

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 122 Session of
1999

INTRODUCED BY RUBLEY, L. I. COHEN, GEIST, GEORGE, CORRIGAN,
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HENNESSEY, MELIO, C. WILLIAMS, McCALL, SEYFERT, PLATTS, BARD,
M. COHEN, BELARDI, HARHAI AND DeLUCA, JANUARY 25, 1999

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 25, 1999

AN ACT

1 Regulating the use of certain infant cribs; providing a cause of
2 action; and imposing a penalty.

3 The General Assembly finds and declares as follows:

4 (1) The disability and death of infants resulting from
5 injuries sustained in crib accidents are a serious threat to
6 the public health, welfare and safety of the people of this
7 Commonwealth.

8 (2) Infants are an especially vulnerable class of
9 people.

10 (3) The design and construction of a baby crib must
11 ensure that it is safe to leave an infant unattended for
12 extended periods of time. A parent or caregiver has a right
13 to believe that the crib in use is a safe place to leave an
14 infant.

15 (4) Over 13,000 infants are injured in unsafe cribs
16 every year.

1 (5) In the past decade, 622 infants died, a rate of 62
2 infants each year, from injuries sustained in unsafe cribs.

3 (6) In the last five years, five children ranging from
4 seven months of age to 17 months of age have died from
5 injuries sustained in unsafe cribs in this Commonwealth, and
6 many more have been injured.

7 (7) The United States Consumer Product Safety Commission
8 estimates that the cost to society resulting from injuries
9 and deaths due to unsafe cribs is \$235,000,000 per year.

10 (8) Secondhand, hand-me-down and heirloom cribs pose a
11 special problem. There were 4,000,000 infants born in this
12 country last year but only 1,000,000 new cribs were sold. As
13 many as three out of four infants are placed in secondhand,
14 handme-down or heirloom cribs.

15 (9) Most injuries and deaths occur in secondhand, hand-
16 me-down or heirloom cribs because those cribs do not conform
17 to modern safety standards.

18 (10) Existing Federal and State law is inadequate to
19 deal with this hazard.

20 (11) Prohibiting the remanufacture, retrofit, sale or
21 contracting to sell or resell, leasing or subletting of
22 unsafe cribs, particularly unsafe secondhand, hand-me-down or
23 heirloom cribs, will prevent injuries and deaths caused by
24 cribs.

25 (12) The purpose of this act is to prevent the
26 occurrence of injuries and deaths to infants as a result of
27 unsafe cribs which do not conform to modern safety standards
28 by making it illegal to remanufacture, retrofit, sell,
29 contract to sell or resell, lease, sublet or otherwise place
30 in the stream of commerce, after the effective date of this

1 act, any full-size or nonfull-size crib that is unsafe for
2 any infant using a crib.

3 (13) This act is intended to encourage public and
4 private collaboration in disseminating materials relative to
5 the safety of baby cribs to parents, child-care providers and
6 those individuals who would be likely to place unsafe cribs
7 in the stream of commerce.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Infant Crib
12 Safety Act.

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Commercial user." A person who deals in full-size or
18 nonfull-size cribs or who otherwise by one's occupation holds
19 oneself out as having knowledge or skill peculiar to full-size
20 or nonfull-size cribs, including child-care facilities and
21 family child-care homes licensed by the Commonwealth or any
22 person who is in the business of remanufacturing, retrofitting,
23 selling, leasing, subletting or otherwise placing in the stream
24 of commerce full-size or nonfull-size cribs.

25 "Crib." A bed or containment designed to accommodate an
26 infant.

27 "Full-size crib." A full-size baby crib as defined in 16 CFR
28 Pt. 1508 (relating to requirements for full-size baby cribs).

29 "Infant." A person less than 35 inches tall and less than
30 three years of age.

1 "Nonfull-size crib." Nonfull-size baby crib as defined in 16
2 CFR Pt. 1509 (relating to requirements for non-full-size baby
3 cribs).

4 "Person." A natural person, firm, partnership, corporation,
5 association, agent or employee thereof.

6 Section 3. Unsafe cribs prohibited.

7 (a) Commercial users.--No commercial user shall
8 remanufacture, retrofit, sell, contract to sell or resell,
9 lease, sublet or otherwise place in the stream of commerce, on
10 or after the effective date of this act, a full-size or nonfull-
11 size crib that is unsafe for any infant using the crib because
12 it does not conform to subsection (c)(1), (2) or (3) or because
13 it has any of the dangerous features or characteristics set
14 forth in subsection (d).

15 (b) Other entities.--No hotel, motel and similar transient
16 lodging facilities shall offer or provide for use or otherwise
17 place in the stream of commerce, on or after the effective date
18 of this act, a full-size or nonfull-size crib that is unsafe for
19 any infant using the crib because it does not conform to
20 subsection (c)(1), (2) or (3) or because it has any of the
21 dangerous features or characteristics set forth in subsection
22 (d).

23 (c) Presumption of unsafe cribs.--A crib shall be presumed
24 to be unsafe under this act if it does not conform to all of the
25 following:

26 (1) 16 CFR Pts. 1303 (relating to ban of lead-containing
27 paint and certain consumer products bearing lead-containing
28 paint), 1508 (relating to requirements for full-size baby
29 cribs) and 1509 (relating to requirements for non-full-size
30 baby cribs).

1 (2) American Society for Testing Materials Voluntary
2 Standards F966-90 and F1169-88.

3 (3) Any regulations that are adopted in order to amend
4 or supplement the regulations described in paragraphs (1) and
5 (2).

6 (d) Dangerous features or characteristics.--Cribs that are
7 unsafe shall include, but not be limited to, cribs that have any
8 of the following dangerous features or characteristics:

9 (1) corner posts that extend more than one-sixteenth of
10 an inch;

11 (2) spaces between side slats more than two and three-
12 eighths inches;

13 (3) mattress support that can be easily dislodged from
14 any point of the crib. A mattress segment shall be deemed
15 easily dislodged if it cannot withstand at least a 25-pound
16 upward force from underneath the crib;

17 (4) cutout designs on the end panels;

18 (5) rail height dimensions that do not conform to the
19 following:

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

24 (ii) The height of the rail and end panel as
25 measured from the top of the rail or panel in its highest
26 position to the top of the mattress support in its lowest
27 position is at least 26 inches.

28 (6) any screw, bolt or hardware that is loose and not
29 secured;

30 (7) any sharp edge, point or rough surface or any wood

1 surface that is not smooth and free from splinters, splits or
2 cracks; and

3 (8) a tear in mesh or fabric sides, for a nonfull-size
4 crib.

5 Section 4. Certain cribs exempt.

6 (a) General rule.--A crib that is clearly not intended for
7 use by an infant including, without limitation, a toy or display
8 item shall be exempt from this act provided that the crib is
9 accompanied at the time of remanufacturing, retrofitting,
10 selling, leasing, subletting or otherwise placed in the stream
11 of commerce by a notice to be furnished by the commercial user
12 declaring that the crib is not intended to be used for an infant
13 and is dangerous to use for an infant.

14 (b) Civil immunity.--A commercial user shall be immune from
15 civil liability resulting from use of a crib contrary to the
16 notice required by subsection (a).

17 Section 5. Penalty.

18 A commercial user, hotel, motel or similar transient lodging
19 facility who willfully and knowingly violates section 3 commits
20 a summary offense and, upon conviction, shall be punishable by a
21 fine of not more than \$1,000.

22 Section 6. Cause of action.

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

29 (b) Other entities.--Any person may maintain an action
30 against any hotel, motel, similar transient lodging facility

1 which violates section 3 to enjoin the use of a full-size or
2 nonfull-size crib that is unsafe for an infant and for
3 reasonable attorney fees and costs.

4 Section 7. Duties of the Attorney General.

5 The Attorney General shall:

6 (1) Administer and enforce the provisions of this act.

7 (2) Adopt as standards in this Commonwealth any
8 requirements for full-size and nonfull-size baby cribs which
9 are at least as stringent as any requirement promulgated by
10 the Consumer Product Safety Commission.

11 (3) Collaborate with any public agency or private sector
12 entity to establish public education programs designed to
13 inform parents, child-care providers, commercial users and
14 any other person or entity which is likely to place unsafe
15 cribs in the stream of commerce of the dangers posed by
16 secondhand, hand-me-down or heirloom cribs which do not
17 conform to modern safety standards or which have any of the
18 dangerous features or characteristics set forth in section
19 3(d).

20 Section 8. Remedies not exclusive.

21 The remedies available under this act shall be in addition to
22 any other remedies or procedures under any other provision of
23 law that may be available to an aggrieved party.

24 Section 9. Severability.

25 The provisions of this act are severable. If any provision of
26 this act or its application to any person or circumstance is
27 held invalid, the invalidity shall not affect other provisions
28 or applications of this act which can be given effect without
29 the invalid provision or application.

30 Section 10. Effective date.

1 This act shall take effect in 60 days.