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ASSEMBLY BILL NO. 386—ASSEMBLYMEN KOIVISTO, MCCLAIN,  
OHRENSCHALL, ANDERSON, CHRISTENSEN, CLABORN,  
LESLIE, PARKS AND PIERCE

MARCH 17, 2003

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Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to product safety for  
children. (BDR 38-53)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to product safety for children; requiring the State  
Board of Health to create a list of unsafe children’s  
products; prohibiting the use of such products in child  
care facilities; prohibiting the sale or lease of such  
products in this state; providing a penalty; and providing  
other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     **Section 1.** Chapter 432 of NRS is hereby amended by adding  
2     thereto the provisions set forth as sections 2 to 10, inclusive, of this  
3     act.  
4     **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act, the*  
5     *words and terms defined in sections 3 to 7, inclusive, of this act*  
6     *have the meanings ascribed to them in those sections.*  
7     **Sec. 3. 1.** *Except as otherwise provided in subsection 2,*  
8     *“children’s product” means a product, including, but not limited*  
9     *to, a crib, nonstandard-size crib, toddler bed, bed, car seat, chair,*  
10    *high chair, booster chair, hook-on chair, bath seat, gate or other*  
11    *enclosure for confining a child, play yard, stationary activity*  
12    *center, carrier, stroller, walker, swing, or toy or play equipment,*  
13    *that meets the following criteria:*



1 (a) *The product is designed or intended for the care of, or use*  
2 *by, children under 6 years of age or is designed or intended for the*  
3 *care of, or use by, both children under 6 years of age and children*  
4 *6 years of age or older; and*

5 (b) *The product is designed or intended to come into contact*  
6 *with the child while the product is used.*

7 2. *A product is not a “children’s product” if:*

8 (a) *It may be used by or for the care of a child under 6 years of*  
9 *age, but it is designed or intended for use by the general*  
10 *population or segments of the general population and not solely or*  
11 *primarily for use by or for the care of a child; or*

12 (b) *It is a medication, drug or food, or is intended to be*  
13 *ingested.*

14 **Sec. 4.** *“Commercial user” means a person who deals in*  
15 *children’s products or who otherwise by his occupation holds*  
16 *himself out as having knowledge or skill peculiar to children’s*  
17 *products, or any person who is in the business of*  
18 *remanufacturing, retrofitting, selling, leasing, subletting or*  
19 *otherwise placing children’s products in the stream of commerce.*

20 **Sec. 5.** *“Crib” means a bed or containment designed to*  
21 *accommodate an infant.*

22 **Sec. 6.** *“Infant” means any person less than 35 inches tall or*  
23 *less than 3 years of age.*

24 **Sec. 7.** *“Nonstandard-size crib” means a crib that is intended*  
25 *for use in or around the home, for travel or for other purposes,*  
26 *and that has an interior length dimension either greater than 55*  
27 *inches or smaller than 49 3/4 inches, or an interior width*  
28 *dimension either greater than 30 5/8 inches or smaller than 25 3/8*  
29 *inches, or both. The term includes, but is not limited to:*

30 1. *A crib designed so that it may be folded or collapsed,*  
31 *without disassembly, to occupy a volume substantially less than*  
32 *the volume it occupies when it is used.*

33 2. *A crib the legs of which may be removed or adjusted to*  
34 *provide for a playpen or play yard for a child.*

35 3. *An unconventionally shaped crib that incorporates a*  
36 *special mattress or other unconventional components.*

37 **Sec. 8. 1.** *Except as otherwise provided in section 9 of this*  
38 *act, a commercial user shall not remanufacture, retrofit, sell,*  
39 *contract to sell or resell, lease, sublet or otherwise place in the*  
40 *stream of commerce a children’s product that has been*  
41 *determined by the State Board of Health to be unsafe.*

42 2. *The State Board of Health shall create, maintain and*  
43 *update a comprehensive list of children’s products that it*  
44 *determines pursuant to this section to be unsafe. A commercial*  
45 *user does not violate the provisions of subsection 1 unless the*



- 1 *unsafe product was included on the list created pursuant to this*  
2 *subsection on the day before the violation.*
- 3 *3. The State Board of Health may determine that a children's*  
4 *product is unsafe if it meets any of the following criteria:*
- 5 *(a) It does not conform to all federal laws and regulations*  
6 *setting forth standards for children's products;*
- 7 *(b) It has been recalled for any reason by an agency of the*  
8 *Federal Government or the product's manufacturer, distributor or*  
9 *importer and the recall has not been rescinded; or*
- 10 *(c) An agency of the Federal Government has issued a*  
11 *warning that the intended use of a specific product constitutes a*  
12 *safety hazard and the warning has not been rescinded.*
- 13 *4. In determining whether a crib is unsafe, the State Board of*  
14 *Health shall consider the standards endorsed by the Consumer*  
15 *Product Safety Commission and the American Society for Testing*  
16 *and Materials, or similar governmental or private entities.*
- 17 *5. In addition to other criteria for determining safety, a crib is*  
18 *unsafe if it has any of the following dangerous features or*  
19 *characteristics:*
- 20 *(a) Corner posts that extend more than one-sixteenth of an*  
21 *inch.*
- 22 *(b) Spaces between side slats more than 2 3/8 inches.*
- 23 *(c) Mattress support that can be easily dislodged from any*  
24 *point of the crib. A mattress support can be easily dislodged if it*  
25 *cannot withstand at least a 25-pound upward force from*  
26 *underneath the crib.*
- 27 *(d) Cutout designs on the end panels.*
- 28 *(e) Rail height dimensions that do not conform to both of the*  
29 *following:*
- 30 *(1) The height of the rail and end panel as measured from*  
31 *the top of the rail or panel in its lowest position to the top of the*  
32 *mattress support in its highest position must be at least 9 inches.*
- 33 *(2) The height of the rail and end panel as measured from*  
34 *the top of the rail or panel in its highest position to the top of the*  
35 *mattress support in its lowest position must be at least 26 inches.*
- 36 *(f) Any screw, bolt or hardware that is loose and not secured.*
- 37 *(g) Sharp edges, points or rough surfaces, or any wood*  
38 *surfaces that are not smooth and free from splinters, splits and*  
39 *cracks.*
- 40 *(h) Tears in mesh or fabric sides in a nonstandard-size crib.*
- 41 *(i) A nonstandard-size crib that folds into a "V" shape design*  
42 *that does not have top rails that automatically lock into place*  
43 *when the crib is fully set up.*
- 44 *(j) A nonstandard-size crib with a mattress pad that exceeds 1*  
45 *inch in depth.*



1       **Sec. 9. 1.** *A children's product that has been determined by*  
2 *the State Board of Health to be unsafe because it meets the criteria*  
3 *specified in subsection 3 of section 8 of this act may be retrofitted*  
4 *if:*

5       (a) *The retrofit has been approved by the agency of Federal*  
6 *Government issuing the recall or warning; or*

7       (b) *The agency responsible for approving the retrofit is*  
8 *different from the agency issuing the recall or warning.*

9       2. *A retrofitted children's product may be sold if, except as*  
10 *otherwise provided in subsection 3, it is accompanied at the time of*  
11 *sale by a notice declaring that it is safe to use for a child under 6*  
12 *years of age. The notice must include:*

13       (a) *A description of the original problem that made the*  
14 *recalled product unsafe;*

15       (b) *A description of the retrofit that explains how the original*  
16 *problem was eliminated and declaring that it is now safe to use for*  
17 *a child under 6 years of age; and*

18       (c) *The name and address of the commercial user who*  
19 *accomplished the retrofit certifying that the work was done along*  
20 *with the name and model number of the product*  
21 *retrofitted.*

22 *The commercial user is responsible for ensuring that the notice is*  
23 *present with the retrofitted product at the time of sale.*

24       3. *A retrofit does not require the notice declaring its safety*  
25 *specified in subsection 2 if:*

26       (a) *The retrofit is for a children's product that requires*  
27 *assembly by the consumer, the notice of the approved retrofit is*  
28 *provided with the product by the commercial user, and the retrofit*  
29 *is accompanied at the time of sale by instructions explaining how*  
30 *to apply for the retrofit; or*

31       (b) *The seller of a previously unsold product before selling the*  
32 *product accomplishes the repair approved or recommended by an*  
33 *agency of the Federal Government.*

34       **Sec. 10. 1.** *A commercial user who willfully and knowingly*  
35 *violates the provisions of section 8 of this act is guilty of a*  
36 *misdemeanor.*

37       2. *The Attorney General, or a district attorney in the county*  
38 *in which a violation of section 8 of this act occurred, may bring a*  
39 *civil action to enforce the provisions of sections 2 to 10, inclusive,*  
40 *of this act.*

41       3. *The remedies available pursuant to sections 2 to 10,*  
42 *inclusive, of this act are in addition to any other remedies or*  
43 *procedures available to an aggrieved person.*



1       **Sec. 11.** Chapter 432A of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       1. *Except as otherwise provided in this subsection, a child*  
4 *care facility shall not use or have on its premises a children's*  
5 *product determined to be unsafe by the State Board of Health*  
6 *pursuant to section 8 of this act. This subsection does not apply to*  
7 *an antique or collectible children's product if it is not used by, or*  
8 *accessible to, any child in the child care facility.*

9       2. *The Bureau shall notify child care facilities, on an ongoing*  
10 *basis, of the provisions of this section and of children's products*  
11 *determined by the State Board of Health to be unsafe. The notice*  
12 *must be written in plain, nontechnical language that will enable a*  
13 *child care facility to inspect its children's products effectively and*  
14 *identify unsafe children's products.*

15       3. *As used in this section, "children's product" has the*  
16 *meaning ascribed to it in section 3 of this act.*

