

4103--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the sale and use 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 AND LIMIT USE of unsafe cribs IN CERTAIN  
4     SETTINGS. 1. For the purposes of this section, the following terms  
5     shall have the following meanings:  
6     (a) "Crib" [means] SHALL MEAN a bed or containment designated to  
7     accommodate an infant.  
8     (b) "Distribute" [means] SHALL MEAN to deliver to a person other than  
9     the purchaser, for the purpose of retail sale.  
10    (c) "FACILITY" SHALL MEAN ANY CHILD DAY CARE, CHILD DAY CARE PROVIDER,  
11    CHILD DAY CARE CENTER, GROUP FAMILY DAY CARE HOME, SCHOOL AGE CHILD CARE  
12    OR FAMILY DAY CARE HOME, AS SUCH TERMS ARE DEFINED BY SUBDIVISION ONE OF  
13    SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW. THE TERM  
14    "FACILITY" SHALL NOT INCLUDE ANY PRIVATE RESIDENCE.  
15    (D) "Person" shall mean a natural person, firm, corporation, limited  
16    liability company, association, or an employee or agent of a natural  
17    person or an entity included in this definition.  
18    [(d)] (E) "Unsafe crib" shall mean any crib that does not conform to  
19    the standards endorsed or established by the federal Consumer Product  
20    Safety Commission including, but not limited to, Title 16 of the Code of  
21    Federal Regulations and the standards endorsed or established by Ameri-  
22    can Society for Testing and Materials International (ASTM), as follows:

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

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1 (i) Part [1508] 1219 of Title 16 of the Code of Federal Regulations  
2 and any regulations adopted to amend or supplement such part;

3 (ii) Part [1509] 1220 of Title 16 of the Code of Federal Regulations  
4 and any regulations adopted to amend or supplement such part;

5 (iii) Part 1303 of Title 16 of the Code of Federal Regulations and any  
6 regulations adopted to amend or supplement such part; and

7 (iv) The following standards and specifications of ASTM International  
8 for corner posts of baby cribs and structural integrity of baby cribs  
9 and any standards and specifications adopted to amend or supplement such  
10 standards:

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

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

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

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

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

20 3. ON AND AFTER DECEMBER TWENTY-EIGHTH, TWO THOUSAND TWELVE, ANY  
21 FACILITY USING CRIBS MAY NOT USE AN UNSAFE CRIB. ALL CRIBS WITHIN ANY  
22 SUCH FACILITY MUST BE IN COMPLIANCE WITH THE FEDERAL REGULATIONS BY SUCH  
23 DATE.

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

45 [4.] 5. If any provision of this section or the application thereof to  
46 any person or circumstances is held unconstitutional, such invalidity  
47 shall not affect other provisions or applications of this section which  
48 can be given effect without the invalid provision or application, and to  
49 this end the provisions of this section are severable.

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