

## LOCAL LAW NO. "D" FOR 2010

### A LOCAL LAW FOR THE COUNTY OF ALBANY, NEW YORK BANNING THE SALE OF DROP-SIDE CRIBS IN ALBANY COUNTY

Introduced: 6/14/2010

By Messrs. Clenahan, Scavo, Ms. Willingham and Mr. Domalewicz:

**BE IT ENACTED** by the County Legislature of the County of Albany, as follows:

#### **Section 1. Legislative intent and purpose.**

This Legislature hereby finds and determines that drop-side cribs are manufactured with three immovable sides and one side that is able to slide up and down to allow for easier access to infants inside the crib.

This Legislature also finds and determines that drop-side cribs have more moving parts than cribs with four fixed sides, leading to an increased risk of separation of one side of the crib from the others and higher rates of other crib malfunctions and that frequently parents are unaware that their drop-side crib has become unsafe because the crib's hardware malfunctions in a way that cannot be readily detected.

This Legislature further finds that malfunctioning drop-side cribs have been the cause of at least three infant deaths and many injuries in the United States in the past two years and that the injuries and deaths resulting from the use of drop-side cribs have resulted in increased investigations and five recalls by the Federal Product Safety Commission, involving more than three million cribs.

This Legislature also finds that, in response to these concerns, the crib-making industry has proposed through the industry safety standards organization ASTM International (originally known as the American Society for Testing and Materials) banning the manufacture and sale of drop-side cribs.

This Legislature further finds that currently, the industry ban on the manufacture and sale of drop-side cribs is only voluntary and is not required by any laws or regulations applicable in Albany County and this Legislative Body wants to ensure the protection of its youngest and most vulnerable residents from the dangers associated with drop-side crib malfunctions.

Therefore, the purpose of this law is to ban the sale of drop-side cribs in Albany County.

#### **Section 2. Definitions.**

As used in this law, the following terms shall have the meanings indicated:

“DROP-SIDE CRIB” shall mean any infant crib that has three immovable sides, with a fourth side that moves up and down. This term shall not include drop-gate cribs or any other crib that has four immovable sides with a portion of one side capable of being folded down.

“PERSON” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association or other entity of business of any kind.

### **Section 3. Prohibitions.**

No person shall sell or offer for sale drop-side cribs within the County of Albany.

### **Section 4. Enforcement.**

This law shall be enforced by the Albany County Department of General Services, Division of Weights and Measures.

### **Section 5. Authority to Promulgate Rules and Regulations.**

The Commissioner of the Albany County Department of General Services is hereby authorized and empowered to promulgate such rules and regulations as he or she deems necessary to implement this law.

### **Section 6. Penalties**

Any person who knowingly violates the provisions of this law shall be subject to a civil penalty of five hundred dollars (\$500.00) for an initial violation of the law and a penalty of one thousand (\$1,000.00) for each subsequent violation.

### **Section 7. Applicability.**

This law shall apply to all actions occurring on or after the effective date of this law.

### **Section 8. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be

invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

### **Section 9. Preemption.**

(a) If any part or provision of this local law is inconsistent with any Federal or State statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.

(b) If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved.

### **Section 10. Effective Date.**

This local law shall take effect ninety (90) days following its filing with the Secretary of State.

*Referred to Health Committee. 6/14/10*