



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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CHAIRMAN INEZ M. TENENBAUM

June 16, 2011

STATEMENT OF CHAIRMAN INEZ M. TENENBAUM ON THE VOTE TO
REAFFIRM THE RETAILER COMPLIANCE DATE FOR THE NEW
MANDATORY SAFETY STANDARDS FOR FULL-SIZE AND NON-FULL SIZE
CRIBS AND TO GRANT ADDITIONAL TIME FOR COMPLIANCE WITH
THOSE STANDARDS TO COMPANIES WHO PROVIDE SHORT-TERM CRIB
RENTALS

Under my leadership, the Commission voted on December 15, 2010, to adopt mandatory and highly protective safety standards for full-size and non-full-size cribs—establishing some of the strongest crib standards in the world. The efforts undertaken by this Commission to create the mandatory crib standards, particularly by CPSC staff in conjunction with ASTM, consumer groups, and other stakeholders, resulted in a tremendous success for American families.

From the beginning of this process, I emphasized the importance of issuing this final rule, which is designed not only to stop the manufacture and sale of dangerous traditional drop-side cribs, but also to vastly improve the structural integrity of cribs, a vital protection that was lacking in even some of the most recent versions of the ASTM voluntary standard. All of these improvements will bring about a new generation of safer cribs to consumers and America's children.

During the rulemaking process, I recognized the potential impact of this Congressionally-mandated rule on smaller entities, particularly child care facilities and places of public accommodation. Concerns were raised that child care facilities, in particular, would not be able to obtain cribs that meet the new standards immediately after it becomes effective. We also recognized the demand likely to be generated by places of public accommodation and estimated that these facilities would create a demand of approximately 935,000 cribs, which would amount to nearly \$467 million in replaced crib costs altogether.

Responsible implementation of this rule required that we carefully consider how quickly affected entities likely would be able to comply. In order to ensure sufficient availability of compliant cribs and ensure an orderly and successful transition to the

use of complaint cribs by child care providers and places of public accommodation, the Commission adopted a two-step phase in of the rule.

For all manufacturers, distributors, and retailers of full-size and non-full-size cribs, it was unanimously decided that the final rule would become effective six months from the publication date in the *Federal Register*. The final rule was published on December 28, 2010, and the compliance date of June 28, 2011, for these entities is close at hand. Alternatively, child care facilities and places of public accommodation were given an additional eighteen months to comply. For these entities, compliance with the new mandatory standards must begin on December 28, 2012.

At my direction, Commission staff has engaged in vigorous outreach and monitoring of the market for unforeseen circumstances. As I monitored the implementation of this rule, I became aware of the concerns shared with me and with other members of the Commission, particularly by some smaller retailers, who claimed they would suffer significant losses if they were unable to sell off noncompliant cribs in their inventory stock before June 28, 2011.

I am, however, also aware of concerns of smaller retailers who expect to suffer great losses if other retailers are permitted to continue selling noncompliant cribs at seriously discounted prices after the Commission's original compliance deadline for retailers. These are small businesses that have acted responsibly in advance of the June 28, 2011 compliance date, and have sold or removed noncompliant cribs from their inventory. These businesses stated that they often sold their cribs at an economic loss—and now only have cribs on hand that are compliant with the new stronger mandatory standard. They undoubtedly will face substantial economic harm and will not be able to compete if other retailers are allowed to sell off heavily discounted cribs that do not comply with the mandatory crib standard after June 28, 2011.

While the economic losses that some retailers may suffer are unfortunate, and I have sympathy for those businesses, it was not completely unexpected that some businesses might fail to take the steps necessary to come into compliance. This behavior cannot be rewarded to the economic detriment of those businesses that did take these steps and will successfully meet the original deadline set by the Commission. For these reasons, I cannot support an extension of the compliance date and continue to allow sales of cribs that do not comply with the more protective mandatory standard. Such an extension would unfairly punish the most responsible business actors who prepared in advance for the compliance date and are ready to provide families with cribs that meet the strongest crib safety standards in the world on June 28, 2011.

I also voted today to support the CPSC staff recommendation to impose compliance requirements for crib rental businesses that are consistent with the requirements that the Commission previously imposed for childcare centers, hotels, motels, and places of public accommodation. As staff recognized at today's hearing, these businesses are similarly situated to childcare centers and places of public accommodation. Furthermore, many of these rental companies provide cribs that are used in hotels, motels, and vacation rental homes. We also have learned that there appears to be an insufficient supply of the specific type of compliant crib primarily used by businesses in this segment of the market.

I believe, therefore, that an extension of the compliance date for crib rental companies until December 28, 2012, is warranted because it will allow these companies the same amount of time to purchase cribs that are compliant with the new mandatory standards that we have afforded child care facilities and places of public accommodation. I also believe it is imperative to avoid the potential for parents and caregivers traveling with infants and small children to place their children in less safe sleep environments in the event that these businesses are unable to purchase and provide compliant cribs for consumers to use.

Although some have argued that our treatment of childcare facilities, places of public accommodation, and now rental companies is inconsistent with the Commission's decision to not allow retailers more time to sell noncompliant inventory, this argument ignores a clear distinction between these two groups that was key in my decision to allow these service providers an extended compliance date. On December 28, 2012, cribs currently used in child care facilities, places of public accommodation, and by crib rental companies will no longer be allowed to be used by these service providers, and cannot be sold secondhand or even given away. In direct contrast, the noncompliant cribs that would be purchased by consumers at retail, many of which lack the important structural integrity safeguards contained in the new mandatory rule, would be used in consumers' homes for many years to come, perhaps even for decades. This is not a result that I am willing to accept.

I am very pleased that the new mandatory crib standards will stop the manufacture and sale of dangerous traditional drop-side cribs and will vastly improve the structural integrity of cribs. Today the Commission reaffirmed our commitment that only cribs that are a part of the new, much safer generation of cribs will be permitted to be sold in the United States beginning on June 28, 2011. Through this decision, we continue to honor Tyler Witte, Liam Johns, Bobby Cirigliano, and all of the other children who have died or suffered injury in tragic crib incidents.