

# United States Senate

WASHINGTON, DC 20510

October 27, 2019

Sandy Kennedy  
President  
Retail Industry Leaders Association  
99 M Street S.E., Suite 700  
Washington, D.C. 20003

Dear Ms. Kennedy,

I am writing to call on the Retail Industry Leaders Association (RILA) and its members to institute a voluntary ban and immediately remove all ‘inclined infant sleepers’ and similar products from store shelves. As you may know, the Consumer Product Safety Commission (CPSC) staff has proposed mandatory safety rules for infant sleepers that would effectively prohibit such products.<sup>1</sup> Last week, the CPSC released a report acknowledging at least 73 infant deaths associated with inclined infant sleep products—up from the 54 that Consumer Reports reported earlier this month,<sup>2</sup> making it far too clear that these products should be immediately removed from store shelves to prevent future infant deaths.

‘Inclined infant sleeper’ or ‘inclined sleeper’ products are bassinet-like products with an inclined back to elevate the baby’s head and torso. Inclined sleepers allow babies to sleep at an angle between 10- and 30-degrees, violating the American Academy of Pediatrics’ safe-sleep guidelines that say babies should sleep on hard, flat surfaces, alone, in their own space, with no extra padding.<sup>3</sup> According to research commissioned by the CPSC,<sup>4</sup> babies are susceptible to suffocation in an inclined sleeper including because the products make it more difficult for babies to move out of an unsafe facedown position and puts them in an exhausting fight to maintain a safe sleeping position. Millions of inclined infant sleepers have already been recalled

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<sup>1</sup> CPSC staff, *Supplemental Notice of Proposed Rulemaking for Infant Sleep Products*. Published by United States Consumer Product Safety Commission on 16 October 2019. (Available online at: [https://www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts\\_10\\_16\\_2019.pdf?TPVAJZEQcz9x9sKeEGltm4LskkonxUWv](https://www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts_10_16_2019.pdf?TPVAJZEQcz9x9sKeEGltm4LskkonxUWv))

<sup>2</sup> “*More Infant Sleep Products Linked to Deaths*” by Peachman, Rachel Rabkin. Published by Consumer Reports on 21 October 2019. (Available online at: <https://www.consumerreports.org/child-safety/more-infant-sleep-products-linked-to-deaths/>)

<sup>3</sup> “*How to Keep Your Sleeping Baby Safe: AAP Policy Explained*” by Moon, Rachel MD, FAAP. Published by The American Academy of Pediatrics on 15 April 2019. (Available online at: <https://www.healthychildren.org/English/ages-stages/baby/sleep/Pages/A-Parents-Guide-to-Safe-Sleep.aspx>)

<sup>4</sup> “*UAMS Research into Baby Biomechanics Shows Issues with Infant Inclined Sleepers*” by Widner, Amy. Published by University of Arkansas for Medical Sciences on 18 October 2019. (Available online at: <https://medicine.uams.edu/news/uams-research-into-baby-biomechanics-shows-issues-with-infant-inclined-sleepers/>)

by manufacturers, following Consumer Reports' investigation and calls by CR, the American Academy of Pediatrics, and other safety groups for them to be removed from the market. A Washington Post investigation further found that some companies developed inclined sleepers based on faulty beliefs about infant sleep and with no clinical research into safety.<sup>5</sup> Considering the grave danger these products pose to the safety of babies and families, I am urging the RILA to do their part to remove these products to prevent unnecessary death and injury to infants.

The CPSC is charged with protecting the public from unreasonable risks of injury or death associated with the use of thousands of types of consumer products under the agency's jurisdiction. The CPSC has investigated deaths related to inclined sleepers, but the agency's staff proposal for new rules has not yet been approved and finalized.<sup>6</sup> Babies will remain at great danger from the sale of inclined sleepers until the CPSC finalizes mandatory safety rules for infant sleep products that prohibit these products from having a back angle greater than 10 degrees. These products should immediately be pulled from the market.

I urge the RILA to fully understand the risk of inclined sleepers and reject arguments from some industry members that the product could be made safe with minor changes to voluntary safety standards. A team of researchers from the University of Arkansas for Medical Sciences (UAMS) concluded that none of the inclined sleep products they examined as part of the study were safe for infant sleep<sup>7</sup>. They recommended that this category of products be removed from the market or that the industry standards for these products be significantly revised.

There is a clear and present danger posed by these products for infants and families. I am counting on the RILA to do the right thing and remove inclined sleepers, the same products that have already been voluntarily recalled by some manufacturers for killing children, from the market so that not one more family has to suffer.

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<sup>5</sup> "Fisher-Price invented a popular baby sleeper without medical safety tests and kept selling it, even as babies died" by Frankel, Todd. Published by The Washington Post on 30 May 2019. (Available online at: [https://www.washingtonpost.com/business/economy/how-fisher-price-invented-a-popular-baby-sleeper-without-safety-tests-and-kept-it-on-the-market-even-as-babies-died/2019/05/30/78c2707a-7731-11e9-b3f5-5673edf2d127\\_story.html?arc404=true](https://www.washingtonpost.com/business/economy/how-fisher-price-invented-a-popular-baby-sleeper-without-safety-tests-and-kept-it-on-the-market-even-as-babies-died/2019/05/30/78c2707a-7731-11e9-b3f5-5673edf2d127_story.html?arc404=true))

<sup>6</sup> "Supplemental Notice of Proposed Rulemaking for Infant Sleep Products" by House, Mary and Pollitzer, Patricia. Published by the United States Consumer Product Safety Commission on 16 October 2019. (Available online at: [https://www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts\\_10\\_16\\_2019.pdf?TPVAJZEQcz9x9sKeEGltn4LskkonxUWv](https://www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts_10_16_2019.pdf?TPVAJZEQcz9x9sKeEGltn4LskkonxUWv))

<sup>7</sup> "UAMS Research into Baby Biomechanics Shows Issues with Infant Inclined Sleepers" by Widner, Amy. Published by University of Arkansas for Medical Sciences on 18 October 2019. (Available online at: <https://medicine.uams.edu/news/uams-research-into-baby-biomechanics-shows-issues-with-infant-inclined-sleepers/>)

I also urge RILA members to notify and warn consumers who have purchased inclined sleepers, and whose contact information is in their possession, about the immediate, grave dangers posed by these products.

Thank you,

A handwritten signature in blue ink that reads "Kirsten Gillibrand". The signature is written in a cursive, flowing style.

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Kirsten Gillibrand  
United States Senator