

# STATE OF NEW YORK

2128--A

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

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 devices that are manufactured to facil-  
6 itate walking mobility in infants and babies.

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

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

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

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

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

19 (g) "Person" shall mean a natural person, firm, corporation, limited  
20 liability company, association, or an employee or agent of a natural  
21 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 ninetieth 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.