

# STATE OF NEW YORK

8622

## IN SENATE

March 22, 2022

Introduced by Sen. CLEARE -- 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 loungers and restricting the use of such infant loungers 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-iii to read as follows:

3 § 399-iii. Prohibit the sale of infant loungers and restrict use of  
4 such infant loungers in certain settings. 1. For the purposes of this  
5 section: (a) "Infant lounger" shall mean a padded pillow or cushioned  
6 product, sometimes with a lower indented region, used to support or hug  
7 an infant as it lies face up, primarily intended and marketed for the  
8 support of an infant while awake.

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

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

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

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

17 (f) "Child care facility" shall mean any child day care provider as  
18 defined in section three hundred ninety of the social services law or  
19 child care program as defined in article forty-seven of the New York  
20 city health code as authorized by section five hundred fifty-eight of  
21 the New York city charter.

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

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

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

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

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

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

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

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

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