

No. 2000-39

AN ACT

HB 122

Regulating the use of certain infant cribs; providing a cause of action; and imposing a penalty.

The General Assembly finds and declares as follows:

(1) The disability and death of infants resulting from injuries sustained in crib accidents are a serious threat to the public health, welfare and safety of the people of this Commonwealth.

(2) The design and construction of an infant crib must ensure that it is safe. A parent or caregiver has a right to believe that the crib in use is safe to place an infant.

(3) Over 13,000 infants are injured in unsafe cribs every year.

(4) Prohibiting the remanufacture, retrofit, sale or contracting to sell or resell, leasing or subletting of unsafe infant cribs, particularly unsafe secondhand, hand-me-down or heirloom cribs, will reduce injuries and deaths caused by cribs.

(5) The act is intended to reduce the occurrence of injuries and deaths to infants as a result of unsafe cribs which do not conform to modern safety standards by making it illegal to remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce any full-size or non-full-size crib that is unsafe for any infant using a crib.

(6) This act is intended to encourage public and private collaboration in disseminating materials relative to the safety of infant cribs to parents, child-care providers and those individuals who would be likely to place unsafe infant cribs in the stream of commerce.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Infant Crib Safety Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Commercial user.” A person who deals in full-size or non-full-size cribs or who otherwise by one’s occupation holds oneself out as having knowledge or skill peculiar to full-size or non-full-size cribs, including child-care facilities and family child-care homes licensed by the Commonwealth, or any person who is in the business of remanufacturing,

retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce full-size or non-full-size cribs.

“Crib.” A bed or containment designed to accommodate an infant.

“Full-size crib.” A full-size baby crib as defined in 16 CFR Pt. 1508 (relating to requirements for full-size baby cribs).

“Infant.” A person less than 35 inches tall and less than three years of age.

“Non-full-size crib.” Non-full-size baby crib as defined in 16 CFR Pt. 1509 (relating to requirements for non-full-size baby cribs).

“Person.” A natural person, firm, partnership, corporation, association, agent or employee thereof.

Section 3. Unsafe cribs prohibited.

(a) Commercial users.—No commercial user shall remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce a full-size or non-full-size crib that is unsafe for any infant using the crib because it does not conform to subsection (c)(1), (2) or (3) or because it has any of the dangerous features or characteristics set forth in subsection (d).

(b) Other entities.—No hotel, motel and similar transient lodging facilities shall offer or provide for use or otherwise place in the stream of commerce, on or after the effective date of this act, a full-size or non-full-size crib that is unsafe for any infant using the crib because it does not conform to subsection (c)(1), (2) or (3) or because it has any of the dangerous features or characteristics set forth in subsection (d).

(c) Presumption of unsafe cribs.—A crib shall be presumed to be unsafe under this act if it does not conform to all of the following:

(1) 16 CFR Pts. 1303 (relating to ban of lead-containing paint and certain consumer products bearing lead-containing paint), 1508 (relating to requirements for full-size baby cribs) and 1509 (relating to requirements for non-full-size baby cribs).

(2) American Society for Testing Materials Voluntary Standards F966-96, F1169-99 and F1822-97.

(3) Any regulations that are adopted in order to amend or supplement the regulations described in paragraphs (1) and (2).

(d) Dangerous features or characteristics.—Cribs that are unsafe shall include, but not be limited to, cribs that have any of the following dangerous features or characteristics:

(1) corner posts that extend more than one-sixteenth of an inch;

(2) spaces between side slats more than two and three-eighths inches;

(3) mattress support that can be easily dislodged from any point of the crib. A mattress segment shall be deemed easily dislodged if it cannot withstand at least a 25-pound upward force from underneath the crib;

(4) cutout designs on the end panels;

(5) rail height dimensions that do not conform to the following:

(i) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least nine inches.

(ii) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches.

(6) any screw, bolt or hardware that is loose and not secured;

(7) any sharp edge, point or rough surface or any wood surface that is not smooth and free from splinters, splits or cracks;

(8) a tear in mesh or fabric sides for a non-full-size crib; and

(9) with respect to portable, folding cribs, latches that do not work automatically to prevent the unintentional collapse of the cribs.

Section 4. Certain cribs exempt.

(a) General rule.—A crib that is clearly not intended for use by an infant, including, but not limited to, a toy or display item, shall be exempt from this act provided that the crib is accompanied at the time of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placed in the stream of commerce by a notice to be furnished by the commercial user declaring that the crib is not intended to be used for an infant and is dangerous to use for an infant.

(b) Civil immunity.—A commercial user who has complied with the notice requirements set forth under subsection (a) shall be immune from civil liability resulting from the use of a crib contrary to the provisions of this act.

Section 5. Penalty.

A commercial user, hotel, motel or similar transient lodging facility that willfully and knowingly violates section 3 commits a summary offense and, upon conviction, shall be punishable by a fine of not more than \$1,000.

Section 6. Cause of action.

(a) Commercial users.—Any person may maintain an action against any commercial user who violates section 3 to enjoin the manufacture, remanufacture, retrofit, sale, contract to sell, contract to resell, lease or subletting of a full-size or non-full-size crib that is unsafe for an infant and may recover reasonable attorney fees and costs in the action.

(b) Other entities.—Any person may maintain an action against any hotel, motel or similar transient lodging facility that violates section 3 to enjoin the use of a full-size or non-full-size crib that is unsafe for an infant and may recover reasonable attorney fees and costs in the action.

Section 7. Violation of Unfair Trade Practices and Consumer Protection Law.

A violation of this act shall be deemed to be a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

Section 8. Duty of the Department of Health.

The Department of Health shall be authorized to collaborate with any public agency or private sector entity to prepare public education materials or programs designed to inform parents, child-care providers, commercial users and any other person or entity which is likely to place unsafe cribs in the stream of commerce of the dangers posed by secondhand, hand-me-down or heirloom cribs which do not conform to modern safety standards or which have any of the dangerous features or characteristics set forth in section 3(d).

Section 9. Remedies not exclusive.

The remedies available under this act shall be in addition to any other remedies or procedures under any other provision of law that may be available to an aggrieved party.

Section 10. Effective date.

This act shall take effect in 60 days.

APPROVED—The 22nd day of June, A.D. 2000.

THOMAS J. RIDGE