

STATE OF NEW YORK

2128

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

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:

1 Section 1. The general business law is amended by adding a new section
2 399-k to read as follows:

3 § 399-k. Prohibit the sale of infant walkers and restrict use of such
4 walkers in certain settings. 1. For the purposes of this section:

5 (a) "Infant walker" shall mean an infant walker or baby walker, which
6 are devices that are manufactured to facilitate walking mobility in
7 infants and babies.

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

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

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

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

16 (f) "Child care facility" shall mean any place subject to section
17 three hundred ninety of the social services law or article forty-seven
18 of the New York city health code as authorized by section five hundred
19 fifty-eight of the New York city charter.

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

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

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

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

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

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

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

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

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