

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.