



Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chair Alexander D. Hoehn-Saric
 Commissioner Dana Baiocco
 Commissioner Peter A. Feldman
 Commissioner Richard Trumka Jr.

ITEM:

ASTM's Revised Safety Standard for High Chairs
(Briefing package dated April 6, 2022, OS No. 0122)

DECISION:

The Commission voted 2-2 on this matter. A majority was not reached, and no action will be taken. Chair Hoehn-Saric and Commissioner Baiocco voted to approve publication of the *Federal Register* notice, as drafted. Commissioners Feldman and Trumka voted to not approve publication of the Federal Register notice.

Chair Hoehn-Saric, Commissioners Feldman and Trumka issued statements with their votes. The statements by Chair Hoehn-Saric and Commissioner Trumka are attached. Following is the statement issued by Commissioner Feldman:

“Today the Commission considered a revised voluntary standard for high chairs. The result was a 2-2 vote. Under the relevant statute, the revised voluntary standard will take effect as a new consumer product safety standard. For the reasons stated below, I join my colleague, Commissioner Trumka, in voting no.

Section 104 of the Consumer Product Safety Improvement Act allows the Commission to approve new voluntary safety standards when the Commission finds that a proposed revision improves safety. After reviewing the materials staff presented to the Commission, I cannot explain how this standard meets that burden. I am concerned that the information staff shared with individual Commissioners has been inconsistent with respect to conclusions. Commissioners, especially when asked to render opinions on whether a particular standard will improve safety, must rely on thorough analysis based on complete and accurate information.”

For the Commission:



United States

Consumer Product Safety Commission

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Alberta E. Mills
Secretary

*Ballot vote due April 20, 2022.

(Commissioner Trumka extended the voted due date from April 12 to April 15, 2022. On April 14, 2022 Commissioner Trumka transferred the ballot vote to a decisional meeting. On April 15, Commissioner Trumka cancelled the transfer and the matter reverted to a ballot vote. The Commission agreed by a poll vote to set the ballot vote date for April 20, 2022).

Attachments:

Statement by Chair Hoehn-Saric

Statement by Commissioner Trumka

**U.S. Consumer Product
Safety Commission**

4330 East-West Highway
Bethesda, MD 20814

**National Product Testing
& Evaluation Center**

5 Research Place
Rockville, MD 20850



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

CHAIR ALEXANDER D. HOEHN-SARIC

Statement of Chair Alex Hoehn-Saric Regarding Vote to Approve ASTM's Revised Safety Standard for High Chairs

April 21, 2022

Section 104 of the Consumer Product Safety Improvement Act is also referred to as the “Danny Keysar Child Product Safety Notification Act,” named after a 16 month-old who died in a defective children’s product.

The law has led to essential strides forward in the safety of dozens of durable infant products, through multistakeholder developed standards lead by standards development organizations (SDOs) such as ASTM, which were ultimately reviewed by CPSC. Where a proposed voluntary standard is not sufficient, the CPSC should and has issued mandatory standards that are more stringent. Once a standard has been codified, the 104 process allows updating and modifying the standards by SDOs at a pace that is more rapid and regular than the Commission alone could accomplish given its limited resources. Under Danny’s Law, when the Commission receives an update on a covered durable infant product from an SDO it is our responsibility to analyze each set of changes, and accept them if they increase safety of the product. If an update does not improve the safety of the product – as CPSC found with the 2019 update to the high chair standard - we should reject it.

CPSC’s career scientific and engineering experts evaluated the most recent update to the ASTM high chair standard and submitted to the Commission a formal recommendation that the revision increases safety, and contains no elements that reduce safety. Relying on their subject matter expertise, and the Commission’s obligation under Danny’s Law, I have voted to approve the inclusion of these updates in the mandatory standard. Today’s vote means that the change of the standard will move forward and become mandatory at the end of the statutory 180-day notice period.



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
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COMMISSIONER RICH TRUMKA JR.

**STATEMENT OF COMMISSIONER RICH TRUMKA JR.
ON PROPOSED REVISION TO 16 C.F.R. § 1231, SAFETY STANDARD FOR HIGH CHAIRS**

APRIL 20, 2022

In order to ensure that CPSC standards governing infant and toddler products always grow more protective, the Commission can only accept changes to our standards that improve safety. It is my opinion that ASTM's proposed revisions to the high chair standard do not improve safety, they are safety-neutral, and so I must vote against them.

Four years ago, the Commission determined that industry's voluntary standard governing high chairs was protective enough to adopt as a CPSC mandatory rule. Now, industry seeks to change the voluntary standard that the Commission adopted. In these situations, the Commission has a gatekeeping role. If the changes improve safety, we allow them to pass into effect. However, where they harm safety or are safety-neutral, the Commission must object and stop them from taking effect.

My vote is not an indictment of CPSC's mandatory rule on high chairs—it is safe and protective. Rather, my vote reflects that no update can occur under Section 104 unless it improves safety. No matter how strong a rule is, there is always room for improvement.

In the future, I expect that voluntary standards bodies will provide all necessary evidence to demonstrate to the Commission that a revision to a product safety rule under Section 104 of the CPSIA *improves* safety if they wish that standard to go into effect.