

4103

2011-2012 Regular Sessions

I N   S E N A T E

March 17, 2011

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Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to the manufacture of unsafe cribs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 399-i of the general business law, as added by  
2 chapter 245 of the laws of 2010, is amended to read as follows:  
3     S 399-i. Prohibit any sale of unsafe cribs. 1. For the purposes of  
4 this section, the following terms shall have the following meanings:  
5     (a) "Crib" means a bed or containment designated to accommodate an  
6 infant.  
7     (b) "Distribute" means to deliver to a person other than the purchas-  
8 er, for the purpose of retail sale.  
9     (c) "Person" shall mean a natural person, firm, corporation, limited  
10 liability company, association, or an employee or agent of a natural  
11 person or an entity included in this definition.  
12     (d) "Unsafe crib" shall mean any crib that does not conform to the  
13 standards endorsed or established by the federal Consumer Product Safety  
14 Commission including, but not limited to, Title 16 of the Code of Feder-  
15 al Regulations and the standards endorsed or established by American  
16 Society for Testing and Materials International (ASTM), as follows:  
17     (i) Part [1508] 1219 of Title 16 of the Code of Federal Regulations  
18 and any regulations adopted to amend or supplement such part;  
19     (ii) Part [1509] 1220 of Title 16 of the Code of Federal Regulations  
20 and any regulations adopted to amend or supplement such part;  
21     (iii) Part 1303 of Title 16 of the Code of Federal Regulations and any  
22 regulations adopted to amend or supplement such part; and  
23     (iv) The following standards and specifications of ASTM International  
24 for corner posts of baby cribs and structural integrity of baby cribs

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 and any standards and specifications adopted to amend or supplement such  
2 standards:

3 (A) ASTM F 966 (corner post standard),

4 (B) ASTM F 1169 (structural integrity of full-size baby cribs), and

5 (C) ASTM F 406 (non-full-size cribs).

6 2. (a) No person shall import, manufacture, or distribute an unsafe  
7 crib.

8 (b) No retailer, as defined in subdivision eleven of section four  
9 hundred ninety-a of this chapter, or secondhand dealer, as defined in  
10 subdivision six of section four hundred ninety-a of this chapter, shall  
11 sell, lease or otherwise make available an unsafe crib.

12 3. ON AND AFTER DECEMBER TWENTY-EIGHTH, TWO THOUSAND TWELVE, ANY  
13 FACILITY USING CRIBS, OTHER THAN A PRIVATE RESIDENCE, MAY NOT USE AN  
14 UNSAFE CRIB. ALL CRIBS WITHIN ANY SUCH FACILITY MUST BE IN COMPLIANCE  
15 WITH THE FEDERAL REGULATIONS BY SUCH DATE.

16 4. Whenever there shall be a violation of this section an application  
17 may be made by the attorney general in the name of the people of the  
18 state of New York to a court or justice having jurisdiction by a special  
19 proceeding to issue an injunction, and upon notice to the defendant of  
20 not less than five days, to enjoin and restrain the continuance of such  
21 violations; and if it shall appear to the satisfaction of the court or  
22 justice that the defendant has, in fact, violated this section, an  
23 injunction may be issued by the court or justice, enjoining and  
24 restraining any further violations, without requiring proof that any  
25 person has, in fact, been injured or damaged thereby. In any such  
26 proceeding, the court may make allowances to the attorney general as  
27 provided in paragraph six of subdivision (a) of section eighty-three  
28 hundred three of the civil practice law and rules, and direct restitu-  
29 tion. Whenever the court shall determine that a violation of this  
30 section has occurred, the court may impose a civil penalty of not more  
31 than one thousand dollars for each violation. Each sale of an unsafe  
32 crib in violation of this section shall constitute a separate violation.  
33 In connection with any such proposed application, the attorney general  
34 is authorized to take proof and make a determination of the relevant  
35 facts and to issue subpoenas in accordance with the civil practice law  
36 and rules.

37 [4.] 5. If any provision of this section or the application thereof to  
38 any person or circumstances is held unconstitutional, such invalidity  
39 shall not affect other provisions or applications of this section which  
40 can be given effect without the invalid provision or application, and to  
41 this end the provisions of this section are severable.

42 S 2. This act shall take effect on the thirtieth day after it shall  
43 have become a law.