STATE OF NEW YORK

2128--C

2019-2020 Regular Sessions

IN SENATE

January 22, 2019

Introduced by Sen. THOMAS -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting the sale of infant walkers and restricting the use of such infant walkers in certain settings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 399-k to read as follows:

§ 399-k. Prohibit the sale of infant walkers and restrict use of such walkers in certain settings. 1. For the purposes of this section:

(a) "Infant walker" shall mean a mobile unit that enables a child to move on a horizontal surface when propelled by such child while such child is sitting or standing within such mobile unit.

(b) "Distributor" shall mean any person who delivers to a person other than purchaser, for the purpose of retail sale.

(c) "Manufacturer" shall mean any person who makes and places into the stream of commerce an infant walker as defined by this section.

(d) "Retailer" shall have the same meaning as set forth in subdivision eleven of section four hundred ninety-a of this chapter.

(e) "Secondhand dealer" shall have the same meaning as set forth in subdivision six of section four hundred ninety-a of this chapter.

(f) "Child care facility" shall mean any child day care provider as defined in section three hundred ninety of the social services law or child care program as defined in article forty-seven of the New York

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

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city health code as authorized by section five hundred fifty-eight of the New York city charter.

(g) "Person" shall mean a natural person, firm, corporation, limited liability company, association, or an employee or agent of a natural person or an entity included in this definition.

2. No manufacturer, importer, distributor, wholesaler, retailer or secondhand dealer shall sell, lease, offer for sale, or offer for lease in this state any infant walker.

3. (a) On or after the effective date of this section, no child care facility shall use or have on the premises any infant walker unless a medical professional has determined that use of an infant walker is medically necessary for a particular child in such child care facility.

(b) The office of children and family services, in consultation with the city of New York department of health and mental hygiene, shall notify child care facilities of the provisions of this subdivision in plain, non-technical language. Such notice shall be given to every child care facility upon the effective date of this section or as soon as practicable thereafter, and such notice shall also be given to each applicant for license or registration pursuant to section three hundred ninety of the social services law.

(c) The office of children and family services shall promulgate rules and regulations to carry out the provisions of this subdivision, with respect to the ban on infant walkers in child care facilities.

4. Whenever there shall be a violation of subdivision two of this section an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violations, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of subdivision two of this section has occurred, the court may impose a civil penalty of not more than five hundred dollars for each violation. Each sale of an infant walker in violation of this section shall constitute a separate violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

5. If any provision of this section or the application thereof to any person or circumstance is held unconstitutional, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.