

## **Responses to Comments on the Proposed Regulations on Baby Bumper Pads**

The Department has reviewed the comments on the proposed regulations and decided to proceed as proposed. The following is a summary of the comments and the Department's responses.

A number of commenters supported the Department's proposed regulation. These included Professor Andrea C. Gielen, Director of the Johns Hopkins Center for Injury Research and Policy, who wrote that "Your proposed regulation will undoubtedly help promote the health and safety of Maryland's infants."

Dr. Rachel Moon of Children's National Medical Center, who chairs the Task Force of the American Academy of Pediatrics on Sudden Infant Death Syndrome, wrote "This proposed regulation will keep Maryland's babies safe while they're sleeping in their cribs."

Supportive comments were also received from Kids in Danger, the American Medical Women's Association, Consumer Federation of America, Consumers Union, the Jacob's Institute of Women's Health, the National Consumers League, Public Citizen, Safe Kids Worldwide, U.S. PIRG, WoodyMatters, the National Research Center for Women & Families, and the National Women's Health Network.

We received support for the regulations from Breathable Baby, LLC and GoMamaGoDesigns. The Department does not recommend the use of the products manufactured by these companies.

We also received comments in support from a Maryland mother who found her 5-month-old infant with his head trapped behind a bumper.

The Juvenile Products Manufacturers Association (JPMA) objected to the adoption of the proposed regulations and recommended the adoption of the ASTM performance specification on infant bedding in its place. We also received the ASTM materials from Len Morrissey, Director of the Technical Committee Operations Division at ASTM International.

As described in the October 2 testimony of Secretary Sharfstein before the Joint Committee on Administrative, Executive and Legal Review, the Department does not find evidence that these standards would adequately protect infants. This is also the view of a number of expert organizations and physicians in our state.

JPMA also asks the Department to await a federal CPSC standard. There is no timeline for a CPSC Standard, however. The proposed regulation allows for a default to a CPSC standard should one be developed in the future.

JPMA contests the economic impact analysis of the Department. However, it provides no analysis of its own, and the Maryland Retailer Association has previously commented that it is “not opposing the implementation of a ban on baby bumper pads.” The Department is aware of no Maryland businesses that sell only baby bumper pads. Families will be able to use the available savings to purchase other supplies for their infants.

JPMA contests the science underlying the Department’s proposal. There is no additional data presented, however, that was not previously reviewed by the Department’s advisory committee. In addition, since the Department began investigating this issue, the American Academy of Pediatrics has conducted a thorough technical review of the issue and made findings equivalent to the Department’s. These findings include both the risk of death and the absence of any compelling evidence of benefit.

JPMA is concerned about unintended consequences, including parents increasing unsafe co-sleeping with their children. However, as discussed in the Department’s earlier analysis, our advisory panel found it more likely that the safety message would be better delivered without mixed signals on baby bumper pads in the market. The Department agrees that general education is essential on the overall message of infant safe sleep.

Finally, JPMA contests the legal authority of the Department to promulgate regulations in this area. The Attorney General’s Office has reviewed these concerns and found them unpersuasive. There is clear authority for the Department under Md. Code Ann., Health Gen. § 22-502(a) to take action against certain hazards to children.

We also received comments from the manufacturer of the CozyWedge, expressing concern that this product would be barred by the proposal. Should a protective standard emerge that permits CozyWedge, the Department would have the ability to permit its sale. The Department remains open to receiving additional information about available products and modifying the regulation in the future if indicated.