch. 501, F.S., provides legal remedies to the consumer and business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.

According to CPSC, estimates show that children under age 2 spend more than 7 million nights per year in hotels, motels and resorts. CPSC estimates that there are about 65,000 hotels and motels in the U.S. The SAFE KIDS campaign (a non-profit organization dedicated to child safety) recently visited 90 hotels and motels in 27 states and the District of Columbia. Of the cribs inspected, 82 percent had at least one safety hazard, including loose hardware or lack of secured mattress supports that could entrap a baby; soft bedding, including quilts, comforters or pillows that could

cause suffocation; and adult- sized sheets that pose a strangulation and suffocation hazard. Of the play yards and mesh cribs inspected, 52 percent had at least one safety hazard, including tears or holes in the meshing, which pose an entrapment risk to babies, and soft bedding. The CPSC found that thrift stores nationwide, including those run by national organizations and local and independent stores, sell cribs –12 percent of which do not meet current federal and voluntary safety standards, presenting risks including entrapment and strangulation.

Arizona, California, Colorado, Illinois and Washington State have enacted Infant Crib Safety Acts to prohibit commercial users from manufacturing, retrofitting, selling, contracting to sell or resell, or leasing, a full-size or non-full-size crib that is unsafe for any infant using the crib.

C. EFFECT OF PROPOSED CHANGES:

The bill is designed to remove certain unsafe infant cribs from use and commercial circulation.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 501.144, F.S., the Florida Infant Crib Safety Act.

Subsection (2) provides definitions. It defines the following word and phrases:

- Commercial User
- Crib
- Department (to mean the Department of Agriculture)
- Full-size crib
- Infant
- Non-full-size crib
- Persons
- Public lodging establishment

Subsection (3) prohibits a commercial user from manufacturing, retrofitting, selling, contracting to sell or resell, leasing, or subletting or placing in the stream of commerce a full-size or non-full-size crib that has not met the criteria standards in subsection (4) of the Florida Infant Crib Safety Act. It also prohibits a public lodging establishment to offer for use a full-size or non-full-size crib that has not met the same standards. Provides that a violation of this act is a deceptive and unfair trade practice and constitutes a violation of part II of ch. 501, F.S. Part II of ch. 501 provides for a civil penalty for a violation.

Subsection (4) provides that if a crib does not conform to all of the following standards it is presumed to be unsafe:

- 16 C.F.R. part 1303 including amendments and supplements
- 16 C.F.R. part 1508 including amendments and supplements
- ASTM standard F966-96 including amendments and supplements
- ASTM standard F1169-99 including amendments and supplements
- ASTM standard F1822-97 including amendments and supplements

In addition subsection (4) provides that a crib is unsafe if it has any of the following features or characteristics:

- Corner posts that extend more than 1/16-inch above end panels
- Slats more than 2 3/8 inches apart
- A mattress support that releases easily from corner posts
- In a full-size crib the top rails of drop-sides when raised, should be at least 26" above the top of the mattress support. The top rail of a lowered side should be at least 9" above the mattress support to prevent falls.
- Cutout designs on the end panels
- Tears in mesh or fabric
- Missing or loose screws, bolts, or hardware
- Sharp edges, points, or rough surfaces on wood surfaces that are not smooth and free from splinters, splits or cracks
- Folding cribs - latches that do not work automatically to prevent the unintentional collapse of the crib

Subsection (5) exempts cribs not intended for infant use, including but not limited to, a toy display item, from the standards and regulations of this act provided that notice is furnished by the commercial user, is not intended for infants, and is dangerous for infant use.

Subsection (6) provides that a violation of subsection (3) is classified as a misdemeanor of the first degree and allows for a fine of not more than \$1000.

Subsection (7) allows a person to seek an injunction or restraining order against a commercial user from retrofitting, selling, contracting to sell or resell, leasing, or subletting a full-size or non-full-size crib that is unsafe for infant use and allows the recovery of attorney fees and other costs.

Subsection (8) requires the Department of Agriculture and Consumer Services to prepare materials and programs to inform the public concerning unsafe cribs.

Subsection (9) gives the Department of Agriculture and Consumer Services authority to adopt rules to implement the provisions of the Florida Infant Crib Safety Act.

Section 2. Allows the act to take effect upon becoming.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of Agriculture and Consumer Services this bill should have a minimal cost impact.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Public lodging establishments will incur cost to replace infant cribs that do not meet the standards of the act.

Commercial user as defined in this act would be prohibited from manufacturing, retrofitting, selling, contracting to sell or resell, leasing, or subletting or placing in the stream of commerce a full-size or non-full-size crib in their inventory that has not met the safety standards, and therefore may incur a loss of revenue.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill will not reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Agriculture and Consumer Services authority to adopt rules to implement the provisions of the Florida Infant Crib Safety Act.

C. OTHER COMMENTS:

1. In the bill *commercial user* is defined as a “person who deals in full-size or non-full-size cribs or who otherwise by one’s occupation holds oneself out as having knowledge or skill peculiar to full-size or non-full-size cribs...”

This definition may present enforcement difficulties due to vagueness of the term “person who deals.” Staff suggests a more specific definition that corresponds to the current regulatory framework governing the collection of sales tax from dealers in s. 212.06(2), F.S. The definition provided below would track current law.

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

2. The requirements and penalties in this bill would not apply to the general public not considered a commercial user. Cribs received as "hand-me-down" gifts from friends and relatives, or cribs purchased in yard sales would not be covered under the provisions of this act.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 6, 2001, the Committee on Child & Family Security adopted the following amendments to HB 85.

Amendment #1 [Section 1, page 3, lines 5-13]

Defines “commercial user” to correspond to the current regulatory framework governing the collection of sales tax from dealers in s. 212.06(2), F.S.

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Staff Director:

Bob Barrios

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