

SENATE, No. 1852

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Prohibits sale of unsafe supplemental mattresses designed for children's products.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning children's products and amending P.L.2007,
2 c.124 (C.56:8-53.1 et seq.).

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 1 of P.L.2007, c.124 (C.56:8-53.1) is amended to
8 read as follows:

9 1. As used in this act:

10 "Child" means a person less than 14 years of age.

11 "Children's product" means a product, including, but not limited
12 to, a full-size baby crib, non-full-size baby crib, toddler bed, bed,
13 supplemental mattress, car seat, chair, high chair, booster chair,
14 hook-on chair, bath seat, gate or other enclosure for confining a
15 child, play yard, stationary activity center, carrier, stroller, walker,
16 swing, or toy or play equipment, that meets the following criteria:

17 a. the product is designed or intended for the care of, or use by,
18 a child; or

19 b. the product is designed or intended to come into contact with
20 a child while the product is used.

21 Notwithstanding any other provision of this section to the
22 contrary, a product is not a "children's product" for the purposes of
23 this act if it may be used by or for the care of a child, but it is
24 designed or intended for use by the general population or segments
25 of the general population and not solely or primarily for use by or
26 for the care of a child, or it is a balloon, medication, drug, or food
27 or is intended to be ingested.

28 "Commercial user" means any person who deals in children's
29 products or who otherwise by one's occupation holds oneself out as
30 having knowledge or skill peculiar to children's products, or any
31 person who is in the business of remanufacturing, retrofitting,
32 selling, leasing, subletting, or otherwise placing in the stream of
33 commerce children's products.

34 "Crib" means a bed or containment designed to accommodate an
35 infant.

36 "Full-size baby crib" means a full-size baby crib as defined in
37 **【Sections 1508.1 and 1508.3 of title 16, Code of Federal**
38 **Regulations】** 16 C.F.R. s.1219.1 regarding the requirements for
39 full-size baby cribs.

40 "Non-full-size baby crib" means a non-full-size baby crib as
41 defined in **【Section 1509.2 of title 16, Code of Federal**
42 **Regulations】** 16 C.F.R. s.1220.1 regarding the requirements of non-
43 full-sized baby cribs.

44 "Place in the stream of commerce" means to sell, offer for sale,
45 give away, offer to give away, or allow the use of.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 “Supplemental mattress” means a mattress sold separately from
2 any other children’s product and excludes a replacement mattress
3 offered or sold by a manufacturer as an identical replacement part
4 for the mattress originally included with a non-full-size baby crib,
5 play pen, or play yard.

6 (cf: P.L.2007, c.124, s.1)

7
8 2. Section 2 of P.L.2007, c.124 (C.56:8-53.2) is amended to read
9 as follows:

10 2. a. **【It】** Except as provided in subsection d. of this section, it
11 shall be an unlawful practice for any commercial user to knowingly
12 remanufacture, retrofit, sell, contract to sell or resell, lease, sublet, or
13 otherwise place in the stream of commerce a children's product
14 deemed unsafe in accordance with this section.

15 b. A children's product is deemed to be unsafe for purposes of this
16 section if it meets any of the following criteria:

17 (1) it has been recalled for any reason by a federal agency or the
18 product's manufacturer, distributor, or importer and the recall has not
19 been rescinded; or

20 (2) a federal agency has issued a warning that a specific product's
21 intended use constitutes a safety hazard and the warning has not been
22 rescinded.

23 c. Supplemental mattresses marketed for and intended to be used
24 with non-full-size baby cribs, play pens, and play yards with non-rigid
25 sides shall be deemed to be unsafe for the purposes of this section.

26 d. Notwithstanding subsection c. of this section, the
27 remanufacture or retrofit of supplemental mattresses marketed for and
28 intended to be used with non-full-size baby cribs, play pens, and play
29 yards with non-rigid sides shall not be an unlawful practice under
30 subsection a. of this section, unless the mattress is deemed to be unsafe
31 pursuant to subsection b. of this section.

32 (cf: P.L.2007, c.124, s.2)

33
34 3. This act shall take effect immediately.

35 36 37 STATEMENT

38
39 This bill prohibits the sale of unsafe supplemental mattresses
40 intended to be used by children in non-full size baby cribs, portable
41 cribs, play pens, and play yards.

42 Pursuant to P.L.2007, c.124 (C.56:8-53.1 et seq.), it is currently
43 an unlawful practice under the consumer fraud act for any
44 commercial user to knowingly remanufacture, retrofit, sell, contract
45 to sell or resell, lease, sublet, or otherwise place in the stream of
46 commerce a children’s product deemed unsafe if (1) it has been
47 recalled and the recall has not been rescinded; or (2) a federal
48 agency has issued a warning that a specific product's intended use

1 constitutes a safety hazard and the warning has not been rescinded.
2 An unlawful practice under the consumer fraud act is punishable by
3 a monetary penalty of not more than \$10,000 for a first offense and
4 not more than \$20,000 for any subsequent offense. Additionally,
5 violations can result in cease and desist orders issued by the
6 Attorney General, the assessment of punitive damages, and the
7 awarding of treble damages and costs to the injured party.

8 This bill revises P.L.2007, c.124 to include a “supplemental
9 mattress” in the definition of “children’s product,” and specifically
10 deems supplemental mattresses marketed for and intended to be
11 used with non-full-size baby cribs, play pens, and play yards with
12 non-rigid sides to be unsafe for the purposes of P.L.2007, c.124.

13 The bill maintains that the knowing remanufacture and retrofit of
14 a children’s product deemed unsafe remains an unlawful practice
15 under current law. However, the bill provides that the
16 remanufacture or retrofit of supplemental mattresses marketed for
17 and intended to be used with non-full-size baby cribs, play pens,
18 and play yards with non-rigid sides is not an unlawful practice
19 unless the mattress is deemed to be unsafe under the criteria in
20 subsection b. of section 2 of the bill.

21 Currently, the federal government requires that mattresses in
22 children’s products meet certain standard consumer safety
23 specifications, such as setting forth the allowable thickness of a
24 mattress, selling a product with the mattress included, only using a
25 mattress provided by the manufacturer, and including a warning
26 about the risk of infant suffocation. Despite these requirements and
27 standards, supplemental mattresses continue to be marketed to
28 consumers for use in certain cribs, play pens, and play yards and
29 present a risk of injury and death.

30 According to the United States Consumer Product Safety
31 Commission webpage, consumers of play yards are advised not to
32 use supplemental mattresses because supplemental mattresses may
33 create a gap and lead to an entrapment hazard for the child. The
34 existing federal standard inadequately addresses the unreasonable
35 risk of injury that supplemental mattresses pose to children, and
36 supplemental mattresses continue to be sold to consumers.
37 Therefore, the most effective action is to ban the sale of unsafe
38 supplemental mattresses.