

Co-Sleeping Safely: A Guide to Current Regulations of Infant Bedside Sleepers

Alert

09.22.2016

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The bedside sleeper, also called a "co-sleeper" or "co-sleeping bassinet," provides a baby and parent their own sleeping experiences while still enabling the parent to be in close proximity to the baby. This product is most commonly used by nursing mothers, particularly those of young infants who do not yet sleep through the night. The American Academy of Pediatrics encourages room-sharing (sleeping in the same room but on separate surfaces) in its [policy statement on SIDS prevention](#), but it recommends against bed-sharing with infants. As such, this product allows for ease of accessibility to a young infant without the risks of sleeping with an infant in an adult bed.

Like other infant sleep products, bedside sleepers may also pose various risks to babies of all shapes and sizes. The main issue that most bedside sleeper users and manufacturers must consider is the risk that a baby might fall into a gap between the bedside sleeper and the adult bed mattress, which could cause entrapment injuries and/or strangulation. To address many of these concerns, bedside sleepers fall under the purview of the Consumer Product Safety Improvement Act (CPSIA), which requires mandatory federal standards for over a dozen durable juvenile products.¹ Specifically, [Section 104](#) of the CPSIA gives the Consumer Product Safety Commission (CPSC) authority to promulgate mandatory safety standards for durable infant and toddler products. The mandatory standards established by the CPSC may be substantially the same as any current voluntary consumer product safety standards for such durable products (such as voluntary standards established by [ASTM International](#)), or may be more stringent than the voluntary standards, if the CPSC determines that a stricter standard would further reduce the risk of injury. The passage of the CPSIA marked Congress's recognition that consumer confidence in children's products would increase if safety standards were mandatory, and that every child should be safe while sleeping.

¹ [Consumer Product Safety Improvement Act of 2008](#), PL 110-314, section 104, 122 Stat 3016 (August 14, 2008).

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While there are many different types of child sleeping devices, such as cribs, play yards² and bassinets³, this article will focus on the current and proposed regulations related to bedside sleepers.

What is a bedside sleeper?

A bedside sleeper is a bassinet that is designed and manufactured in a way that allows it to be attached to the side of an adult bed. The product is usually made of a rigid frame that may be combined with fabric or mesh, which provides functionality for newborns and infants to sleep close to an adult without being in the adult's bed.⁴ Usually, one wall of the bedside sleeper is lower than the others, which allows the parent to easily reach for the child at night. Most bedside sleepers are multi-mode, meaning that they can be converted into bassinets and/or play yards.⁵

For regulatory purposes, a bedside sleeper encompasses a "product[] intended to provide sleeping space for an infant up to approximately [five (5)] months of age (or when [a] child begins to push up on [his or her] hands and knees)."⁶ Further, the products must be "intended to be secured to the side of an adult bed for the purpose of having a baby sleep in close proximity to an adult." More specifically, a bedside sleeper is defined as "a rigid frame assembly that may be combined with a fabric or mesh assembly, or both, [that is] used to function as sides, ends, or floor or a combination thereof, and that is intended to provide a sleeping environment for infants and is secured to an adult bed."⁷

Current regulations governing bedside sleepers

In relation to other infant sleep products like play yards and bassinets, bedside sleepers are not as heavily regulated. However, pursuant to Section 104 of the CPSIA, the CPSC passed a regulation requiring mandatory consumer safety standards for bedside sleepers in 2014. See, [16 C.F.R. § 1222, et seq.](#)

The regulation for bedside sleepers is derived and incorporated from the ASTM F2906-13 voluntary standard.⁸ The voluntary standard provides consumer safety specifications to establish performance requirements, test methods, and marking requirements to promote the safe use of bedside sleepers.⁹ Although ASTM F2906-13 is incorporated, the regulation alters the compliance requirements for parts of the standard, which include:

² For an in-depth article regarding the current and proposed regulation of play yards, see ["The Modern Play Pen: A Guide to Current and Proposed Regulations of Play Yards."](#) Michelle Corrigan and Ronald Johnson, Stinson Leonard Street (Sep. 7, 2016)

³ For an in-depth article regarding the current and proposed regulation of bassinets, see ["The First Baby Bed: A Guide to Current and Proposed Regulations of Bassinets."](#) Michelle Corrigan and Ronald Johnson, Stinson Leonard Street (Sep. 7, 2016)

⁴ Consumer Product Safety Commission, [Bedside Sleepers](#), January 15, 2014.

⁵ Consumer Product Safety Commission, *supra* note 83.

⁶ [ASTM Standard F2906-13](#), 1.3, *Standard Consumer Safety Specification for Bedside Sleepers*, ASTM International, 2013, www.astm.org.

⁷ *Id.*, 3.1.2.

⁸ 16 C.F.R. § 1222.2(a).

⁹ ASTM Standard F2906-13, 1.1.

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- ◆ Changing the bedside sleeper performance requirement standard from Consumer Product Safety Specification F2194 to the standard set forth in [16 C.F.R. § 1218](#)
- ◆ Changing the marking and labeling requirement from Consumer Safety Specification F2194 to 16 C.F.R. § 1218
- ◆ Changing the instructional literature requirement from Consumer Safety Specification F2194 to 16 C.F.R. § 1218¹⁰

With the alterations, the bedside sleeper regulation set forth in 16 C.F.R. § 1222 incorporates the scope of the voluntary standard's coverage, calibration and standardization requirements, performance requirements, test methods, marking and labeling requirements, and instructional literature.¹¹ There are no general structural requirements like those of play yards or bassinets, but there are performance requirements for bedside sleepers set forth in the regulation and standards. The performance requirements include standards for:

- ◆ General pre-testing
- ◆ Product disengagement
- ◆ Barriers
- ◆ Side or end portions
- ◆ Means to secure
- ◆ Bedside sleeper accessory fabric sided enclosed openings
- ◆ Bedside sleeper missing accessory attachment components

In short, the key provisions to the regulatory standards for bedside sleepers include:

- ◆ Compliance with 16 C.F.R. § 1218, which incorporates ASTM F2194 regarding bassinet safety standards
- ◆ Requirements for multimode products to help prevent safety hazards when used in other product modes and configurations
- ◆ Minimum side height requirements on the lower side of the bedside sleeper to help ensure safe occupant retention
- ◆ Product disengagement requirements to help ensure that attachments provide safe occupant retention and help avoid entrapment hazards
- ◆ Fabric sided enclosed opening requirements to help prevent entrapment and/or suffocation
- ◆ Bedside sleeper accessory requirements to help prevent suffocation and/or entrapment from improper assembly with bedside sleeper accessories that are missing key structural elements

¹⁰ 16 C.F.R. § 1222.2(b)(1)-(3).

¹¹ ASTM Standard F2906-13.

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- ◆ Warning requirements that are intended to alert caregivers to infant fall, entrapment, and suffocation hazards for bedside sleepers¹²

While the foregoing list provides a brief summary of the mandatory safety requirements for bedside sleepers sold in the U.S., it is important for manufacturers and sellers of these products to understand and comply with all of the requirements set forth in [16 C.F.R. § 1222.2](#).

There are current no proposed or additional pending regulations for bedside sleepers.

Impressions

The American Academy of Pediatrics recommends "room-sharing without bed-sharing" for parents and their young infants.¹³ Particularly for nursing mothers, a bedside sleeper offers parents a safe way to follow this recommendation, if all of the appropriate standards are met for the product. The current 16 C.F.R. § 1222, which was passed into law in 2014 and is based on voluntary standard ASTM F2906-13, codifies these standards. It provides performance requirements, test methods and labeling requirements that all manufacturers and sellers of bedside sleepers must adhere to before selling any such product in the U.S.

For more information about the regulation of bedside sleepers, please contact Michelle Corrigan, Cicely Lubben or the Stinson Leonard Street attorney with whom you regularly work.

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Contact

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Related Practice Areas

Children's Products

Product Liability

¹² Consumer Product Safety Commission, [Bedside Sleepers Business Guidance](#), CPSC.gov.

¹³ The American Academy of Pediatrics, *SIDS and Other Sleep-Related Infant Deaths: Expansion of Recommendations for a Safe Infant Sleeping Environment*. November 16, 2011.