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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,

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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.

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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.

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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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