



Testimony of

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On Behalf of  
Juvenile Products Manufacturers Association

Before the House Finance Committee  
December 6, 2016

In Opposition to SB 332

“To amend sections ...of the Revised Code to provide for the implementation of recommendations made by the Commission on Infant Mortality and to authorize pharmacists to administer by injection certain prescribed drugs.”

Thank you Chairman Smith, Representative Driehaus and members of the House Finance Committee, for the opportunity to provide testimony on Senate Bill 332.

The Juvenile Products Manufacturers Association (JPMA) has a long and proud history of ensuring that juvenile products are developed with safety in mind. JPMA members, who are also parents, grandparents and caregivers, design products that aid in the care and protection of children. As an industry, we personally understand the importance of ensuring that our children are safe in all environments and that parents and caregivers are educated about the importance of juvenile product safety and best practices when choosing and using products for their babies and children.

However, we oppose Senate Bill 332 as currently drafted and would like to offer the juvenile product industry's perspective on crib bumpers and ensuring safe infant sleeping environments.

### **Background of the JPMA**

The Juvenile Products Manufacturers Association (JPMA) is a national not-for-profit trade association representing 95% of the prenatal industry including the producers, importers, and distributors of a broad range of childcare articles that provide protection to infants and assistance to their caregivers. We are based in New Jersey, and currently have five JPMA member companies headquartered in Ohio – several of which would be impacted by SB 332.

JPMA supports the industry and the goal of children's safety through information sharing, product performance certification and assistance conducted with appreciation for the needs of parents, children, caregivers and retailers. JPMA continues to work with government officials, consumer groups, and industry leaders on programs to educate consumers on the safe selection and use of juvenile products.

JPMA not only represents the interests of the North American juvenile products industry, but also works as an advocate for product safety on behalf of consumers, and as such, is actively engaged in the voluntary standards setting process to determine the best and next course of action for this product category.

On behalf of JPMA, I sincerely hope that the following comments will assist Committee in its understanding of the value this product and the active engagement of stakeholders for safe design and use.

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## **1. History, Proper Use & CPSC Data Demonstrates No Causal Link with ASTM Compliant Crib Bumpers and an Increased Risk of Injury.**

JPMA's position is that crib bumpers should already meet ASTM voluntary standard requirements, per ASTM F1917 *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.<sup>1</sup>

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 on the record, on May 24, 2013, 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 and to provide the Commission with a briefing package that described the possible regulatory options the Commission could take to address the risk of injury associated with crib bumpers.

Following significant work, a report dated September 9, 2016, entitled "CPSC Staff Response to the Record of Commission Action on Crib Bumpers"<sup>1</sup> was released on September 12, 2016. This report stated *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.*

The CPSC staff report also stated that the majority of cribs in use are equipped with crib bumpers. Thus, the number of incidents and injuries would likely increase if crib bumpers did not exist or were removed from the market. The elimination or ban of crib bumpers also might encourage caregivers to use other soft bedding or makeshift materials as an alternative protective barrier against the crib structure, and this most likely would increase the incidence of fatal suffocations in cribs.<sup>2</sup> A final conclusion stated making findings that crib bumpers present an unreasonable risk of injury would likely prove difficult, which would be required to pursue rulemaking under the CPSA or FHSA.

On October 19, 2016, disagreeing that rulemaking could not be justified, the Commission again voted to add to its Fiscal Year 2017 Operating Plan a direction to staff to initiate rulemaking under section 104 of the Consumer Product Safety Improvement Act

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(CPSIA) to create a mandatory consumer product safety standard to address the risk of injury associated with the use of crib bumpers.<sup>ii</sup> This action has been undertaken with success in numerous other juvenile related product categories.

The fact remains that CPSC rulemaking is underway. Such rulemaking process as adopted requires a high degree of deference to effective ASTM consensus safety Standards. This is supported by JPMA

JPMA member company manufacturers' first priority is infant safety and we have a long history of producing bumper pad products which fulfill their objective of providing a sleeping environment free of potential contusion, abrasion or entrapment scenarios.

## **2. JPMA Recommends Additional Amendments to Acknowledge CPSC Action on All Products**

JPMA appreciates that the Subcommittee on Health and Human Services has worked to provide for the continued sale of mesh products, in line with potential federal rulemaking process. As mentioned above, the CPSC in its Fiscal Year 2017 Operating Plan has indicated intentions for a rulemaking under section 104 of the Consumer Product Safety Improvement Act (CPSIA) to create a mandatory consumer product safety standard to address the risk of injury associated with the use of ALL crib bumpers.<sup>iii</sup>

Under this potential rulemaking at the level federal, bumper pads are being considered as a single product category and it is anticipated that there will not be distinctions such as padded, mesh and hybrids of the two, because these are not consistently defined terms in either practice or common usage. Specifically under ongoing work, the ASTM Subcommittee F15.19 on Infant Bedding and Related Accessories continues evaluation of all types of bumper pads currently on the market, including reviewing incident data and proposing revisions to the standard to ensure the utmost safety of this entire product category. This work, and ensuing standard revisions, will form the basis of a 104 rule by the CPSC.

It is anticipated that all crib bumpers will be regulated by this performance-based standard designed to minimize the actual or perceived risk factors related to use of the product. *Therefore, JPMA asks that the Committee consider amendments utilizing the same CPSC rulemaking process, included in Subcommittee amendments, as a means for creating regulation of the entire product category (see attached).*

## **3. JPMA Supports Uniform National Safety Standards for Juvenile Products**

JPMA supports an international ASTM safety standard that would require all crib bumper pad products sold to meet certain dimensional, thickness, labeling and performance criteria. ASTM International is a leading non-profit organization devoted to the development

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of over 12,000 international standards that are utilized by virtually every industrial sector and geographic region of the world. For more than 100 years, ASTM has served society as a leading venue for consumers, industry and regulators to come together and solve problems by crafting consensus solutions that promote health, safety and improve the overall quality of life. The standards that result from ASTM's development process are well known and valued for their technical quality and relevance.

In an ongoing effort to create the safest products, and in collaboration with the CPSC Human Factors staff, bedding and crib bumper pad manufacturers have taken the lead in discussions to further enhance the existing ASTM voluntary standard (ASTM F1917) for bumper pad products, including thickness, attachment tie length, and specific labeling and warning requirements for safe usage. JPMA supports the international ASTM effort that would require all bumper pad products sold to meet the requirements outlined in the standard. Utilization of ASTM safety standards is recognized as an effective approach to address consumer hazards, especially applicable to juvenile products, as demonstrated by multiple examples of their incorporation in mandatory U.S. preemptive regulations.

JPMA's concern is with the elimination of bumper pad products from the marketplace, consumers will fill the void by using towels, adult blankets or bedding, pillows or other makeshift structures (easily found on prominent social media websites<sup>3</sup>) to prevent against limb entrapment or contusion, and that could have devastating unintended consequences. The CPSC Staff Response drew the same conclusion.

#### **4. JPMA Acknowledges Industry Statements on Crib Bumper Products**

JPMA acknowledges the Policy Statement released by the American Academy of Pediatrics in November 2016: *SIDS and Other Sleep-Related Infant Deaths: Updated 2016 Recommendations for a Safe Infant Sleeping Environment*<sup>5</sup> and is in agreement with many of the recommendations contained therein. However, while JPMA agrees with the statement that crib bumper pads may not be necessary to prevent head entrapment, as crib slats are federally mandated to be sized to prevent this, crib bumper pads are still able to prevent contusions and abrasions, as well as limb entrapment scenarios which continue to be the highest number of injuries related to crib use. When used according to manufacturer instruction, ASTM-compliant bumper pads have not been found to be the causal link to infant fatality in the incidents reviewed by the CPSC.

While the record before the Commission did not support banning crib bumpers, there is general consensus that a rulemaking process, conducted in collaboration with stakeholders via the ASTM process, will result in preemptive federal requirements for the product category that permit the continued and safe use of ASTM compliant products.

JPMA acknowledges that several retailers have discontinued sale of these products in stores and online, likely responding to pressure from the NGOs. However, we note that

many retailers continue to sell ASTM compliant crib bumper pad products in store and online to consumers who desire them for the care and protection of their infants.

## **5. JPMA Supports Information and Education on Safe Sleep Practices**

Various safe sleep advocacy groups, including the JPMA, continue to promote the need for information and education on safe sleep practices.<sup>4</sup> Data demonstrates that the message is not reaching the child rearing population or perhaps is being ignored. As a result, we are concerned that any recommendations that result in the de facto elimination of safe and useful products specifically designed for infant use will result in alternative make-shift hazardous product or hazardous use of adult bedding in infant sleep environments.

### **Conclusion**

As with all issues related to infant sleep safety, the actual safety issues relate more to sleep positioning and correct usage of products that are intended for use in a safe sleeping environment.

JPMA strongly encourages consideration of policies that support consumer choice and as such, respectfully requests that the Committee evaluate all data, solicit comments, and work with industry to address these concerns, rather than simply banning the product category, which could lead to unintended consequences.

Thank you to the Committee for calling this hearing and allowing JPMA to testify today. I look forward to your questions.

## **References**

<sup>1</sup> *CPSC Staff Response to the Record of Commission Action on Crib Bumpers*, September 9, 2016 (Attached as appendix, not available on cpsc.gov)

<sup>2</sup> *CPSC Staff Response to the Record of Commission Action on Crib Bumpers*, September 9, 2016 (Attached as appendix, not available on cpsc.gov) – Page 22

<sup>3</sup> [https://www.etsy.com/search?q=crib+bumper&order=most\\_relevant&view\\_type=gallery&ship\\_to=US](https://www.etsy.com/search?q=crib+bumper&order=most_relevant&view_type=gallery&ship_to=US)

<sup>4</sup> [http://babysafetyzone.org/sites/default/files/docs/2014/jpma-11-naptime-nighttime-final\\_1.pdf](http://babysafetyzone.org/sites/default/files/docs/2014/jpma-11-naptime-nighttime-final_1.pdf)

<sup>5</sup> *SIDS and Other Sleep-Related Infant Deaths: Updated 2016 Recommendations for a Safe Infant Sleeping Environment*, American Academy of Pediatrics, PEDIATRICS Volume 138 number 5 November 2016. <http://pediatrics.aappublications.org/content/pediatrics/early/2016/10/20/peds.2016-2938.full.pdf>

<sup>6</sup> Consumer Product Safety Commission, Statement of Policy Regarding Crib Bumpers, October 19, 2016  
<https://cpsc.gov/s3fs-public/StatementofPolicyRegardingCribBumpers.pdf>

<sup>7</sup> JOINT STATEMENT OF CHAIRMAN ELLIOT F. KAYE, COMMISSIONER ROBERT S. ADLER, COMMISSIONER MARIETTA S. ROBINSON AND COMMISSIONER JOSEPH P. MOHOROVIC RECOMMENDING PARENTS AND CAREGIVERS NOT USE PADDED CRIB BUMPERS  
<https://cpsc.gov/s3fs-public/Joint%20Statement%20on%20Padded%20Crib%20Bumpers%20FINAL%2011.3.16.pdf>

<sup>i</sup> An abstract of this ASTM copyrighted document is annexed for Committee reference.

<sup>ii</sup> A November 4, 2016, statement was issued by four of the five CPSC Commissioners<sup>7</sup> recommending parents and caregivers not use “padded” crib bumpers, as distinct from other crib linings, pending rulemaking, noted that it does not change legal obligations under the Acts enforced until a rule is in effect.

<sup>iii</sup> Ibid