



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Ann Marie Buerkle
 Commissioner Robert S. Adler
 Commissioner Marietta S. Robinson
 Commissioner Elliot F. Kaye
 Commissioner Joseph P. Mohorovic

ITEM:

Petition CP 15-2: Petition Requesting Ban on Supplemental Mattresses for Play Yards with Non-Rigid Sides
(Briefing package dated May 10, 2017, OS No. 3710)

DECISION:

The Commission voted (3-2) to take other action on the petition. Commissioner Adler, Commissioner Robinson and Commissioner Kaye voted to:

Grant the petition and direct staff to initiate a rulemaking under section 104 of the Consumer Product Safety Improvement Act to promulgate a mandatory consumer product safety standard that will address the risk of injury associated with the use of crib mattresses and to amend the product registration card rule accordingly. The scope of the rule shall include crib mattresses as well as supplemental and aftermarket mattresses used in play yards and portable cribs.

Commissioners' direction to the staff is attached. Acting Chairman Buerkle and Commissioner Mohorovic voted to defer the petition and direct the staff to work through the voluntary standards process to improve the safety of aftermarket mattresses sold for use in play yards.

Petition (CP 15-2) from Joyce Davis, President of Keeping Babies Safe, requests that the Commission initiate rulemaking to ban supplemental mattresses for play yards with non-rigid sides under the Consumer Product Safety Act.

Commissioner Kaye submitted the attached statement regarding the matter.

For the Commission:


Todd A. Stevenson
Secretary

* Ballot vote due May 25, 2017

(Commissioner Robinson extended the vote due date from May 16, 2017.)

(Commission agreed by poll to extend the vote due date from May 19, 2017.)

Attachments: Commissioners' direction to the staff

Statement of Commissioner Kaye



**U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814**

**STATEMENT OF COMMISSIONER ELLIOT F. KAYE
REGARDING PETITION 15-02 REQUESTING BAN ON SUPPLEMENTAL MATTRESSES FOR
PLAY YARDS WITH NON-RIGID SIDES**

JUNE 21, 2017

On May 25, 2017, the Commission voted 3-2 to grant Petition 15-02 and instruct Consumer Product Safety Commission (CPSC) staff to initiate rulemaking under section 104 of the Consumer Product Safety Improvement Act (CPSIA) to promulgate a mandatory consumer product safety standard that will address the risk of injury associated with the use of crib mattresses, including supplemental and aftermarket mattresses, and to amend the product registration card rule accordingly.

Here is a startling statistic: One child dies every ten days from a caregiver's desire to make infants more comfortable in their sleep environment by placing a pillow or some other soft bedding under or near them as they sleep. As I have said many times before, clutter in America's cribs is a serious public health epidemic. CPSC has repeatedly warned parents and caregivers that "Bare is Best" when making up an infant sleep environment.

The petitioner has raised one of the troubling aspects of unsafe sleep environments for infants. Aftermarket mattresses can raise the sleeping surface in a play yard. Raising the sleeping surface increases the likelihood that a pocket can form when a child rolls to the edge and presses against the non-rigid side, usually mesh, of the play yard. Additionally, an aftermarket mattress that is too small because it is made by a different manufacturer can create a hazardous gap. Hazardous gaps arise time and again in the incident data.

Simply put, these deaths must be prevented. A child's sleep environment must be the safest space possible. More work is necessary to ensure the safety of all mattresses and mattress-like pads intended for use in a play yard, particularly those that are sold as additions to the play yard rather than as replacements for the original mattress. I am pleased that ASTM International has made progress in its voluntary standards work to do just that by expanding its existing standards for crib mattresses and play yards to

address certain supplemental mattresses. Any work ASTM does on its play yard standard will be incorporated into CPSC's mandatory section 104 standard for play yards.

However, crib mattresses are not currently included as a durable nursery product under the CPSC's section 104 regulations. Therefore, I offered my amendment to initiate rulemaking under section 104 of the CPSIA to promulgate a mandatory consumer product safety standard that will address the risk of injury associated with crib mattresses as well as supplemental and aftermarket mattresses used in play yards and portable cribs. I am pleased the amendment received Commission approval and hope ASTM redoubles its efforts to address this pressing safety issue.

I believe that initiating work on a mandatory performance standard under section 104 of the CPSIA will provide staff and ASTM with the most flexibility necessary at this juncture to solve this problem and that all technical options to address these hazards remain on the table. I also believe all regulatory options should remain on the table in the event a performance standard proves neither feasible nor effective. I am pleased that my fellow commissioners joined me in moving forward to make children's sleeping environments safer. We have no greater purpose at the Commission.