

Calendar No. 226

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
117-62 }

SAFE CRIBS ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1259



FEBRUARY 1, 2022.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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SAFE CRIBS ACT

FEBRUARY 1, 2022.—Ordered to be printed

Ms. CANTWELL, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1259]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1259) to provide that crib bumpers shall be considered banned hazardous products under section 8 of the Consumer Product Safety Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1259 is to make it unlawful to manufacture, sell, or otherwise distribute crib bumpers because they present an unreasonable risk of injury, and no feasible consumer product safety standard could adequately protect the public from the unreasonable risk of injury associated with these dangerous products. The bill provides that crib bumpers are considered banned hazardous products under section 8 of the Consumer Product Safety Act.¹ The bill applies to padded crib bumpers, supported and unsupported vinyl bumper guards, vertical crib slat covers, and any material that is intended to cover the sides of a crib to prevent injury. The bill does not apply to non-padded mesh crib liners.

BACKGROUND AND NEEDS

Crib bumpers are infant bedding accessories that attach to the interior perimeter of a crib and serve as a barrier between the in-

¹Public Law 92-573, 86 Stat. 1207 (1972) (codified as amended at 15 U.S.C. 2051-2089).

fant and the sides of the crib.² Although product designs may vary, the most common type of crib bumper consists of one or more rectangular fabric panels, constructed of cotton or polyester, with filling material for padding and with fasteners to attach to a crib.³ Crib bumpers are marketed to parents and caregivers as products that improve the visual appeal of a baby’s sleeping area while preventing babies from bumping their heads or getting their arms or legs caught in the rails of a crib. However, existing research and evidence demonstrate that crib bumpers pose an unreasonable risk to the safety of infants and babies.

The Journal of Pediatrics published research in 2016 concluding that “none of the proposed benefits outweigh well-established evidence that crib bumpers can cause deaths and serious injuries.”⁴ The purpose of this study was “to identify the extent to which clutter in the crib is the cause of infant deaths based on new information and an update of the study of Thach et al and provide a new analysis of nonfatal bumper-related incidents to document the extent of the problem more fully.”⁵ The authors concluded:

Our analysis of 48 deaths found that most of the deaths were caused by the bumper alone and would have been prevented if a bumper had not been in the crib. Although the cribs were not free of other objects (e.g., comforters, blankets, pillows, toys), this clutter was not in contact with or near the infants’ nose and mouth in approximately 67% of the deaths.⁶

According to an updated study published in the May 2021 issue of *Pediatrics*, the official journal of the American Academy of Pediatrics, there were 4,929 sudden unexplained infant deaths (SUID) in the United States between 2011 and 2017.⁷ Of those, 72 percent of the deaths occurred in an unsafe sleep environment.⁸ Furthermore, approximately 75 percent of infant deaths due to possible suffocation resulted from airway obstruction attributed to soft bedding.⁹

The Consumer Product Safety Commission (CPSC) identified 113 fatal incidents associated with crib bumpers (i.e., cases in which a crib bumper was present in the sleep environment) reported to have occurred from January 1, 1990, through March 31, 2019.¹⁰ According to the CPSC, a number of reports indicated that, in addition to a crib bumper being present, the sleeping environment contained multiple additional items, such as pillows, blankets, and stuffed dolls—all of which elevate the risk of infants dying by as-

²U.S. Consumer Product Safety Commission, Proposed Rule: Safety Standard for Crib Bumpers/Liners under the Danny Keysar Child Product Safety Notification Act, March 3, 2020 (https://www.cpsc.gov/s3fs-public/RCA%20-%20Proposed%20Rule%20-%20Safety%20Standard%20for%20Crib%20Bumpers-Liners%20under%20the%20Danny%20Keysar%20Child%20Product%20Safety%20Notification%20Act.pdf?_JyBRdLJyRf3HSQF1QWFnI9IdEeNMz1c).

³Ibid.

⁴NJ Scheers et al., “Crib Bumpers Continue to Cause Infant Deaths: A Need for a New Preventive Approach,” *The Journal of Pediatrics*, vol. 169 (February 2016), p. 93–97.E1 (<https://doi.org/10.1016/j.jpeds.2015.10.050>).

⁵Ibid.

⁶Ibid.

⁷Sharyn E. Parks et al., “Explaining Sudden Unexpected Infant Deaths, 2011–2017,” *Pediatrics*, May 2021 (<https://pediatrics.aappublications.org/content/147/5/e2020035873>).

⁸Ibid.

⁹Ibid.

¹⁰U.S. Consumer Product Safety Commission, Proposed Rule: Safety Standard for Crib Bumpers/Liners under the Danny Keysar Child Product Safety Notification Act, March 3, 2020 (https://www.cpsc.gov/s3fs-public/RCA%20-%20Proposed%20Rule%20-%20Safety%20Standard%20for%20Crib%20Bumpers-Liners%20under%20the%20Danny%20Keysar%20Child%20Product%20Safety%20Notification%20Act.pdf?_JyBRdLJyRf3HSQF1QWFnI9IdEeNMz1c).

phyxia, suffocation, or SUID.¹¹ Consequently, the CPSC determined that in many of these incidents, it was unclear what role, if any, the crib bumper played in the death of the child.¹²

The CPSC identified 83 non-incidentally reported fatalities out of the 113 fatal incidents and organized the incidents by hazard scenarios, making the following determinations: in 44 reported fatalities, the child was found wedged or entrapped against the bumper; in 27 reported fatalities, the child was reportedly in contact with, but not entrapped or wedged against, the crib bumper; in 7 reported fatalities, the child was found in contact with a crib bumper but the fatality report lacked detail to confirm if the child was killed as a result of being entrapped or wedged against the bumper (the report often describes the child being found with his or her face between the mattress and the crib bumper); and in 5 of the reported fatalities, the child was in contact with a crib bumper outside a crib.¹³

Five consumer-level recalls were conducted during that period to mitigate against risks of entanglement, entrapment, suffocation, and choking from loose threads (e.g., unraveling ties, breaking threads and seams) from the crib bumper.¹⁴ The CPSC also granted a petition for a rulemaking to distinguish hazardous pillow-like crib bumpers from nonhazardous traditional crib bumpers in 2013.¹⁵ To date, however, the CPSC has failed to promulgate a crib bumper rule under its existing authorities, including sections 7 and 9 of the Consumer Product Safety Act.

Since 2007, the American Academy of Pediatrics has recommended that parents and caregivers avoid crib bumpers.¹⁶ The National Institutes of Health also advises against the use of crib bumpers,¹⁷ and the U.S. Centers for Disease Control and Prevention warn parents and caregivers to keep crib bumpers out of a baby's sleep area because of the risks associated with SUID.¹⁸ Despite this clear guidance, padded crib bumpers remain widely sold and may even be bundled as part of infant bedding sets.

A 2020 Johns Hopkins Bloomberg School of Public Health survey regarding public opinion on the sale of crib bumpers found that many consumers appear to interpret the commercial availability of crib bumpers as evidence that the product is safe for infants and babies.¹⁹

Current evidence does not indicate that non-padded mesh crib liners pose an equivalent danger as crib bumpers, and such products, to date, have not been found to cause deaths and serious inju-

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Consumer Product Safety Commission, Docket No. CPSC-2019-0033, CPSC Forum on Crib Bumpers, *Federal Register*, vol. 84, no. 230, November 29, 2019 (<https://www.govinfo.gov/content/pkg/FR-2019-11-29/pdf/2019-25890.pdf>).

¹⁶ Allison Bond, "Crib Bumpers in the Night: a Hazard to Infants," *AAP News*, January 2008 (<https://www.aappublications.org/content/29/1/28.2>).

¹⁷ Yvonne T. Maddox, "NIH Statement on the New Crib Safety Standards," National Institutes of Health, June 27, 2011 (www.nih.gov/news-events/news-releases/nih-statement-new-crib-safety-standards).

¹⁸ Centers for Disease Control and Prevention, "Sudden Unexpected Infant Death and Sudden Infant Death Syndrome: Parents and Caregivers," September 30, 2020 (<https://www.cdc.gov/sids/Parents-Caregivers.htm>).

¹⁹ Andrea Gielen and Joshua Sharfstein, "Public Opinion on the Sale of Crib Bumpers," *JAMA Network Open*, June 18, 2020 (<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2767257>).

ries in infants and babies. Accordingly, S. 1259 does not address non-padded mesh crib liner products.

LEGISLATIVE HISTORY

S. 1259 was introduced on April 20, 2021, by Senator Duckworth (for herself and Senators Portman and Blumenthal) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On April 28, 2021, the Committee met in open Executive Session and, by voice vote, ordered S. 1259 reported favorably without amendment.

In the 116th Congress, the U.S. House of Representatives agreed to a motion to suspend the rules and pass H.R. 3172, Safe Sleep for Babies Act of 2019, as amended, by voice vote on December 16, 2019. Section 3 (banning crib bumpers) of H.R. 3172, as amended and passed by the U.S. House of Representatives, contained identical language to S. 1259.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 14, 2021.

Hon. MARIA CANTWELL,
Chairwoman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1259, the Safe Cribs Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ryan Greenfield.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 1259, Safe Cribs Act			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on April 28, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between zero and \$500,000.			

S. 1259 would ban the manufacture or sale of crib bumpers (defined as padded material that surrounds the slats of the crib). Based on information provided by the Consumer Safety Product Commission and the cost of similar activities, CBO estimates that staff costs associated with enforcing the ban would total less than \$500,000 over the 2021–2026 period; any spending would be subject to the availability of appropriated funds.

The bill would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting the sale of crib bumpers. The cost of the mandate would include the value of foregone income from the sales of the prohibited products. Several state and local jurisdictions currently prohibit the sale of crib bumpers. Based on available information about the price of crib bumpers and the extent of their use, CBO estimates that the cost of the mandate would fall below the annual threshold for private-sector mandates established in UMRA (\$170 million in 2021, adjusted annually for inflation).

S. 1259 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are Ryan Greenfield (for federal costs) and Andrew Laughlin (for mandates). The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

REGULATORY IMPACT STATEMENT

Because S. 1259 does not create any new programs, the legislation will have no additional regulatory impact, and will result in no additional reporting requirements. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions

contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the bill may be cited as the “Safe Cribs Act”.

Section 2. Banning of crib bumpers

Paragraph (a) establishes that not later than 180 days after the date of enactment, crib bumpers, regardless of the date of manufacture, shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act.

Paragraph (b) defines the term “crib bumper” to exclude non-padded, mesh crib liners and to include padded crib bumpers; supported and unsupported vinyl bumper guards; vertical crib slat covers; and any material that is intended to cover the sides of a crib to prevent injury to any crib occupant from impacts against the side of a crib or to prevent partial or complete access to any openings in the sides of a crib to prevent a crib occupant from getting any body part entrapped in any opening.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.