



March 23, 2021

Honorable Karin Power, Chair
House Committee on Early Childhood
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

Re: Opposition to House Bill 3379 Regarding Crib Bumper Pads

Dear Chair Power and Members of the House Committee On Early Childhood,

As the House Committee on Early Childhood considers crib bumper pad restriction legislation for the state of Oregon, the Juvenile Products Manufacturers Association (JPMA) would like to express our opposition regarding this effort. JPMA is concerned by any initiative to ban the sale of crib bumper pads which would cause serious marketplace confusion and could conflict with an ongoing federal rulemaking process.

The Juvenile Products Manufacturers Association is a national not-for-profit trade organization representing 95% of the prenatal to preschool industry including the producers, importers, or distributors of a broad range of childcare articles that provide protection to infants and assistance to their caregivers. JPMA exists to advance the interests, growth and well-being of North American prenatal to preschool product manufacturers, importers, and distributors marketing under their own brands to consumers. JPMA also partners with government officials, consumer groups, and industry leaders on programs to educate consumers on the safe selection and use of juvenile products.

History, Proper Use and CPSC Action

JPMA's position is that **crib bumpers/liners should already meet ASTM voluntary standard requirements**, per ASTM F1917-20e1 *Standard Consumer Safety Specification for Infant Bedding*. In addition, caregivers using these products should always follow the instructions of the manufacturer and heed the warning and usage statements.

JUVENILE PRODUCTS MANUFACTURERS ASSOCIATION, INC.

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In May 2012, JPMA petitioned the Consumer Product Safety Commission to adopt a rule to define and distinguish between hazardous “soft” pillow-like crib bumpers and traditional crib bumpers. After publication and consideration of public comments, the CPSC voted to grant the petition and directed CPSC staff to initiate rulemaking to address the risk of injury associated with the use of crib bumpers. The Notice of Proposed Rulemaking to address the risk of injury associated with crib bumpers was published on April 4, 2020.¹

In noting the benefits of crib bumpers, the CPSC Staff in its report dated September 9, 2016, entitled “CPSC Staff Response to the Record of Commission Action on Crib Bumpers” wrote: *Crib bumpers generally are promoted as providing two safety benefits: (1) preventing infants from getting their limbs caught between crib slats, and (2) protecting infants from impacts against the sides of a crib. During rulemaking activities for full-size and non-full-size baby cribs, CPSC staff found that infants getting their limbs caught between crib slats accounted for many incidents involving full-size cribs and cribs of an undetermined size, and that some injuries requiring hospitalization involved limb entrapments or impacts with the crib structure after the child fell in the crib....and bumpers likely prevent some incidents and injuries involving limb entrapment or crib- structure impact that otherwise would have occurred. Eliminating crib bumpers also might result in some caregivers using other soft bedding as an alternative protective barrier against the crib structure because consumers have been known to engage in similar behaviors, even in the presence of contrary warnings in the sleep environment.*²

CPSC’s preemptive rulemaking under Section 104 of the Consumer Product Safety Improvement Act (CPSIA) will create a mandatory consumer product safety standard that addresses the risk of injury associated with the use of crib bumpers.³ This Congressionally mandated action has been undertaken with success in numerous other juvenile related product categories.

CPSC’s proposed rule, as adopted, requires a high degree of deference to effective ASTM consensus safety Standards. Notwithstanding differing inconsistent local requirements, federal law requires deference to mandatory federal requirements and restricts non-identical regulation. This rule is supported by JPMA.

Implementation of HB 3379 Will Cause Marketplace Confusion

Under HB 3379, there is a distinction made between “mesh” crib bumper pads and traditional bumper pads. Under the CPSC’s rulemaking, bumper pads are being considered as a single product category, as defined under ASTM F1917-20e1 . Non-identical state requirements will create confusion for retailers, distributors and manufacturers and will be preempted by the Federal Rule. Also note that because the ASTM standard is a performance-based standard, definitions of ‘fabric’ and ‘mesh’ are not intended to limit use of materials that may exhibit similar performance characteristics or in any way limit the use of equivalent materials developed in the future that meet performance requirements under this standard.⁴

¹ See CPSC NPR dated 4/03/2020, 85 FR 18878

² <https://www.cpsc.gov/s3fs-public/StaffResponsetotheRecordofCommissionActiononCribBumper.pdf>

³ [Ibid.](#) FN 1

⁴ ASTM F1917-20e1, section X.1.1

JPMA Supports Uniform National Safety Standards for Juvenile Products

JPMA supports deference to ASTM F1917-20e1, a safety standard being incorporated in CPSC's mandatory Rule, that requires all crib bumper pad products sold to meet certain dimensional, thickness, labeling and performance criteria. In conjunction with federal rules, ASTM standards remain a useful and important way to continuously improve safety and they often go hand-in-hand with the law as ASTM standards for juvenile products are adopted into federal rules as mandated by Congress. ASTM standards are performance based and do not require use of specific materials in an anticompetitive manner.⁵ Otherwise, legislation risks creating an unintended monopoly on available safe product alternatives.⁶ Given the existence of these standards, there is no need for the state to expend scarce legislative resources on this issue. Under existing federal law, the state can already act to enforce enacted federal requirements.

On behalf of the juvenile products industry, we want to thank you for your efforts to keep Oregon children safe. We would be happy to have further discussions regarding crib bumper pads and answer any questions that you may have.

Sincerely,

A handwritten signature in black ink that reads "Kelly Mariotti". The signature is written in a cursive, flowing style.

Kelly Mariotti, JD, CPA, CAE
Executive Director

⁵ An abstract of this ASTM copyrighted document is annexed for Committee reference, see <https://www.astm.org/Standards/F1917.htm>

⁶ See for example US Patent 7,793,368 dated September 14, 2010 Re: "Mesh Crib bumper and enclosure," <http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahhtml%2FPTO%2Fsearch-bool.html&r=23&f=G&l=50&co1=AND&d=PTXT&s1=7,793,368&OS=7,793,368&RS=7,793,368>