



August 25, 2022

Division of the Secretariat
U.S. Consumer Product Safety Commission
Room 820
4330 East West Highway
Bethesda, MD 20814

**Comments of Consumer Reports to the
Consumer Product Safety Commission on the
Notice of Proposed Rulemaking:
“Ban of Crib Bumpers”
Docket No. CPSC-2022-0024**

Consumer Reports, the independent, non-profit member organization,¹ welcomes the opportunity to submit comments to the Consumer Product Safety Commission (CPSC) regarding the agency’s notice of proposed rulemaking to codify the ban on crib bumpers pursuant to the Safe Sleep for Babies Act (SSBA).² Consumer Reports strongly supports the ban on crib bumpers and welcomes the CPSC’s action to categorize these products as a banned hazardous product under section 8 of the Consumer Product Safety Act (CPSA).³

For decades, crib bumpers have confused parents and caregivers and put babies at risk of suffocation and entrapment. The American Academy of Pediatrics notes in its most up-to-date safe infant sleep guidelines that these products “have been implicated in deaths attributable to suffocation, entrapment, and strangulation.”⁴ As of September 2019, CPSC staff had identified 113 fatal and 113 non-fatal incidents related to crib bumpers between 1990 and 2019.⁵

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

² Safe Sleep for Babies Act of 2021, Pub L. No. 117-126 (2022).

³ 15 U.S.C. 2057e.

⁴ AAP, “SIDS and Other Sleep-Related Infant Deaths: Updated 2022 Recommendations for a Safe Infant Sleeping Environment” (July 21, 2022) (online at: publications.aap.org/pediatrics/article/150/1/e2022057990/188304/Sleep-Related-Infant-Deaths-Updated-2022).

⁵ CPSC staff briefing package on “Proposed Rule: Safety Standard for Crib Bumpers/Liners under the Danny Keysar Child Product Safety Notification Act” (Sept. 4, 2019) (online at: www.cpsc.gov/s3fs-public/Proposed%20Rule%20-%20Safety%20Standard%20for%20Crib%20Bumpers-Liners%20Under%20the%20Danny%20.._0.pdf).

Accordingly, the CPSC should move forward with its ban on crib bumper pads as quickly as possible.

I. The CPSC should not delay this ban on crib bumper pads and should implement the ban as soon as possible and no later than November 12, 2022.

We agree with the Commission’s proposal to apply the effective date of November 12, 2022, for the ban. The SSBA clearly states that crib bumpers, as defined, should be banned no later than “180 days after the enactment of this Act” regardless of the date of manufacture.⁶ Given the serious risks that crib bumper pads continue to pose to infants, delaying the effective date of the ban would only continue to muddle the marketplace and leave more babies at serious risk.

In January 2020, CR queried its consumer research panel of 1,000 people, which included 248 self-identified parents. In our survey, we asked the parents how they understood crib bumpers within the context of the “bare is best” message. What we found was that while 73% of parents believed “bare is best” for infant sleep, only 55% of parents believed that crib bumpers are unsafe for use in infant cribs. This stark contrast in responses—a nearly 20% difference—demonstrates the confusion that crib bumpers create for parents, since the use of crib bumpers inherently conflicts with “bare is best.” To prevent future confusion, the CPSC should implement the ban on crib bumper pads as soon as possible and no later than November 12, 2022.

II. The CPSC should require companies that make non-padded mesh crib liners to submit independent test results to validate that the products are mesh and non-padded.

The CPSC should require manufacturers of non-padded mesh crib liners to submit independently certified test results to demonstrate that their products comply with the ban. Specifically, these manufacturers should have to demonstrate that their products are mesh and non-padded. This step would help eliminate any potential loopholes that would allow banned products to be offered for sale to consumers. In addition, CPSC should add testing requirements that promote secure placement and attachment of these products to cribs and prevent them from becoming an entrapment, suffocation, or strangulation hazard. CR remains concerned about non-padded mesh liners since these products directly conflict with expert safe sleep guidelines. Such products are unnecessary for a safe sleep environment and should be discouraged from being used in an infant’s sleep environment, in part to avoid muddling the longstanding “bare is best” messaging.

While the SSBA takes a critical step forward in removing padded crib bumpers from the marketplace, CR reiterates the importance of all infant products fully aligning with the AAP’s safe sleep recommendations. The CPSC should continue its review of non-padded mesh crib liners—which the SSBA excludes from the definition of “crib bumper”—and take appropriate action to protect infants from risks of injury or death by suffocation, entrapment, or other foreseeable causes. Any testing and performance requirements for non-padded mesh liners

⁶ Safe Sleep for Babies Act of 2021, Pub L. No. 117-126 (2022).

should also account for any new or emerging products that exploit the SSBA’s exemption and put infants at risk.

III. Non-padded mesh padded crib liners should be added to the CPSC’s list of durable infant or toddler products and require a registration card.

The CPSC should add non-padded mesh crib liners to the list of durable infant or toddler products that require a registration card. Section 104(f) of the Consumer Product Safety Improvement Act (CPSIA) defines “durable infant or toddler product” as “a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.”⁷ This subsection also includes a list of durable infant or toddler product categories that is “not static” or “non-exhaustive.”⁸

Similar to other durable infant or toddler products, non-padded mesh liners are intended for, and reasonably expected to be used by, children under the age of five.⁹ These products share similarities with components of durable products such as some play yard walls and infant swing fabric. Moreover, crib bumpers and liners are types of accessories for cribs, which Congress included in the original non-exclusive list of durable infant or toddler products identified in statute via the CPSIA.

IV. Conclusion

Health and safety are paramount when evaluating the potential benefits and risks of consumer products. Companies and regulators must do all they can to eliminate confusion around what is safe and unsafe, especially for products used in connection with infant sleep. Despite the SSBA’s exclusion of non-padded mesh crib liners from the definition of “crib bumper,” the CPSC should not give an unqualified stamp of approval to any category of products, including non-padded mesh liners, which fail to align with expert medical safe sleep guidelines and thereby muddle the “bare is best” recommendation for infant sleep.

The CPSC should promptly implement the SSBA’s ban of crib bumpers, and issue a final rule as soon as possible and no later than November 12, 2022. The agency also should ensure that manufacturers prove that any non-padded mesh liners truly do fall outside the scope of the ban.

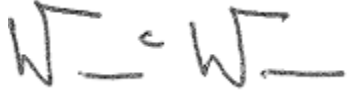
Thank you for your consideration of our comments. We look forward to continuing to work with the CPSC to improve safety nationwide.

⁷ Pub. L. No. 110-314 (2008), 15 U.S.C. § 2056a(f).

⁸ “CPSC staff also recognized in its 2016 Crib Bumper Briefing Package, that the list provided in the statute “is not intended to be exhaustive.” CPSC, “Briefing Package: CPSC Staff Response to the Record of Commission Action on Crib Bumpers” (Sept. 9, 2016) (online at: www.cpsc.gov/s3fs-public/StaffResponsetotheRecordofCommissionActiononCribBumper.pdf) at PDF p. 33; “In a 2009 rulemaking, the Commission explained that the list of products in section 104(f), and codified in the Commission’s consumer registration rule in 16 CFR 1130.2, is not static.” CPSC, “Amendment to Requirements for Consumer Registration of Durable Infant or Toddler Products” 83 Fed. Reg. 50542, 50543 (Oct. 9, 2018) (online at: www.govinfo.gov/app/details/FR-2018-10-09/2018-21865).

⁹ 15 U.S.C. 2056a(f)(1).

Respectfully submitted,

Handwritten signature of William Wallace, consisting of stylized letters 'W', 'c', and 'W'.

William Wallace
Associate Director, Safety Policy

Handwritten signature of Oriene Shin, written in a cursive style.

Oriene Shin
Policy Counsel