



IMPROVING
CHILDREN'S
PRODUCT
SAFETY

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Office of the Secretary
Consumer Product Safety Commission
Room 502
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Comments of Nancy Cowles, Executive Director
Kids In Danger
To the U.S Consumer Product Safety Commission on
“Agenda and Priorities FY 2018 and FY 2019”

Thank you for the opportunity to submit comments on the CPSC’s agenda and priorities. Kids In Danger (KID) is dedicated to protecting children by fighting for product safety. KID was founded in 1998 by the parents of Danny Keysar who died in a recalled portable crib in his Chicago childcare home. We urge the CPSC to consider prioritizing activity in the following areas.

CPSIA Implementation

Mandatory Standards

Through the implementation of the Consumer Product Safety Improvement Act (CPSIA) and Danny’s Law, the CPSC has put much time and energy into developing mandatory standards for durable infant and toddler products. Staff has been thorough and determined to develop strong standards that address all known hazards as much as possible. Currently, the CPSC has a mandatory standard for 16 of the 26 durable infant and toddler products currently planned for standards, including new standards for sling carriers that will be effective in January 2018. We urge CPSC to continue to prioritize this work, giving staff the time and resources they need to develop strong standards that will reduce injuries and deaths from nursery products.

We were dismayed to see five of these products – Changing Products, Folding Chairs, Gates, High Chairs and Stationary Activity Centers fall off the list headed for final rules or proposed rules and be delegated back to Data Analysis and Review in the Mid-year review last month. While CPSC has worked with the ASTM subcommittees on developing Section 104 rules and it has generally been an effective way to proceed, nothing in the regulations requires CPSC to delay enacting these protections while they wait for ASTM to act. In fact, it is the certitude of a strong mandatory standard that keeps ASTM moving forward on their own rules. Particularly disheartening is the delay in the high chair rule. Eleven thousand children under 5 are rushed to emergency rooms each year from injuries related to high chairs – and that doesn’t include those taken to urgent care facilities (an ever increasing percentage of injuries are treated in these facilities),

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their family doctor or treated at home. This standard should be given highest priority, not moved to the back of line.

While CPSC took action to add Crib Bumper Pads to the Section 104 rules and begin rulemaking, we would prefer to see a ban of padded crib bumper pads. The American Academy of Pediatrics has a strong recommendation against using crib bumper pads. The amount of time and money that will go into designing a test method for suffocation risk from these unnecessary products would be better spent joining Maryland, Ohio, the city of Chicago, and most state child care regulations in the country and banning the sale of padded bumper pads. A standard that doesn't address the risk and gives a stamp of safety to an inherently unsafe product is more dangerous than no standard. We would ask that if a mandatory standard is developed that it prohibit padded bumpers. As more mesh liners enter the market, if they are exempted from the prohibition, the CPSC should include performance requirements that assure their safety. While there is no evidence of a suffocation hazard currently with these products, data should be closely watched.

Four commissioners wrote a letter urging consumers not to use crib bumpers. We wish it had gone farther and urged retailers to stop selling them – as long as a product is on store shelves, next to all the other baby items, it is unreasonable to assume parents will intuitively know it is unsafe.

I'd also like to address the list of products included in Section 104. This list was originally created in 2001, and updated in 2008 when CPSC began work on the CPSIA. Other products such as slings and Infant Inclined Sleep Products were added later as incidents pointed to the need for a safety standard. We believe that the list should always seek to include all infant and toddler durable products. Parents will assume that any juvenile product they buy to care for their infant or toddler will be tested for safety to a strong standard. Just as standards evolve as new designs introduce new potential hazards, the group of products covered under Danny's Law should evolve as new products enter the market. Parents should have confidence that all the durable infant and toddler products – not just those that were commonplace when the bill was adopted -- are safe.

Product Registration

As part of CPSIA, the Danny Keysar Child Product Safety Notification Act requires companies to provide product registration cards in a conspicuous location and a way to register online. The program has been in place since 2010. The information gathered must only be used to notify the consumer in the event of a recall or safety notice. We were dismayed to learn recently that at least one major brand, has violated that, sending a consumer 8 marketing emails in the two months after she registered. Because of Section 6(b), we do not know how often this happens and if any action is ever taken against companies who violate the law. The benefit of direct notification is so important to effective recalls: violations such as this should be taken seriously. Consumers are already biased to believe that companies will play fast and loose with their personal information – this confirmation of a company doing just that with this legally protected information – will confirm that bias and have a direct negative impact on product registration numbers. Speaking of numbers – it would be very helpful to see public information on the numbers of products being registered, the percent of product owners in a recall who can be notified directly because of the product registration cards and if those response rates are higher than general public notification rates. We recommend CPSC prioritize increasing use of product registration and stopping violations.

SaferProducts.gov

The CPSIA also charged the CPSC to create a product database for consumers and manufacturers. *SaferProducts.gov* is the result of this mandate. Tens of thousands of consumers have filed reports with the database and an average of 800,000 visit each year to review product reports that provide key information for research and buying decisions. It is an invaluable resource for safety, and should be marketed widely to increase its usefulness. The CPSC should prioritize using low-cost efforts to increase the database's visibility and use.

Section 6(b)

The development of SaferProducts.gov was in part, a compromise on transparency in the Consumer Product Safety Improvement Act. Consumer advocates and others were calling then for a repeal of section 6(b) of the Consumer Product Safety Act. Simply put, 6(b) is a gag order – restricting CPSC's ability to warn the public about product hazards and keeping consumers in the dark about dangerous products they have in their homes and use daily with their families.

While SaferProducts.gov was set up to require public posting of consumer reports of product incidents and injuries, repealing 6(b) would allow many other reports and safety issues to be made public. Parents should not have to wait until a full recall effort is complete before learning their child is sleeping in a deadly crib, playing with a lead-tainted toy, or riding in a stroller prone to losing a wheel. We urge the CPSC to continue to look for ways to weaken section 6(b)'s impact on public information and safety and to join us in calling on Congress to consider a repeal.

Safe Sleep Environments

Among children's product safety issues, a safe sleep environment is an overriding concern to KID. Suffocation – most of it in a sleeping environment – is the leading cause of unintentional death in infants. Danny Keysar died in a recalled portable crib. Whether they are bassinets, portable cribs, play yards, cribs, or some newly designed product or accessory, sleep products must meet the highest standards for safety. These products are intended to be safe for a child even without an adult in direct supervision. I know that the CPSC also prioritizes the safety of these products. The number of sleep related deaths in infants is too high and is not showing signs of decreasing – it is a public health emergency.

Beyond safety and health, there are two main concerns of all new parents – is my baby eating and growing and is my baby sleeping? Products that help parents achieve either of these flood the market. Nevertheless, they are not all safe – especially sleep products. From cushions to prop babies up, to specific products such as the Nap Nanny, to products intended to help babies share an adult bed such as the DockATot: these products enter the market with little or no testing. There are no standards for these products. The CPSC has been working through the ASTM International standard setting process to attempt to find 'homes' for different types of products to make sure they have to meet a standard – or can be kept off the market if they can't. Right now, it is a little bit of the Wild West out there. Entrepreneurs are struck with great ideas – usually in the middle of the night when they are sleep deprived and up with their own babies and rush to market. The CPSC should continue their work to develop standards for all sleep products and make it a priority within the Small Business Ombudsman's office to provide outreach and vital product safety information to companies producing these products.

Product-Specific Issues

Laundry Packets

Liquid laundry packets are filled with concentrated chemicals strong enough to cause permanent damage or death. Therefore, it is necessary that the CPSC continue to participate in and monitor the ASTM standard-making process. Now that a voluntary standard has been published, CPSC should monitor compliance and work with the ASTM Committee to review data to see the impact on injuries. The CPSC should consider using a Section 104 model to adopt and strengthen the standard.

Furniture Tip Overs

KID is proud to be a campaign advocate of the CPSC's #AnchorIt education campaign. We believe that increasing the public's awareness of this deadly, latent hazard is crucial. A lot of time, effort and funding went into developing the program and materials. It should remain a priority to fund #AnchorIt adequately to fully use those resources. The CPSC should also prioritize a strong safety standard.

In 2016, KID worked with Shane's Foundation to review data and testing results for furniture stability. Working with UL laboratory technicians at the UL Furniture Center of Excellence in Holland, MI, KID conducted performance tests on a sample of 19 dressers and chests. Only nine of the 19 units passed performance tests based on the current tip-over safety standard, ASTM F2057, and only two of the units passed all of the tests. Unsafe furniture and TVs result in frequent tip over accidents; in fact, every 30 minutes in the United States, a child is rushed to the emergency room as a result of falling furniture and TVs. These incidents are preventable. KID recommends CPSC take the following actions:

1. #AnchorIt, a safety campaign launched by the CPSC, and other educational efforts should be expanded to reach families today with the need to anchor furniture with a tip restraint. In addition, further research into tip restraints that are easier to attach, and do not require tools, should be encouraged to increase the likelihood that consumers will use them.
2. Furniture manufacturers should be encouraged to look to design solutions to tipping furniture.
3. A strong standard to prevent furniture tip-over should include additions to the current standard that mimic real world use such as a carpet-like surface for testing, additional weight used in testing to protect children up to and including age 5 using the most recent anthropometric data. And a test to assure that furniture would remain stable when all drawers are filled to capacity with clothing, as KID did in its tests.

Pacifiers

Pacifiers are an integral part of baby care — a soothing product that is beneficial to infants. The American Academy of Pediatrics (AAP) has even suggested pacifiers may [reduce the risk of SIDS](#). Yet a look at SaferProducts.gov reports shows incident and injury reports that raise questions as to whether a review of pacifier safety standards is required.

Because of their potential for choking, pacifiers were one of the only children's products required to meet a CPSC [standard](#) prior to the passage of [Danny's Law](#) in 2008. Yet, with continuing reports and recalls, we ask CPSC to begin a review of the pacifier standard and compliance.

Ingestion Hazards

Parents are usually well aware of choking hazards. Ingestion hazards are less understood but present clear dangers. These include button cell batteries, small powerful magnets, liquid nicotine and certain polymer balls that expand with fluid. Serious internal injuries, poisoning and death can be the result. In addition, as wearable technology and smart products multiply, there could be emerging hazards we have yet to identify. The CPSC should encourage manufacturers to use technologies that eliminate or further ameliorate the ingestion risk of these hazards.

Window Coverings

The CPSC has been working to reduce the strangulation risk inherent in window coverings for decades. Yet, the voluntary standard has produced no discernible results. It is time for an effective mandatory standard to take over. It is good that some retailers and manufacturers are heeding the call to #GoCordless. Now CPSC must continue to develop a mandatory standard and promulgate it.

Small Parts Hazards

Choking on small parts of toys and other consumer products is one of the leading causes of death and injury for infants and toddlers. The current method for testing small parts, the small parts test fixture, is not optimally designed to prevent dangerous toys from being sold to consumers. In a peer-reviewed report published in the International Journal of Pediatrics, KID found that a review of the size of the small parts test fixture is warranted to better protect children.

Recall Effectiveness

All the work the CPSC does to investigate, plan and announce recalls is wasted effort if the recall is not effective. We have to lose the mentality that recalling a product is an end goal. Getting it fixed so it is safe to use or back from the consumer is the end goal. KID reviews children's product recalls each year. As part of that report, we look at the recall effectiveness numbers we are able to obtain through Freedom of Information (FOIA) requests for monthly corrective action plan reports.

KID's most recent recall report, which evaluates recall effectiveness in 2015, shows that just 10% of recalled products in the hands of consumers are corrected or destroyed. Though this is a significant improvement from 2014, when just 1% of recalled products were accounted for, these numbers are far too low. To be sure, it is not a complete dataset. Some of the recalls have not reports filed. Other information is redacted. Some reports were never received. I am sure the CPSC can provide a much clearer picture of the numbers from the redacted or missing copies if it were not for Section 6(b).

Much of the burden from recalls falls on consumers – listening to the news, filling out forms, waiting for and installing repairs. However, consumers are not the ones responsible for recalled products. This imbalance of burden and responsibility should be corrected.

Benchmark requirements for notification measures such as using registration card data and social media and outcome measures such as capture rate should be developed and enforced. Consumers also deserve to know how effective companies are at retrieving dangerous products. KID continues to recommend an annual report to Congress on all open recalls with the current capture rate and action taken outlined. That simple step will encourage manufacturers to improve their own numbers in those reports.

I encourage the CPSC to continue efforts to improve both the corrective action process and the process of maintaining and sharing that data. As new standards, stronger compliance programs and other actions by manufacturers, CPSC, retailers and others ensures fewer recalls, we should make sure those which are announced, are as effective as possible. We look forward to the CPSC's workshop on recall effectiveness to hear other innovative ideas for getting these already identified as dangerous products out of homes.

Conclusion

Again, thank you for the opportunity to provide comments. We look forward to working with the CPSC in addressing these concerns and others that may arise.