

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
		Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 7/13/2012

2. COMAR Codification

Title Subtitle Chapter Regulation

10 11 07 01 - .03

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator Telephone Number
Michele Phinney 410-767-5623

Mailing Address

201 W. Preston Street

City State Zip Code
Baltimore MD 21201

Email
phinneym@dhmh.state.md.us

5. Name of Person to Call About this Document Telephone No.
Carlean Rhames-Jowers 410-767-4639

Email Address
JowersC@dhmh.state.md.us

6. Check applicable items:

- New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes - No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Joshua Auerbach, Assistant Attorney General, (telephone #410-767-1860) on June 6, 2012. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joshua M. Sharfstein, M.D.

Title

Secretary

Telephone No.

410-767-6500

Date

June 7, 2012

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 11 MATERNAL AND CHILD HEALTH
10.11.07 Prohibition of Sale of Baby Bumper Pads

Authority: Health-General Article, §22-501 et seq., Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01 - .03 under a new chapter COMAR 10.11.07 Prohibition of Sale of Baby Bumper Pads.

Statement of Purpose

The purpose of this action is to prohibit the sale of baby bumper pads in Maryland for use in infant cribs.

See “Background and Assessment for the Proposal to Prohibit Sale of Baby Bumper Pads” in the Special Documents Section of this Maryland Register for further details.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

There does not appear to be an economic impact from a ban on baby bumper pads on the issuing agency, other State agencies or local governments. There will be a cost to regulated industries that will no longer be able to sell baby bumper pads in the state of Maryland; however, these industries sell multiple other items to families of young children. For Maryland families there is expected to be a minimal direct economic benefit.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude

- | | |
|-----------------------------|------|
| A. On issuing agency: | NONE |
| B. On other State agencies: | NONE |
| C. On local governments: | NONE |

	Benefit (+)	
	Cost (-)	Magnitude

D. On regulated industries or trade groups:	NONE	Indeterminate
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Minimal

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. There will be a cost to regulated industries and trade groups associated with the loss of sales of baby bumper pads. The current magnitude of this cost cannot be determined and will be mitigated by the fact that these groups sell multiple other items to families with small children. The risks to children outweigh this economic impact. See “Background and Assessment for the Proposal to Prohibit Sale of Baby Bumper Pads” in the Special Documents Section of this Maryland Register for further assessment.

F. The ban of sale of baby bumper pads in Maryland is expected to have a minimal direct economic benefit to families living in Maryland who no longer buy baby bumper pads. Not purchasing baby bumper pads could result in a savings of \$25 to 50 per family. In Maryland in 2010 there were 73,783 births (MD Vital Statistics). If 25% of families purchased new baby bumper pads (taking into account families who do not use them or have acquired them previously), an estimated 18,446 baby bumper pads would be sold in Maryland in one year. If each family saved \$25 to 50 dollars, a potential total of \$461,143 to 922,300 could be saved by Maryland families per year who do not buy baby bumper pads. This savings could be spent on other items for their children.

There also may be cost savings due to injuries and deaths avoided that may have resulted from the use of baby bumper pads. See “Background and Assessment for the Proposal to Prohibit Sale of Baby Bumper Pads” in the Special Documents Section of this Maryland Register for further details.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499; TTY:800-735-2258, or email to regs@dnhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through August 13, 2012. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2013
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
- The Maryland Retailers Association (MRA) submitted comments which asked for a 6 to 9 month implementation period to allow for the elimination of bumpers in bedding sets, but did not submit any comments on the economic impact on Maryland retailers. As requested by the MRA, the regulation allows for a 9 month implementation period.
- The economic impact on small businesses of prohibiting the sale of baby bumper pads appears to be minimal. If 10% of baby bumper pads are sold by small businesses in Maryland, these small business sales would account for 1,845 baby bumpers sold per year. The potential loss of business income is estimated to be \$46,115 to 92,250 for all small businesses in Maryland. However, families may use the money that they would have spent on baby bumper pads on other baby supplies at these same businesses. This may result in a net neutral economic effect on small businesses.
- G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 11 MATERNAL AND CHILD HEALTH

10.11.07 Prohibition of Sale of Baby Bumper Pads

Authority: Health-General Article, §22-501 et seq., Annotated Code of Maryland

BEGIN NEW

.01 Defintions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Department" means the Department of Health and Mental Hygiene.

(2) "Baby bumper pads" means a pad or pads of non-mesh material resting directly above the mattress in a crib, running the circumference of the crib or along the length of any of the interior sides of the crib, and intended to be used until the age that an infant pulls to stand.

(3) "Hazardous material" has the meaning stated in Health-General Article, §22-501, Annotated Code of Maryland.

(4) "ASTM Standards" means the standard consumer safety performance specifications for infant bedding and related accessories set by the American Society for Testing and Materials (ASTM).

.02 General Provisions.

A. Baby bumper pads are hereby declared to be a hazardous material and may not be shipped or sold to a purchaser in Maryland beginning June 21, 2013.

B. ASTM Standards.

(1) After notification that ASTM has adopted a new voluntary standard for baby bumper pads, the Secretary may provide an opportunity for public comment on whether the new ASTM Standards should replace the prohibition contained in §A of this regulation.

(2) Within 60 days after the close of public comment, the Secretary may issue an order permitting the sale of baby bumper pads that comply with the new ASTM Standards if the Secretary determines that such bumper pads are not a danger to the public health and safety.

C. The Secretary may issue an order suspending this chapter for covered baby bumper pads if the Consumer Product Safety Commission affirmatively finds that the benefits of certain baby bumper pads exceed the risks.

.03 Violations.

A. A notice of violation will be issued by the Department to any person found to have shipped or sold a baby bumper pad to a purchaser in Maryland after June 21, 2013.

B. A person who, after being issued a notice of violation, ships or sells a baby bumper pad to a purchaser in Maryland shall be subject to a civil fine of not more than \$500 for each baby bumper pad shipped or sold in violation of this subtitle.

END NEW

JOSHUA M. SHARFSTEIN, M.D.

Secretary of Health and Mental Hygiene