

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 122

Session of
1999

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JANUARY 25, 1999

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 22, 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

1 every year.

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

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

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

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

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

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

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

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

1 in the stream of commerce, after the effective date of this
2 act, any full-size or nonfull-size crib that is unsafe for
3 any infant using a crib.

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

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

11 Section 1. Short title.

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

14 Section 2. Definitions.

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

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

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

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

30 "Infant." A person less than 35 inches tall and less than

1 three years of age.

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

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

7 Section 3. Unsafe cribs prohibited.

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

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

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

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

1 baby cribs).

2 (2) American Society for Testing Materials Voluntary
3 Standards ~~F966-90 and F1169-88~~. F966-96, F1169-88 AND F1822- <—
4 97.

5 (3) Any regulations that are adopted in order to amend
6 or supplement the regulations described in paragraphs (1) and
7 (2).

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

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

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

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

19 (4) cutout designs on the end panels;

20 (5) rail height dimensions that do not conform to the
21 following:

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

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

30 (6) any screw, bolt or hardware that is loose and not

1 secured;

2 (7) any sharp edge, point or rough surface or any wood
3 surface that is not smooth and free from splinters, splits or
4 cracks; ~~and~~ <—

5 (8) a tear in mesh or fabric sides, for a nonfull-size
6 ~~crib~~. CRIB; AND <—

7 (9) WITH RESPECT TO PORTABLE, FOLDING CRIBS, LATCHES
8 THAT DO NOT WORK AUTOMATICALLY TO PREVENT THE UNINTENTIONAL
9 COLLAPSE OF THE CRIBS.

10 Section 4. Certain cribs exempt.

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

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

22 Section 5. Penalty.

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

27 Section 6. Cause of action.

28 (a) Commercial users.--Any person may maintain an action
29 against any commercial user who violates section 3 to enjoin the
30 manufacture, remanufacture, retrofit, sale, contract to sell,

1 contract to resell, lease or subletting of a full-size or
2 nonfull-size crib that is unsafe for an infant, and may recover
3 reasonable attorney fees and costs in the action.

4 (b) Other entities.--Any person may maintain an action
5 against any hotel, motel, similar transient lodging facility
6 which violates section 3 to enjoin the use of a full-size or
7 nonfull-size crib that is unsafe for an infant and for
8 reasonable attorney fees and costs.

9 Section 7. Duties of the Attorney General.

10 The Attorney General shall:

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

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

16 (3) Collaborate with any public agency or private sector
17 entity to establish public education programs designed to
18 inform parents, child-care providers, commercial users and
19 any other person or entity which is likely to place unsafe
20 cribs in the stream of commerce of the dangers posed by
21 secondhand, hand-me-down or heirloom cribs which do not
22 conform to modern safety standards or which have any of the
23 dangerous features or characteristics set forth in section
24 3(d).

25 Section 8. Remedies not exclusive.

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

29 Section 9. Severability.

30 The provisions of this act are severable. If any provision of

1 this act or its application to any person or circumstance is
2 held invalid, the invalidity shall not affect other provisions
3 or applications of this act which can be given effect without
4 the invalid provision or application.

5 Section 10. Effective date.

6 This act shall take effect in 60 days.