

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/11

SPONSOR Beffort LAST UPDATED _____ HB _____

SHORT TITLE Used Baby Furniture Seller Liability SB 168

ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Children, Youth and Families Department (CYFD)
 Attorney General (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 168 would enact the "Charitable Seller of Baby Equipment Protection Act." Noting in Section 2 that the purpose of the Act is to provide consumers with affordable safety equipment for their children, the Act provides that except as specifically preempted by federal law, a charitable seller of used baby equipment is not liable for injury or death caused by the used baby equipment. A "charitable seller" is defined to be an organization that is described in Section 501(c) of the federal Internal Revenue Code of 1986 and that is exempt from federal income taxation pursuant to Section 501(a) of that code.

FISCAL IMPLICATIONS

There is no fiscal impact.

SIGNIFICANT ISSUES

The AGO notes:

While the number of "charitable sellers" in New Mexico is unknown, this law may

increase the sale of baby equipment by charitable sellers. If law is adopted, any infant or small child injured or whose death is caused by the used baby equipment may still have an “economic loss” claim. A charitable seller would otherwise be immune from claims from infants or small children injured from the use of baby equipment.

The term “injury” is not defined to include “economic loss.”

The Act seems to exempt negligent or causal connection injuries claims or death claims but does not appear to exempt intentional torts.

Baby equipment may include but is not limited to: baby walkers, baby bouncers, bunk beds, skateboards, in-line skates, heelys, ice skates, swing ropes, bicycles, swings and trampolines.

According to the CYFD, resellers of used baby equipment must follow the federal guidelines mandated by the US Consumer Product Safety Commission to avoid liability under federal law. Parents unable to afford new baby equipment may purchase used baby equipment from a questionable source which could result in injury or death of a child. Thrift and consignment stores following the federal guidelines for selling used baby equipment are a safer alternative.

GH/bym:mew