

By Representative Meadows

1 A bill to be entitled
2 An act relating to infant cribs; creating s.
3 501.144, F.S.; creating the Florida Infant Crib
4 Safety Act; providing definitions; prohibiting
5 commercial users from manufacturing,
6 retrofitting, selling, contracting to sell or
7 resell, leasing, or subletting specified cribs
8 determined to be unsafe for use by infants;
9 prohibiting public lodging establishments from
10 offering or providing for use specified cribs
11 determined to be unsafe for use by infants;
12 providing criteria for determining safety of
13 infant cribs; providing exemptions; providing
14 specified immunity from civil liability;
15 providing a penalty; providing that violation
16 of the act constitutes an unfair and deceptive
17 trade practice; providing causes of action;
18 authorizing the Department of Agriculture and
19 Consumer Services to collaborate with public
20 agencies and private sector entities to prepare
21 specified public education materials and
22 programs; authorizing the department to adopt
23 rules; providing an effective date.

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

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

3 WHEREAS, over 13,000 infants are injured in unsafe
4 cribs every year, and

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

10 WHEREAS, it is the intent of the Legislature to reduce
11 the occurrence of injuries and deaths to infants as a result
12 of unsafe cribs which do not conform to modern safety
13 standards by making it illegal to remanufacture, retrofit,
14 sell, contract to sell or resell, lease, sublet, or otherwise
15 place in the stream of commerce any full size or non-full-size
16 crib that is unsafe, and

17 WHEREAS, it is the intent of the Legislature to
18 encourage public and private collaboration in disseminating
19 materials relative to the safety of infant cribs to parents,
20 child care providers, and those individuals who would be
21 likely to place unsafe infant cribs in the stream of commerce,
22 NOW, THEREFORE,

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

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

28 501.144 Florida Infant Crib Safety Act.--

29 (1) SHORT TITLE.--This act shall be known and may be
30 cited as the "Florida Infant Crib Safety Act."

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1 (2) DEFINITIONS.--The following words and phrases,
2 when used in this act, shall have the meanings ascribed to
3 them in this subsection unless the context clearly indicates
4 otherwise:

5 (a) "Commercial user" means a person who deals in full
6 size or non-full-size cribs or who otherwise by one's
7 occupation holds oneself out as having knowledge or skill
8 peculiar to full size or non-full-size cribs, including child
9 care facilities licensed by the Department of Children and
10 Family Services and local government agencies, or any person
11 who is in the business of remanufacturing, retrofitting,
12 selling, leasing, subletting, or otherwise placing in the
13 stream of 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) "Public lodging establishment" means any hotel,
30 motel, resort condominium, nontransient apartment, transient
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1 apartment, roominghouse, bed and breakfast inn, or resort
2 dwelling, as defined in s. 509.242.

3 (3) PROHIBITED PRACTICES.--

4 (a) No commercial user shall remanufacture, retrofit,
5 sell, contract to sell or resell, lease, sublet, or otherwise
6 place in the stream of commerce a full size or non-full-size
7 crib that is unsafe for any infant using the crib because it
8 does not conform to the conditions set forth in paragraph
9 (4)(a) or because it has any of the dangerous features or
10 characteristics set forth in paragraph (4)(b).

11 (b) No public lodging establishment shall offer,
12 provide for use, or otherwise place in the stream of commerce
13 on or after the effective date of this act a full size or
14 non-full-size crib that is unsafe for any infant using the
15 crib because it does not conform to the conditions set forth
16 in paragraph (4)(a) or because it has any of the dangerous
17 features or characteristics set forth in paragraph (4)(b).

18 (c) A violation of this act is a deceptive and unfair
19 trade practice and constitutes a violation of part II of
20 chapter 501, the Florida Deceptive and Unfair Trade Practices
21 Act.

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

23 (a) A crib shall be presumed to be unsafe under this
24 act if it does not conform to all of the following:

25 1. 16 C.F.R. part 1303, relating to ban of
26 lead-containing paint and certain consumer products bearing
27 lead-containing paint; 16 C.F.R. part 1508, relating to
28 requirements for full size baby cribs; and 16 C.F.R. part
29 1509, relating to requirements for non-full-size baby cribs.

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

1 3. Any regulations that are adopted in order to amend
2 or supplement the regulations described in subparagraphs 1.
3 and 2.

4 (b) Cribs that are unsafe shall include, but not be
5 limited to, cribs that have any of the following dangerous
6 features or characteristics:

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

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

9 3. Mattress support that can be easily dislodged from
10 any point of the crib. A mattress segment shall be deemed
11 easily dislodged if it cannot withstand at least a 25-pound
12 upward force from underneath the crib.

13 4. Cutout designs on the end panels.

14 5. Rail height dimensions that do not conform to the
15 following:

16 a. The height of the rail and end panel as measured
17 from the top of the rail or panel in its lowest position to
18 the top of the mattress support in its highest position is at
19 least 9 inches.

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

24 6. Any screw, bolt, or hardware that is loose and not
25 secured.

26 7. Any sharp edge, point, or rough surface or any wood
27 surface that is not smooth and free from splinters, splits, or
28 cracks.

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

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1 9. With respect to portable folding cribs, latches
2 that do not work automatically to prevent the unintentional
3 collapse of the crib.

4 (5) EXEMPTIONS; CIVIL IMMUNITY.--

5 (a) A crib that is clearly not intended for use by an
6 infant, including, but not limited to, a toy or display item,
7 shall be exempt from this act, provided that the crib is
8 accompanied at the time of remanufacturing, retrofitting,
9 selling, leasing, subletting, or placement in the stream of
10 commerce by a notice to be furnished by the commercial user
11 declaring that the crib is not intended to be used for an
12 infant and is dangerous to use for an infant.

13 (b) A commercial user who has complied with the notice
14 requirements set forth under paragraph (a) shall be immune
15 from civil liability resulting from the use of a crib,
16 notwithstanding the provisions of this act.

17 (6) PENALTY.--A commercial user or public lodging
18 establishment that willfully and knowingly violates subsection
19 (3) commits a misdemeanor of the first degree, punishable by a
20 fine of not more than \$1,000.

21 (7) CAUSE OF ACTION; REMEDIES.--

22 (a) Any person may maintain an action against a
23 commercial user who violates subsection (3) to enjoin the
24 manufacture, remanufacture, retrofit, sale, contract to sell
25 or resell, lease, or subletting of a full size or
26 non-full-size crib that is unsafe for any infant using the
27 crib and may recover reasonable attorney fees and costs in the
28 action.

29 (b) Any person may maintain an action against a public
30 lodging establishment that violates subsection (3) to enjoin
31 the use of a full size or non-full-size crib that is unsafe

1 for any infant using the crib and may recover reasonable
2 attorney fees and costs in the action.

3 (c) The remedies available under this act shall be in
4 addition to any other remedies or procedures under any other
5 provision of law that may be available to an aggrieved party.

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

17 (9) RULEMAKING AUTHORITY.--The department has the
18 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
19 to implement this section.

20 Section 2. This act shall take effect upon becoming a
21 law.

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HOUSE SUMMARY

Creates the Florida Infant Crib Safety Act. Defines terms for purposes of the act. Prohibits commercial users, as defined by the act, from manufacturing, retrofitting, selling, or leasing specified cribs determined to be unsafe for use by infants. Prohibits public lodging establishments from offering or providing for use specified cribs determined to be unsafe for use by infants. Provides criteria for determining safety of infant cribs. Provides exemptions. Provides specified immunity from civil liability. Provides a first degree misdemeanor penalty for violation, punishable by a fine of not more than \$1,000. Provides that violation of the act constitutes an unfair and deceptive trade practice. Provides causes of action. Authorizes the Department of Agriculture and Consumer Services to collaborate with public agencies and private sector entities to prepare public education materials and programs designed to inform parents, child care providers, commercial users, and others of the dangers posed by unsafe cribs. Authorizes the department to adopt rules.