

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  
10          transient public lodging establishments from  
11          offering or providing for use specified cribs  
12          determined to be unsafe for use by infants;  
13          providing criteria for determining safety of  
14          infant cribs; providing exemptions; providing  
15          specified immunity from civil liability;  
16          providing penalties; providing that violation  
17          of the act constitutes an unfair and deceptive  
18          trade practice; authorizing the Department of  
19          Agriculture and Consumer Services, the  
20          Department of Business and Professional  
21          Regulation, and the Department of Children and  
22          Family Services to collaborate with public  
23          agencies and private sector entities to prepare  
24          specified public education materials and  
25          programs; authorizing the Department of  
26          Agriculture and Consumer Services to adopt  
27          rules and prescribe forms; amending s. 509.221,  
28          F.S.; prohibiting the use of certain cribs in  
29          public lodging establishments; reenacting s.  
30          509.032, F.S.; providing for regulation and  
31          rulemaking by the Division of Hotels and

1 Restaurants of the Department of Business and  
2 Professional Regulation; creating s. 402.3031,  
3 F.S.; prohibiting unsafe cribs in certain  
4 facilities; providing for enforcement and  
5 rulemaking powers of the Department of Children  
6 and Family Services; providing an effective  
7 date.

8  
9 WHEREAS, the disability and death of infants resulting  
10 from injuries sustained in crib accidents are a serious threat  
11 to the public health, safety, and welfare of the people of the  
12 state, and

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

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

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

24 WHEREAS, it is the intent of the Legislature to reduce  
25 the occurrence of injuries and deaths to infants as a result  
26 of unsafe cribs that do not conform to modern safety standards  
27 by making it illegal to manufacture, remanufacture, retrofit,  
28 sell, contract to sell or resell, lease, or sublet, any  
29 full-size or non-full-size crib that is unsafe, and

30 WHEREAS, it is the intent of the Legislature to  
31 encourage public and private collaboration in disseminating

1 materials relative to the safety of infant cribs to parents,  
2 child care providers, and those individuals who would be  
3 likely to sell, donate, or otherwise provide to others unsafe  
4 infant cribs, NOW, THEREFORE,

5  
6 Be It Enacted by the Legislature of the State of Florida:

7  
8 Section 1. Section 501.144, Florida Statutes, is  
9 created to read:

10 501.144 Florida Infant Crib Safety Act.--

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

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

14 (a) "Commercial user" means a dealer pursuant to s.  
15 212.06(2), or any person who is in the business of  
16 manufacturing, remanufacturing, retrofitting, selling,  
17 leasing, or subletting full-size or non-full-size cribs. The  
18 term includes a child care facility, family day care home,  
19 large family child care home, and specialized child care  
20 facility for the care of mildly ill children, licensed by the  
21 Department of Children and Family Services or local licensing  
22 agencies.

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

25 (c) "Department" means the Department of Agriculture  
26 and Consumer Services.

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

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

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

4           (g) "Transient public lodging establishment" means any  
5 hotel, motel, resort condominium, transient apartment,  
6 roominghouse, bed and breakfast inn, or resort dwelling, as  
7 defined in s. 509.242.

8           (3) PROHIBITED PRACTICES.--

9           (a) A commercial user may not manufacture,  
10 remanufacture, retrofit, sell, contract to sell or resell,  
11 lease, or sublet a full-size or non-full-size crib that is  
12 unsafe for any infant using the crib because the crib does not  
13 conform to the standards set forth in paragraph (4)(a) or  
14 because the crib has any of the dangerous features or  
15 characteristics set forth in paragraph (4)(b).

16           (b) No transient public lodging establishment shall  
17 offer or provide for use a full-size or non-full-size crib  
18 that is unsafe for any infant using the crib because the crib  
19 does not conform to the standards set forth in paragraph  
20 (4)(a) or because the crib has any of the dangerous features  
21 or characteristics set forth in paragraph (4)(b). Further,  
22 violation of this section by a transient public lodging  
23 establishment is a violation of chapter 509 and is subject to  
24 the penalties set forth in s. 509.261.

25           (c) A violation of this section is a deceptive and  
26 unfair trade practice and constitutes a violation of part II  
27 of chapter 501, the Florida Deceptive and Unfair Trade  
28 Practices Act.

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

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

1           1. 16 C.F.R. part 1303, relating to ban of  
2 lead-containing paint and certain consumer products bearing  
3 lead-containing paint; 16 C.F.R. part 1508, relating to  
4 requirements for full-size baby cribs; and 16 C.F.R. part  
5 1509, relating to requirements for non-full-size baby cribs.

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

8           3. Rules adopted by the department which implement the  
9 provisions of this subsection.

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

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

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

14           3. A mattress support that can be easily dislodged  
15 from any point of the crib. A mattress segment can be easily  
16 dislodged if it cannot withstand at least a 25-pound upward  
17 force from underneath the crib. For portable folding cribs,  
18 this subparagraph shall not apply to mattress supports or  
19 mattress segments that are designed to allow the crib to be  
20 folded, provided that the crib is equipped with latches that  
21 work automatically to prevent the unintentional collapse of  
22 the crib.

23           4. Cutout designs on the end panels.

24           5. Rail-height dimensions that do not conform to the  
25 following:

26           a. The height of the rail and end panel as measured  
27 from the top of the rail or panel in its lowest position to  
28 the top of the mattress support in its highest position is at  
29 least 9 inches.

30           b. The height of the rail and end panel as measured  
31 from the top of the rail or panel in its highest position to

1 the top of the mattress support in its lowest position is at  
2 least 26 inches.

3 6. Upon completion of assembly, any screw, bolt, or  
4 hardware that is loose and not secured.

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

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

10 9. With respect to portable folding cribs, latches  
11 that do not work automatically to prevent the unintentional  
12 collapse of the crib.

13 10. Crib sheets used on mattresses must be sized to  
14 match the mattress size.

15 (5) EXEMPTIONS; CIVIL IMMUNITY.--

16 (a) A crib that is clearly not intended for use by an  
17 infant, including, but not limited to, a toy or display item,  
18 is exempt from this section if the crib is accompanied, at the  
19 time of manufacturing, remanufacturing, retrofitting, selling,  
20 leasing, or subletting by a notice to be furnished by the  
21 commercial user on forms prescribed by the department  
22 declaring that the crib is not intended to be used for an  
23 infant and is dangerous to use for an infant.

24 (b) A commercial user, other than a child care  
25 facility, family day care home, large family child care home,  
26 or specialized child care facility for the care of mildly ill  
27 children, that has complied with the notice requirements set  
28 forth under paragraph (a) is immune from civil liability  
29 resulting from the use of a crib, notwithstanding the  
30 provisions of this section.

31 (6) PENALTY.--

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

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

10           (c) A child care facility, family day care home, large  
11 family child care home, or specialized child care facility for  
12 the care of mildly ill children that violates subsection (3)  
13 shall be subject to the penalties set forth in ss.  
14 402.301-402.319.

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

1           Section 2. Subsection (10) is added to section  
2 509.221, Florida Statutes, to read:

3           509.221 Sanitary regulations.--

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

8           Section 3. Section 509.032, Florida Statutes, is  
9 reenacted to read:

10          509.032 Duties.--

11          (1) GENERAL.--The division shall carry out all of the  
12 provisions of this chapter and all other applicable laws and  
13 rules relating to the inspection or regulation of public  
14 lodging establishments and public food service establishments  
15 for the purpose of safeguarding the public health, safety, and  
16 welfare. The division shall be responsible for ascertaining  
17 that an operator licensed under this chapter does not engage  
18 in any misleading advertising or unethical practices.

19          (2) INSPECTION OF PREMISES.--

20          (a) The division has responsibility and jurisdiction  
21 for all inspections required by this chapter. The division  
22 has responsibility for quality assurance. Each licensed  
23 establishment shall be inspected at least biannually and at  
24 such other times as the division determines is necessary to  
25 ensure the public's health, safety, and welfare. The division  
26 shall establish a system to determine inspection frequency.  
27 Public lodging units classified as resort condominiums or  
28 resort dwellings are not subject to this requirement, but  
29 shall be made available to the division upon request. If,  
30 during the inspection of a public lodging establishment  
31 classified for renting to transient or nontransient tenants,



1 an inspector identifies vulnerable adults who appear to be  
2 victims of neglect, as defined in s. 415.102, or, in the case  
3 of a building that is not equipped with automatic sprinkler  
4 systems, tenants or clients who may be unable to self-preserve  
5 in an emergency, the division shall convene meetings with the  
6 following agencies as appropriate to the individual situation:  
7 the Department of Health, the Department of Elderly Affairs,  
8 the area agency on aging, the local fire marshal, the landlord  
9 and affected tenants and clients, and other relevant  
10 organizations, to develop a plan which improves the prospects  
11 for safety of affected residents and, if necessary, identifies  
12 alternative living arrangements such as facilities licensed  
13 under part II or part III of chapter 400.

14 (b) For purposes of performing required inspections  
15 and the enforcement of this chapter, the division has the  
16 right of entry and access to public lodging establishments and  
17 public food service establishments at any reasonable time.

18 (c) Public food service establishment inspections  
19 shall be conducted to enforce provisions of this part and to  
20 educate, inform, and promote cooperation between the division  
21 and the establishment.

22 (d) The division shall adopt and enforce sanitation  
23 rules consistent with law to ensure the protection of the  
24 public from food-borne illness in those establishments  
25 licensed under this chapter. These rules shall provide the  
26 standards and requirements for obtaining, storing, preparing,  
27 processing, serving, or displaying food in public food service  
28 establishments, approving public food service establishment  
29 facility plans, conducting necessary public food service  
30 establishment inspections for compliance with sanitation  
31 regulations, cooperating and coordinating with the Department

1 of Health in epidemiological investigations, and initiating  
2 enforcement actions, and for other such responsibilities  
3 deemed necessary by the division. The division may not  
4 establish by rule any regulation governing the design,  
5 construction, erection, alteration, modification, repair, or  
6 demolition of any public lodging or public food service  
7 establishment. It is the intent of the Legislature to preempt  
8 that function to the Florida Building Commission and the State  
9 Fire Marshal through adoption and maintenance of the Florida  
10 Building Code and the Florida Fire Prevention Code. The  
11 division shall provide technical assistance to the commission  
12 and the State Fire Marshal in updating the construction  
13 standards of the Florida Building Code and the Florida Fire  
14 Prevention Code which govern public lodging and public food  
15 service establishments. Further, the division shall enforce  
16 the provisions of the Florida Building Code and the Florida  
17 Fire Prevention Code which apply to public lodging and public  
18 food service establishments in conducting any inspections  
19 authorized by this part.

20 (e)1. Relating to facility plan approvals, the  
21 division may establish, by rule, fees for conducting plan  
22 reviews and may grant variances from construction standards in  
23 hardship cases, which variances may be less restrictive than  
24 the provisions specified in this section or the rules adopted  
25 under this section. A variance may not be granted pursuant to  
26 this section until the division is satisfied that:

27 a. The variance shall not adversely affect the health  
28 of the public.

29 b. No reasonable alternative to the required  
30 construction exists.

31

1           c. The hardship was not caused intentionally by the  
2 action of the applicant.

3           2. The division's advisory council shall review  
4 applications for variances and recommend agency action. The  
5 division shall make arrangements to expedite emergency  
6 requests for variances, to ensure that such requests are acted  
7 upon within 30 days of receipt.

8           3. The division shall establish, by rule, a fee for  
9 the cost of the variance process. Such fee shall not exceed  
10 \$150 for routine variance requests and \$300 for emergency  
11 variance requests.

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

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

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

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

29           (b) Inspect public lodging establishments and public  
30 food service establishments whenever necessary to respond to  
31 an emergency or epidemiological condition.

1 (c) Administer a public notification process for  
2 temporary food service events and distribute educational  
3 materials that address safe food storage, preparation, and  
4 service procedures.

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

16 2. The division shall keep a record of all  
17 notifications received for proposed temporary food service  
18 events and shall provide appropriate educational materials to  
19 the event sponsors, including the food-recovery brochure  
20 developed under s. 570.0725.

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

24 b. Public food service establishments holding current  
25 licenses from the division may operate under the regulations  
26 of such a license at temporary food service events of 3 days  
27 or less in duration.

28 (4) STOP-SALE ORDERS.--The division may stop the sale,  
29 and supervise the proper destruction, of any food or food  
30 product when the director or the director's designee  
31 determines that such food or food product represents a threat

1 to the public safety or welfare. If the operator of a public  
2 food service establishment licensed under this chapter has  
3 received official notification from a health authority that a  
4 food or food product from that establishment has potentially  
5 contributed to any instance or outbreak of food-borne illness,  
6 the food or food product must be maintained in safe storage in  
7 the establishment until the responsible health authority has  
8 examined, sampled, seized, or requested destruction of the  
9 food or food product.

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

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

25 (7) PREEMPTION AUTHORITY.--The regulation of public  
26 lodging establishments and public food service establishments,  
27 the inspection of public lodging establishments and public  
28 food service establishments for compliance with the sanitation  
29 standards adopted under this section, and the regulation of  
30 food safety protection standards for required training and  
31 testing of food service establishment personnel are preempted

1 to the state. This subsection does not preempt the authority  
2 of a local government or local enforcement district to conduct  
3 inspections of public lodging and public food service  
4 establishments for compliance with the Florida Building Code  
5 and the Florida Fire Prevention Code, pursuant to ss. 553.80  
6 and 633.022.

7 Section 4. Section 402.3031, Florida Statutes, is  
8 created to read:

9 402.3031 Infant crib safety.--No child care facility,  
10 family day care home, large family child care home, or  
11 specialized child care facility for the care of mildly ill  
12 children shall offer or provide for use a full-size or  
13 non-full-size crib that is not in conformity with the  
14 requirements of s. 501.144. The department shall enforce the  
15 provisions of this section and may adopt rules pursuant to ss.  
16 120.536(1) and 120.54 to administer this section.

17 Section 5. This act shall take effect October 1, 2001.  
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