

STATE OF NEW YORK

1287

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. PAULIN, McDONOUGH -- Multi-Sponsored by -- M. of A. LEMONDES -- read once and referred to the Committee on Consumer Affairs and 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.

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

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

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

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

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

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

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

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

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