

By Senator Wasserman Schultz

32-442B-01

See HB 85

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

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

30           WHEREAS, the design and construction of an infant crib  
31          must ensure that it is safe, and a parent or caregiver has a

1 right to believe that an infant crib in use is a safe  
2 containment in which to place an infant, and

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

5 WHEREAS, prohibiting the manufacture, remanufacture,  
6 retrofitting, sale, contracting to sell or resell, leasing, or  
7 subletting of unsafe infant cribs, particularly unsafe  
8 secondhand, hand-me-down, or heirloom cribs, will reduce  
9 injuries and 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 that do not conform to modern safety standards  
13 by making it illegal to manufacture, 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 section may be cited as the  
30 "Florida Infant Crib Safety Act."

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

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

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

10           (c) "Department" means the Department of Agriculture  
11 and Consumer Services.

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

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

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

20           (g) "Person" means a natural person, firm,  
21 partnership, corporation, association, agent, or employee  
22 thereof.

23           (h) "Public lodging establishment" means any hotel,  
24 motel, resort condominium, nontransient apartment, transient  
25 apartment, roominghouse, bed and breakfast inn, or resort  
26 dwelling, as defined in s. 509.242.

27           (3) PROHIBITED PRACTICES.--

28           (a) A commercial user may not manufacture,  
29 remanufacture, retrofit, sell, contract to sell or resell,  
30 lease, sublet, or otherwise place in the stream of commerce a  
31 full-size or non-full-size crib that is unsafe for any infant

1 using the crib because the crib does not conform to the  
2 standards set forth in paragraph (4)(a) or because the crib  
3 has any of the dangerous features or characteristics set forth  
4 in paragraph (4)(b).

5 (b) No public lodging establishment shall offer,  
6 provide for use, or otherwise place in the stream of commerce  
7 on or after the effective date of this act a full-size or  
8 non-full-size crib that is unsafe for any infant using the  
9 crib because the crib does not conform to the standards set  
10 forth in paragraph (4)(a) or because the crib has any of the  
11 dangerous features or characteristics set forth in paragraph  
12 (4)(b).

13 (c) A violation of this section is a deceptive and  
14 unfair trade practice and constitutes a violation of part II  
15 of chapter 501, the Florida Deceptive and Unfair Trade  
16 Practices Act.

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

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

20 1. 16 C.F.R. part 1303, relating to ban of  
21 lead-containing paint and certain consumer products bearing  
22 lead-containing paint; 16 C.F.R. part 1508, relating to  
23 requirements for full-size baby cribs; and 16 C.F.R. part  
24 1509, relating to requirements for non-full-size baby cribs.

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

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

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

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

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

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

10          4. Cutout designs on the end panels.

11          5. Rail-height dimensions that do not conform to the  
12 following:

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

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

21          6. Any screw, bolt, or hardware that is loose and not  
22 secured.

23          7. Any sharp edge, point, or rough surface or any wood  
24 surface that is not smooth and free from splinters, splits, or  
25 cracks.

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

28          9. With respect to portable folding cribs, latches  
29 that do not work automatically to prevent the unintentional  
30 collapse of the crib.

31          (5) EXEMPTIONS; CIVIL IMMUNITY.--

1       (a) A crib that is clearly not intended for use by an  
2 infant, including, but not limited to, a toy or display item,  
3 is exempt from this section if the crib is accompanied at the  
4 time of manufacturing, remanufacturing, retrofitting, selling,  
5 leasing, subletting, or placement in the stream of commerce by  
6 a notice to be furnished by the commercial user declaring that  
7 the crib is not intended to be used for an infant and is  
8 dangerous to use for an infant.

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

13       (6) PENALTY.--A commercial user or public lodging  
14 establishment that willfully and knowingly violates subsection  
15 (3) commits a misdemeanor of the first degree, punishable by a  
16 fine of not more than \$10,000 and imprisonment for a term of  
17 not more than 1 year.

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

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

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

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5                           LEGISLATIVE SUMMARY

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7           Creates the Florida Infant Crib Safety Act. Defines terms  
8 for purposes of the act. Prohibits commercial users, as  
9 defined by the act, from manufacturing, remanufacturing,  
10 retrofitting, selling, or leasing specified cribs  
11 determined to be unsafe for use by infants. Prohibits  
12 public lodging establishments from offering or providing  
13 for use specified cribs determined to be unsafe for use  
14 by infants. Provides criteria for determining safety of  
15 infant cribs. Provides exemptions. Provides specified  
16 immunity from civil liability. Provides a  
17 first-degree-misdemeanor penalty for violation,  
18 punishable by a fine of not more than \$10,000 and not  
19 more than 1 year in prison. Provides that violation of  
20 the act constitutes an unfair and deceptive trade  
21 practice. Authorizes the Department of Agriculture and  
22 Consumer Services to collaborate with public agencies and  
23 private-sector entities to prepare public-education  
24 materials and programs designed to inform parents,  
25 child-care providers, commercial users, and others of the  
26 dangers posed by unsafe cribs. Authorizes the department  
27 to adopt rules.  
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