

## CHAPTER 307

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**COURTS**

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**SENATE BILL 98-023**

BY SENATORS Pascoe, Hernandez, Hopper, Martinez, Phillips, Rupert, Tanner, and Thiebaut;  
also REPRESENTATIVES Morrison, Bacon, Chavez, Gordon, Leyba, Mace, Snyder, Tate, and Udall.

**AN ACT**

CONCERNING ACTIONS TO PROTECT AGAINST UNSAFE USED INFANT CRIBS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Part 1 of article 21 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**13-21-105.5. Infant crib safety act - legislative declaration - definitions - safety standards - exemptions - action for damages.** (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "INFANT USED CRIB SAFETY ACT OF 1998".

(2) THE GENERAL ASSEMBLY HEREBY FINDS THAT PARENTS' USE OF USED INFANT CRIBS OCCASIONALLY RESULTS IN CRIB ACCIDENTS THAT MAY LEAD TO INFANTS' INJURIES OR DEATHS, AND THEREFORE SUCH USED CRIBS POSE A SERIOUS THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE MAJORITY OF PARENTS USE SECONDHAND, HAND-ME-DOWN, OR HEIRLOOM CRIBS FOR THEIR INFANTS AND THEREFORE IT IS ESPECIALLY IMPORTANT TO RAISE PUBLIC AWARENESS OF THE DANGERS OF USED CRIBS IN ORDER TO PREVENT THE INJURIES OR DEATHS THAT MAY RESULT FROM THEIR USE. THE GENERAL ASSEMBLY FINDS THAT THE DESIGN AND CONSTRUCTION OF INFANT CRIBS MUST ENSURE THAT THEY ARE SAFE FOR AN INFANT'S USE, THEREBY PROVIDING THE INFANT'S PARENT OR OTHER CAREGIVER SOME DEGREE OF CONFIDENCE IN USING THE CRIB. THE GENERAL ASSEMBLY THEREFORE CONCLUDES THAT DISCOURAGING THE SALE, LEASE, OR SUBLETTING OF UNSAFE USED CRIBS, WILL SIGNIFICANTLY REDUCE THE NUMBER OF INJURIES AND DEATHS CAUSED BY USED INFANT CRIBS.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COMMERCIAL DEALER" MEANS ANY PERSON OR ENTITY WHO:

(I) REGULARLY DEALS IN USED FULL-SIZE OR NONFULL-SIZE CRIBS; OR

(II) REGULARLY SELLS, LEASES, SUBLETS, OR OTHERWISE PLACES IN THE STREAM OF COMMERCE USED FULL-SIZE OR NONFULL-SIZE CRIBS; OR

(III) PURCHASES ONE OR MORE USED FULL-SIZE OR NONFULL-SIZE CRIBS FOR THE PURPOSE OF RESALE.

(b) "CRIB" MEANS A BED OR CONTAINMENT DESIGNED TO ACCOMMODATE AN INFANT.

(c) "FULL-SIZE CRIB" MEANS A FULL-SIZE CRIB AS DEFINED IN 16 CFR SEC. 1508.1 (a), REGARDING THE REQUIREMENTS FOR FULL-SIZE CRIBS.

(d) "INFANT" MEANS ANY PERSON LESS THAN THIRTY-FIVE INCHES TALL AND LESS THAN THREE YEARS OF AGE.

(e) "NONFULL-SIZE CRIB" MEANS A NONFULL-SIZE CRIB AS DEFINED IN 16 CFR SEC. 1509.2 (b), REGARDING THE REQUIREMENTS FOR NONFULL-SIZE CRIBS.

(f) "USED" MEANS PREVIOUSLY OWNED BY A CONSUMER.

(4) NO COMMERCIAL DEALER MAY SELL, CONTRACT TO SELL OR RESELL, LEASE, SUBLET, OR OTHERWISE PLACE IN THE STREAM OF COMMERCE A USED FULL-SIZE OR NONFULL-SIZE CRIB THAT IS UNSAFE AT THE TIME OF SALE OR LEASE, AS PROVIDED IN SUBSECTION (6) OF THIS SECTION.

(5) (a) THE CONSUMER PROTECTION DIVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL MAKE AVAILABLE TO THE PUBLIC A COPY OF THE FEDERAL STANDARDS AND A COPY OF THE VOLUNTARY STANDARDS OF THE AMERICAN SOCIETY FOR TESTING MATERIALS AS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (5). ONE COPY SHALL ALSO BE PROVIDED TO THE STATE PUBLICATIONS DEPOSITORY AND DISTRIBUTION CENTER. THE STATE LIBRARIAN SHALL RETAIN A COPY OF THE MATERIAL AND SHALL MAKE A COPY AVAILABLE FOR INTERLIBRARY LOANS.

(b) THE PROVISIONS OF THIS SUBSECTION (5) APPLY TO THE FOLLOWING MATERIALS:

(I) 16 CFR SEC. 1508 ET SEQ., AND ANY SUBSEQUENT AMENDMENTS OR ADDITIONS TO SAID SECTIONS;

(II) 16 CFR SEC. 1509 ET SEQ., AND ANY SUBSEQUENT AMENDMENTS OR ADDITIONS TO SAID SECTIONS;

(III) 16 CFR SEC. 1303 ET SEQ., AND ANY SUBSEQUENT AMENDMENTS OR ADDITIONS TO SAID SECTIONS; AND

(IV) THE VOLUNTARY STANDARDS OF THE AMERICAN SOCIETY FOR TESTING MATERIALS, OR ANY SUCCESSOR ORGANIZATION.

(6) ANY USED CRIB THAT HAS ANY OF THE FOLLOWING DANGEROUS FEATURES OR CHARACTERISTICS AT THE TIME OF SALE OR LEASE SHALL BE PRESUMED TO BE UNSAFE PURSUANT TO THIS SECTION:

(a) CORNER POSTS THAT EXTEND MORE THAN ONE-SIXTEENTH OF AN INCH;

(b) SPACES BETWEEN SIDE SLATS THAT ARE WIDER THAN TWO AND THREE-EIGHTHS INCHES;

(c) MATTRESS SUPPORTS THAT MAY BE EASILY DISLODGED FROM ANY POINT OF THE CRIB. A MATTRESS SEGMENT MAY BE EASILY DISLODGED IF IT CANNOT WITHSTAND AT LEAST A TWENTY-FIVE POUND UPWARD FORCE FROM UNDERNEATH THE CRIB.

(d) CUTOUT DESIGNS ON THE END PANELS OF THE CRIB;

(e) 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 TWENTY-TWO AND EIGHT TENTHS CENTIMETERS OR 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 SIXTY-SIX CENTIMETERS OR TWENTY-SIX INCHES;

(f) ANY SCREWS, BOLTS, OR HARDWARE THAT ARE LOOSE AND NOT SECURED;

(g) SHARP EDGES, POINTS, OR ROUGH SURFACES OR ANY WOOD SURFACES THAT ARE NOT SMOOTH AND FREE FROM SPLINTERS, SPLITS, OR CRACKS;

(h) NONFULL-SIZE CRIBS WITH TEARS IN MESH OR FABRIC SIDES.

(7) A CRIB IS EXEMPT FROM THE PROVISIONS OF THIS SECTION IF:

(a) IT IS NOT INTENDED FOR USE BY AN INFANT; AND

(b) AT THE TIME OF SELLING, RESELLING, LEASING, OR SUBLETTING THE CRIB OR OTHERWISE PLACING THE CRIB IN THE STREAM OF COMMERCE, THE COMMERCIAL DEALER ATTACHES A WRITTEN NOTICE TO THE CRIB DECLARING THAT IT IS NOT INTENDED TO BE USED FOR AN INFANT AND IS UNSAFE FOR USE BY AN INFANT.

(8) (a) A PERSON WHO IS A PARENT OR GUARDIAN OF AN INFANT AND WHO PURCHASES A USED CRIB ON OR AFTER JULY 1, 1998, THAT, AT THE TIME OF SALE OR LEASE, IS PRESUMED TO BE UNSAFE AS PROVIDED IN SUBSECTION (6) OF THIS SECTION MAY BRING AN ACTION, ON THE PARENT'S OR GUARDIAN'S OWN BEHALF AND ON BEHALF OF THE INFANT, AGAINST THE COMMERCIAL DEALER FROM WHOM THE PARENT OR GUARDIAN PURCHASED THE USED CRIB. IN SUCH ACTION, THE PARENT OR

GUARDIAN MAY SEEK TO ENJOIN THE COMMERCIAL DEALER FROM SELLING, CONTRACTING TO SELL, CONTRACTING TO RESELL, LEASING, OR SUBLETTING ANY USED FULL-SIZE OR NONFULL-SIZE CRIB THAT, AT THE TIME OF SALE OR LEASE, IS PRESUMED TO BE UNSAFE AS PROVIDED IN SUBSECTION (6) OF THIS SECTION.

(b) IN ADDITION TO AN INJUNCTION, THE PARENT OR GUARDIAN MAY SEEK RETURN OF THE PURCHASE PRICE OF THE CRIB, REASONABLE ATTORNEY FEES AND COSTS, AND, IF THE INFANT HAS SUSTAINED INJURY OR DEATH AS A RESULT OF USING THE CRIB, SUCH ADDITIONAL DAMAGES AS ARE PROVIDED BY LAW.

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 1998, and shall apply to used crib sales occurring on or after said date.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 1998