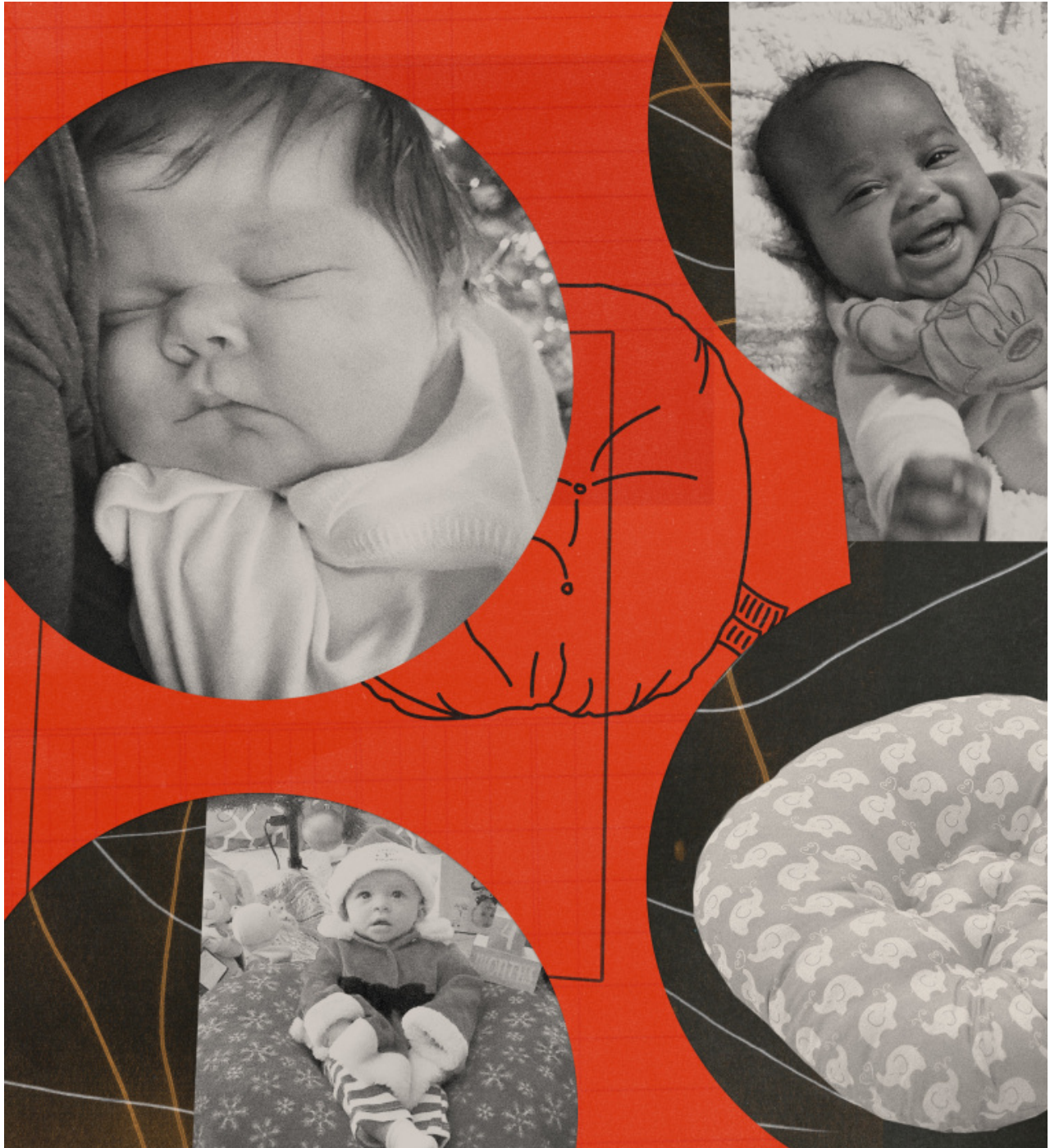


# As federal officials delayed rules on infant loungers, babies continued to die

[nbcnews.com/news/us-news/baby-lounger-deaths-infant-pillow-boppy-cpsc-rcna84119](https://www.nbcnews.com/news/us-news/baby-lounger-deaths-infant-pillow-boppy-cpsc-rcna84119)

Suzy Khimm, Elizabeth Chuck, Kate Martin



"If babies are dying, why are we allowing this?" one grieving father asked. Chelsea Stahl / NBC News

## Death by Delay.

Infants can quickly suffocate on cushioned loungers, research shows. NBC News found that at least 25 babies have died since 2015.

*This article is Part 1 of “Death by Delay,” a series on how consumer product hazards have cost lives.*

BETHESDA, Md. — In September 2021, federal officials grew so alarmed by the number of babies who had suffocated after being laid down on a popular infant lounger that they issued an urgent notice to parents: Stop using it immediately.

The padded, pillowy Boppy Newborn Lounger — sold to exhausted caregivers who relied on it as a safe place to put their infants — was linked to the deaths of eight babies, the Consumer Product Safety Commission warned. The federal agency announced a recall of more than 3 million of the loungers, which had been a mainstay of baby registries for years.

CPSC staff members then wanted to go a step further. It wasn't just one manufacturer's infant lounger that posed a potentially lethal threat; the agency next planned to consider sweeping regulation of other cushioned infant loungers, which some experts and officials believed were just as unsafe as the Boppy lounger. The move could have forced manufacturers to redesign their loungers or stop selling them, according to interviews with current and former CPSC employees, industry representatives and safety advocates.

But one day after the Boppy recall was announced, the CPSC's two Republican commissioners — who at the time held a majority — scrapped that more comprehensive action, approving an annual operating plan that removed a proposal for regulating infant pillows, according to interviews and a review of the documents.

Since then, babies have continued to die.



The Boppy Company recalled over 3 million loungers in 2021. Consumer Product Safety Commission

NBC News has found that at least four babies have died in incidents linked to infant loungers since late September 2021, based on CPSC records and reports made to the agency. Four days after the CPSC's vote and less than a week after the Boppy recall, a 3-

month-old boy from Texas died while sleeping in the company's lounger; his father had fallen asleep and woke up to find his child lying facedown, according to a report that local officials submitted to the CPSC.

The following spring, according to another report, a 4-month-old died from asphyxiation on a lounger produced in China that was advertised on Amazon as "perfect for co-sleeping."

In addition to those four deaths, NBC News determined that at least 21 other babies died in infant loungers from December 2015 through September 2021, more than twice as many deaths as the CPSC cited in public warnings about specific brands of loungers. This count is based on an examination of government data, court documents, public reports reviewed by the CPSC, medical examiners' reports, and records obtained through a Freedom of Information Act request. (See the full methodology below.)

Many of the incident reports cited suffocation, asphyxiation or a loss of oxygen as the cause of death, and seven lawsuits accused the loungers of causing the babies' deaths. In some of the reports to the CPSC, the loungers were listed as one of multiple factors contributing to an unsafe sleep environment, while in others, no cause of death was listed. In one instance, after an 11-day-old baby died of Covid in a lounger, a local government agency identified "unsafe sleep" as a potential factor in the death. All of the babies were under a year old; the youngest was 4 days old.

"It is infuriating, and it's senseless," said Megan Parker, of Alton, Illinois, whose 2-month-old daughter, Layla, died in a Boppy lounger in 2019. "I don't understand why they wouldn't push that information out there, knowing that there are more deaths that are not reported. It could save lives."



Layla Parker is shown here just after she was born. Courtesy Parker Family

The 25 deaths tallied by NBC News are almost certainly an undercount, according to product safety experts, as autopsies do not always mention specific consumer products.

“The death certificate is not clear, and if it doesn’t list the product, then you don’t know,” said NJ Scheers, a statistician and former CPSC staff member who reviewed NBC News’ methodology.

***Do you have a tip or story to share about product safety hazards? [Contact us](#)***

Before it was recalled, the Boppy Newborn Lounger was beloved by many parents who discovered that even the fussiest of newborns tended to relax in the round, slightly recessed cushion. Other loungers are rectangular or oval-shaped, with a raised perimeter surrounding a cushioned pad.

While the CPSC closely oversees infant sleep products, loungers have largely escaped regulation because they are described as a place for babies to lay while they're awake. That means that most loungers are not subject to a new federal rule that bans inclined surfaces and other potential hazards in infant sleep products.

Yet newborns can quickly fall asleep at any time. Some companies explicitly advise customers to "transition" their babies to a crib or bassinet if they fall asleep on a lounger, but that does not always happen. And for years, photos of infants peacefully snoozing in loungers have proliferated on social media, muddying the message that the product should not be used for sleep.

"If you have a product that looks like it's good for sleep, you can't claim that it's not a sleep product."

*CPSC Chair Alex Hoehn-Saric*

"You can't put that burden on parents," CPSC Chair Alex Hoehn-Saric said in a recent interview. "If you have a product that looks like it's good for sleep, you can't claim that it's not a sleep product."

In some of the cases reviewed by NBC News, caregivers placed the loungers inside a crib. Other cases involved co-sleeping with the baby in a lounger on a bed beside the caregiver. The American Academy of Pediatrics' safe sleep guidelines recommend babies sleep alone on their backs on a firm, flat mattress in a crib or bassinet with no loose blankets, pillows, crib bumpers or other soft items.

Industry representatives argue that loungers are not hazardous if used as intended: on the floor as a place to lay down babies who are awake and closely monitored.

"Boppy products, including the Newborn Lounger, have never been marketed as infant sleep products," Amy St. Germain, a spokesperson for The Boppy Company, said in a statement. "They are intended to aid parents during awake time only and include warnings against unsupervised use."

The Boppy lounger is distinct from the company's popular, horseshoe-shaped nursing pillow, which has not been recalled. Nursing pillows have also been tied to reports of deaths, prompting the CPSC to investigate and warn caregivers against using them for sleep.

The decision to put off new regulations for baby loungers in 2021 was part of a series of amendments that the CPSC Office of Inspector General later criticized as violating rules requiring advance notice to the commission of major proposed changes. In a statement to

NBC News, CPSC Commissioner Richard Trumka Jr., a Democratic appointee who joined the commission in December 2021, called the delay a “grave error” by the prior commission that put babies’ lives at risk.

“It delayed meaningful change that could have started protecting infants,” Trumka said. “It set us back and delayed safety benefits to the public.”

Instead of pursuing a hard rule, the CPSC took a piecemeal approach to address the issue: The agency commissioned a [research study on infant pillows](#), a category that includes both infant loungers and nursing pillows; worked with the industry to develop voluntary safety standards for loungers; and took enforcement action against individual manufacturers.

“CPSC has long warned of the dangers of putting infants to sleep in products not intended for sleep, including soft, pillow-like products,” the CPSC said in a statement to NBC News. “When we develop evidence of hazards — especially that a product is associated with infant deaths — we can and have prioritized these risks and taken action to warn and protect consumers from products posing such risks.”

CPSC Commissioner Peter Feldman, one of the Republicans who removed infant pillow regulations from the 2022 operating plan, said that the agency “simply had not yet laid the required groundwork” necessary to move forward at the time, and that taking shortcuts could have made any new requirements vulnerable to being overturned in court.

“The Commission cannot act rashly. A rule that is stayed or overturned offers zero consumer protection.”

*CPSC Commissioner Peter Feldman*

“The Commission cannot act rashly,” Feldman said in a statement. “A rule that is stayed or overturned offers zero consumer protection.”

Dana Baiocco, the other Republican commissioner at the time, declined to comment.

The CPSC will begin considering a rule on infant loungers as soon as next month, according to two agency employees, having secured a Democratic majority last summer.

But any action is too late for families who have already lost children.

“This thing was defective as designed,” said Joe Zarzaur, a Florida-based attorney representing a family whose baby died in a Boppy lounger in 2020 just before she turned 5 months old. “It should have never been available as a product at any point in time.”

## **‘Beyond loved’**

---

On the night that 2-month-old Layla died in December 2019, Parker, her husband and their 1-year-old twins were out of town visiting relatives. Layla was staying at Parker’s mother’s house in Missouri.

At around 4 a.m., Parker was awoken by a panicked call from her mom. Layla was not breathing, Parker's mother screamed through the phone.

The baby had fallen asleep on a Boppy lounger, where she endured "horrific suffering and death by suffocation," attorneys for Parker and her husband allege in an ongoing wrongful death lawsuit against The Boppy Company and Parker's mother. The lawsuit accuses Parker's mother of negligence and argues that Boppy should have recognized that the "unreasonably dangerous design" of the lounger could cause infants to suffocate.

Boppy and an attorney for Parker's mother denied the allegations in court filings and declined to comment further.

In responses sent to the CPSC about other deaths reported to the federal government, the company wrote, "At Boppy, our collective hearts ache for any parent who has lost a child," and added that its products "are safe when used properly."

Layla had just started smiling and was adored by her older sisters, who had proudly held her when she was born. The girls, now 4, don't know how their baby sister died.

"I think about how she'd be interacting now with her siblings," Parker said. "It's kind of heartbreaking to know that I'm going to have to tell them one day."

Other death reports involving loungers reviewed by NBC News included a 4-day-old baby in New Jersey, born with a full head of black hair, whose obituary described her as "beyond loved, and wanted more than anything." In another case, the obituary for a nearly 5-month-old girl who died in Florida a few weeks after the 2019 winter holidays shows her wearing a Santa hat that reads "Baby's 1st Christmas."



Nataley Seich died in 2020 just before turning 5 months old. "She was loved by all who came in contact with her," according to her obituary. Courtesy Seich Family

In some of the cases discovered by NBC News, families had received the loungers as gifts off of their baby registries. Others had purchased the loungers from major retailers, including Amazon, which declined to comment, and Walmart, which didn't respond. Many of the babies died at home, while at least two died at day care.

In most cases, the infants were found by their parents. Some desperately performed chest compressions as they waited for an ambulance to arrive, incident reports show.



The threat from loungers can emerge quickly, according to the lead researcher of a study commissioned by the CPSC and released by the agency in October 2022. The study found that babies died in loungers and other pillow products in two main ways: They suffocated when they rolled over or turned their face against the plush surface, or they died from positional asphyxia, when they slouched forward or arched backward, putting their bodies at an angle that inhibited their breathing. Babies also sometimes rolled off the loungers and then suffocated.



Madelynn Rouh was 4 days old when she died in 2019. "She was beyond loved, and wanted more than anything," according to her obituary. Courtesy Rouh Family

"It's kind of a scary death trap for a baby that doesn't know how to move very well, or a baby that's asleep and isn't moving very well in their sleep," said Andrea De La Torre, owner and founder of sleep consulting company Baby Sleep Answers. "We need to be very, very strict about saying, 'No, sleep is not OK, even if you're right next to them.'"

Further confusing the issue, some products currently marketed as newborn loungers were previously sold as in-bed co-sleepers, like the DockATot Deluxe+. The CPSC issued the company a notice of violation last year after new rules on infant sleep products went into effect.

DockATot denied wrongdoing and said its loungers are not unsafe if used while babies are awake. “The agency has continued to single out our Deluxe+ docks despite taking no action on several similar products currently on the market,” the company said in a statement. DockATot agreed to phase out its Deluxe+ model lounger after the CPSC’s enforcement action, but the product is still available for purchase, and a larger version of the lounger is also for sale.

Brandon Movitz’s 10-week-old son Pierce died while sleeping in a DockATot Deluxe+ in July 2020 in the family’s Bloomfield Hills, Michigan, home. Pierce was the “most calm, peaceful, loving baby,” who was doted on by his big brother, Jude, now 5, Movitz said. Jude often talks about how much he wishes he could go to heaven so he could visit his little brother.



Kate and Brandon Movitz with their newborn, Pierce, in 2020. Pierce was 10 weeks old when he died while sleeping in a DockATot Deluxe+.Andrea Peardon Photography

Movitz has since started a foundation to help families who have lost infants cover the cost of their funerals and has connected with other parents whose babies died in loungers.

He said it is “ludicrous” that loungers are still sold.

“If babies are dying, why are we allowing this?” he said.

Lounger manufacturers maintain that the most effective way to prevent such tragedies is to educate parents and caregivers about safe sleep practices.

If baby loungers weren’t available, then caregivers could end up resorting to far more hazardous places to put down their infants, such as adult pillows, said Carol Pollack-Nelson, a product safety consultant who has worked on behalf of industry and consumers.

Getting rid of products like loungers “does not fix the problem,” Pollack-Nelson said. “It does not change how the baby is put to sleep, just where the baby is put to sleep.”

Despite the findings of the study the CPSC commissioned, the agency has yet to issue any broad warnings about the use of baby loungers — and is highly constrained by a federal law that requires it to consult with manufacturers before publicly disclosing hazards or deaths tied to specific products.



The DockATot Deluxe+ lounger. DockATot

When Trumka, the CPSC commissioner, announced the agency's enforcement action against DockATot in November, he did not provide any specifics about deaths. Instead, he directed the public to search the CPSC's SaferProducts.gov database for the company's name.

At least five babies have died in incidents involving DockATot loungers from 2020 to 2022, according to those reports — and some are easy to miss because the company’s name is misspelled.

## **‘Too many children have died’**

---

More than 30 years ago, the CPSC took decisive action to ban infant cushions filled with foam pellets or beads — a beanbag-like design — after reports that 36 infants died.

Then, as now, infants were found facedown on the cushions, having suffocated on the soft material that conformed to their bodies.

Decades later, amid mounting reports of infant deaths, some at the CPSC became convinced that modern-day loungers posed a similar hazard — and wanted to consider expanding the 1992 cushion ban to account for them, according to interviews with current and former agency employees.

So staff members included a proposed expansion of the infant pillow ban on the operating plan submitted to the agency’s commissioners for approval in mid-September 2021, just as the CPSC was preparing to announce the recall of the Boppy Newborn Lounger.

But at the time that the plan was coming up for a vote, Senate Republicans were blocking President Joe Biden’s three Democratic nominees for the five-member commission, which had two vacant seats. That gave the CPSC’s two Republican commissioners an opening to make a raft of changes to the operating plan, which the CPSC’s sole Democratic commissioner, Robert Adler, denounced as “government by ambush.”

“This is not something that CPSC staff has requested nor has anyone shown any reason to halt these rulemaking packages,” Adler said in a statement after the Sept. 24, 2021, vote. “This postponement of consumer safety is extremely improper.”

In the following months, the agency received reports of fatalities in loungers produced by manufacturers across the world, including a \$300 high-end product from Europe and a cheap knock-off from China, according to NBC News’ review.



A photo that a parent submitted in a report to the CPSC demonstrates how a 3-month-old was found hanging off a Boppy lounger after she kicked her legs, pushing herself upward; the baby survived.  
Consumer Product Safety Commission

In the absence of broad regulations, the agency has instead attempted to target individual companies.

In January 2022, the agency tried to recall the Leachco Podster, which the CPSC linked to the deaths of two infants. Unlike Boppy, however, the manufacturer refused to cooperate with a recall, insisting that its products were safe.

The agency is now suing Leachco for refusing to recall its loungers and issued a rare unilateral warning to consumers to stop using them, over the company's objections.

"Warning consumers was our top priority," the CPSC said in its statement to NBC News.

The company has sued the agency back, accusing the CPSC of overreach.



The CPSC sued Leachco in 2022 after the company refused to recall a lounger linked to two infant deaths. Leachco

Leachco blames misuse of its products for the two deaths that the CPSC publicly tied to its loungers: One infant was left unsupervised on the Podster inside a crib, and another was in a Podster placed between two parents on a bed, its [complaint said](#). In January, the agency alerted the company to a third death that it had linked to its product, of an infant who had been “put down for a nap and left unattended for a while” in 2021, said Oliver Dunford, a senior attorney for the Pacific Legal Foundation, a conservative group representing the company.

“The agency claims the Podster® is defective because it’s ‘reasonably foreseeable’ that parents and caregivers will ignore express warnings and fail to use common sense,” the Pacific Legal Foundation said in a [statement](#). “The claim is absurd: Consumers can ignore the warnings on any product.”

Pacific Legal Foundation and Leachco declined further comment.

It wasn’t until June 2022 — nearly a year after Biden made the nomination — that the third and final new CPSC commissioner, who had faced Senate Republican opposition, was confirmed. That gave Democrats the majority for the first time in the Biden administration.



The commission's new Democratic leadership has described loungers as a deadly and looming hazard that the agency must address through regulation, and added the task to the CPSC's operating plan for 2023.

"There is a long history here — too many children have died," said Hoehn-Saric, the CPSC chair.

## Death by Delay

---

- Lawmakers call for U.S. to 'eliminate' infant loungers after NBC investigation. Hundreds of children have been strangled on cords from window coverings in the past 50 years. Officials and manufacturers knew about the danger — why didn't they do more sooner?
- Babies set to sleep on nursing pillows can stop breathing in minutes. Dozens have died.
- Federal officials want to repeal a law that delayed warnings about dangerous products.
- Lawmakers call for U.S. to 'eliminate' infant loungers after NBC investigation.
- CPSC proposes major redesign of infant loungers.

The agency cannot produce a new rule overnight: Under federal law, staff must undertake a painstaking process of gathering and analyzing relevant data, researching incident reports, and justifying the need for regulation, which the commission will then vote on.

Feldman, the Republican commissioner, said the 2021 decision to slow new regulations will ultimately help produce a convincing, evidence-based proposal.

Others believe that the work could have begun sooner.

"There's a good possibility that further deaths would have been limited if the commission had been freer to take more decisive action," said Adler, the former Democratic commissioner.

Manufacturers say that the time has been put to good use: They point to the voluntary safety standards that are currently under development, which could include design guidelines and warning labels.

"It's a proven process. It's collaborative, and it brings together all the voices of everyone involved," said Rachael Shagott, an industry consultant who is leading the effort through ASTM International, an independent standards organization.

Work on those standards began in early 2022 and is expected to wrap up by the end of this year, Shagott said. The process is open to the public and includes consumer advocates, parents of infants who died in loungers and CPSC officials. But advocates point out that industry representatives significantly outnumber the rest — and the standards would not be binding.

“Waiting for that process to play itself out is ignoring what we already know,” said Nancy Cowles, executive director of Kids In Danger, a consumer advocacy group.

## **‘This could happen to any family’**

---

While the federal process inches forward, baby loungers are still readily available for sale in stores nationwide, and recalled models are easy to find secondhand. Listings for used Boppy loungers abound on Facebook Marketplace, even though the platform’s rules prohibit the sale of recalled items.

Boppy said it is “frustrated” that its recalled product is so easily found and that Facebook has failed to respond to takedown requests. In a statement, Facebook’s parent company Meta said it takes the issue seriously: “When we find listings that violate our rules, we remove them.”

“If we can’t make them safer, we’ve got to get rid of them.”

*Dr. Warren Seigel*

Some state lawmakers say infant loungers are so dangerous, they need to be banned immediately. In New York, legislators introduced a bill that would prohibit the sale of baby loungers statewide. The bipartisan bill — which appears to be the first of its kind — would fine retailers and secondhand dealers that list loungers for sale up to \$500.

“If we can’t make them safer, we’ve got to get rid of them,” said Dr. Warren Seigel, district chair of the American Academy of Pediatrics’ New York chapter, which advised lawmakers on the bill.

Democratic Assemblymember Amy Paulin drafted the bill after two mothers on her staff learned of the Boppy lounger recall. She hopes it will help pave the way for a nationwide ban.

“I do think the federal government moves a lot slower than the states, which is why we introduced the bill,” Paulin said. “The fact that New York will pass something will give impetus for the federal government to do the same.”

The window to act this year is closing: Paulin’s bill passed the Assembly in March but is awaiting action by the state Senate, whose last day in session is June 8.

Parker, Layla’s mom, hopes her daughter’s story will help save other babies.

“I want people to know her name,” she said. “I want people to know that this could happen to any family.”

And she believes federal regulators need to be more forthcoming about the danger.

“I just want this information to be pushed out there,” she said. “It seems kind of hushed to me.”



Layla Parker, 2 months old, died in a Boppy lounger in 2019. Courtesy Parker Family

*Suzy Khimm reported from Bethesda, Maryland, and West Conshohocken, Pennsylvania. Elizabeth Chuck reported from New York.*

**Methodology:** To compile the list of 25 deaths involving infant loungers, NBC News relied on autopsy reports; lawsuits and other court records; interviews with attorneys; the CPSC's [Clearinghouse data](#), which draws from death certificates, medical examiner reports, news articles and reports from local government agencies; and the CPSC's [SaferProducts.gov](#) database, which compiles reports from consumers, local health and government officials, and others. The Clearinghouse data and SaferProducts.gov reports are vetted by the CPSC before being posted online, though the agency does not guarantee their accuracy or completeness.

NBC News' list includes deaths caused by suffocation and positional asphyxiation in which babies were placed on infant loungers, as well as deaths in which the lounger is mentioned in a CPSC database as a contributing factor. It also includes fatal incidents for

which no cause of death was listed, but which involved a lounger, according to CPSC data and product safety reports to the agency. The list excludes deaths in which the cause was clearly unrelated to the lounger, such as deaths caused by blunt-force trauma. This list also excludes any potentially duplicative cases, based on the available information. Cases involving loungers were identified through the product name, manufacturer's name, and/or description of an incident involving a "newborn lounger" or "baby lounger."

**CLARIFICATION** (July 12, 2023, 10:11 a.m. ET): After this article was published, the coroner in Clark County, Nevada, determined that the death of an 11-month-old baby in March was caused by fentanyl and was not linked to a DockATot infant lounger. The coroner has now withdrawn its report to the Consumer Product Safety Commission linking the death to the lounger, "since the lounger wasn't involved," the commission said in an email. NBC News had included the infant's death in our count of fatalities linked to the lounger. The article has been updated to remove this death from that count.

# Nursing pillows are associated with more than 160 infant deaths, NBC News investigation finds

[nbcnews.com/news/us-news/nursing-pillow-baby-deaths-breastfeeding-infant-investigation-rcna97725](https://www.nbcnews.com/news/us-news/nursing-pillow-baby-deaths-breastfeeding-infant-investigation-rcna97725)

Suzy Khimm, Elizabeth Chuck, Kate Martin, Vicky Nguyen, Michelle Cho



Grieving parents said they had no idea that such a widely used product could be dangerous. Chelsea Stahl / NBC News; Family Handouts; Boppy

[U.S. news](#)

Federal officials are poised to propose the first safety requirements for nursing pillows. An industry-supported group is fighting back, arguing that government regulation of the widely used product could discourage breastfeeding.

*This article is Part 2 of "Death by Delay," a [series](#) on how consumer product hazards have cost lives.*

One infant was 22 days old, his body cold and still when his mother found him. Another, a fussy 2-month-old, was discovered unresponsive by his exhausted parents hours after they had brought him into bed late at night. A third suffocated while lying next to his twin brother in the bassinet they shared.

Before they died, all of the babies had been placed to sleep on nursing pillows — and their deaths were neither isolated nor unavoidable, an NBC News investigation found.

At least 162 babies under a year old have died in incidents involving nursing pillows since 2007, according to a first-of-its-kind analysis based on hundreds of public records as well as internal federal data. Some of the babies slumped down on the pillows or arched backward off of them, constricting their airways. Others turned their faces into the plush surface, suffocating as their parents slept feet away.

In some cases, the cause of death wasn't clear, but the babies were found on or with nursing pillows, sometimes while co-sleeping with parents or alongside soft bedding that also poses a suffocation risk. At least three incidents involved mothers who fell asleep while feeding their baby with a nursing pillow and awoke to find they couldn't rouse their child.

"You think, 'Well, we wouldn't be able to buy things that are potentially unsafe for our babies.' But yet, we can," said Dr. Elizabeth Murray of Golisano Children's Hospital in Rochester, New York, who sees babies nearly every year who have died after they were placed to sleep on nursing pillows.

## Read more on consumer product hazards

---

- **Part 1 of "Death by Delay": [As federal officials delayed rules on infant loungers, babies continued to die](#)**
- [Weighted sleep sacks are unsafe for infants, national pediatricians' group says](#)
- [Grieving parents demand online listings for Rock 'n Plays be removed before more babies die](#)

Nursing pillows have become a must-have item for many new parents, with 1.34 million sold per year in the U.S., according to [industry estimates](#). The horseshoe-shaped cushions, which come in a variety of colorful prints, are marketed as essential for the early months of life, when babies need to be fed frequently. Manufacturers say they're safe if used as intended: to help caregivers cradle their babies while breastfeeding or bottle-feeding them.

But infants left unsupervised on the cushions or allowed to sleep with them — against the products' warning labels — can stop breathing within minutes.



Taylor Wells at her daughter's grave in Belmont, Miss. Autumn Wells died in March 2022 at 4 months old while napping on a nursing pillow at day care, according to police. Andrea Morales for NBC News

NBC News' count of deaths is based on a range of records, including reports by consumers and local officials reviewed by federal authorities; law enforcement and medical examiners' reports; and federal data obtained through a Freedom of Information Act request.

The count includes deaths caused by suffocation or restricted airways in incidents involving nursing pillows. In some cases, other causes were listed, such as pneumonia, or the cause of death was undetermined, unexplained or not listed, but a nursing pillow was mentioned as a potential factor. In most cases, the brand of nursing pillow was not specified. (For the full methodology, see below.)

The vast majority of the babies were less than 4 months old; the youngest was just 3 days old.

NBC News' list is almost certainly an undercount, as autopsy reports do not always include details about specific products and often are not made public. Separately, state officials in Oklahoma and [Indiana](#) told NBC News they have tallied dozens of deaths in which nursing pillows were found in infants' sleep areas, most of which were not included in NBC News' count because there were not enough details.

Grieving parents said they had no idea the widely used product could be dangerous.

“I never would have brought that damn thing in my house,” said Janea Ivory of Springfield, Ohio, whose 3-month-old daughter, Reagan Merriweather, died napping on a nursing pillow in July 2010. “It looked safe, for heaven’s sake.”



Janea Ivory with her daughter, Reagan Merriweather. Courtesy Janea Ivory

Federal regulators have been aware of the hazard for decades. But it was not until 2020 that the Consumer Product Safety Commission warned consumers that nursing pillows and other similar products “are not designed for sleep and are not safe for sleep.” The agency added that it was investigating fatal incidents but did not say how many.

After years of delays, the CPSC is now preparing to take the first steps toward rules to make nursing pillows safer, with a proposal expected in the coming weeks. Alex Hoehn-Saric, the agency’s chair, recently said at a conference that the CPSC has identified more than 130 deaths associated with nursing pillows over a 10-year period, a figure that does not include some of the deaths on NBC News’ list.

“I’m very concerned, given the large number of deaths,” Hoehn-Saric, who was nominated by President Joe Biden, said in a recent interview. “We need to move forward as quickly as possible.”

But several leading manufacturers of baby products are pushing back against the prospect of new regulation.



The Breastfeeding Infant Development Support Alliance (BFIDSA), which formed last year, is leading a lobbying and PR push whose funders include The Boppy Company and Snuggle Me Organic, two nursing pillow manufacturers. The coalition, which has enlisted support from nonprofit groups, health professionals and small businesses catering to new parents, is framing its effort as a feminist cause.

“Women’s rights are being gutted — and the ability for women and parents to choose how they feed their baby is next on the chopping block,” the alliance says on its website. It warned that federal regulators, who have not yet unveiled their proposal, want to “impose the will of government over the needs of mothers,” requiring such drastic design changes that products would have to be pulled from the market.

That could “have a negative impact on breastfeeding” or prompt some caregivers to turn to makeshift solutions that could be dangerous, the alliance said in a statement to NBC News. “It is imperative to have safe products on the market that properly assist parents in caring for their babies.”

Instead of mandating changes, the CPSC should “invest in an extensive campaign to educate consumers on safe sleep practices” and defer to voluntary safety standards that are currently under development, the group added.

When asked for comment, Boppy said, “As a member of BFIDSA, we support their position and responses to your questions.” Snuggle Me did not respond.

The campaign — which has spent about \$150,000 on lobbying since last year, according to estimates in federal disclosures — has infuriated some regulators and safety advocates who accuse manufacturers of undermining efforts to save babies’ lives.

“Any infant death is too many,” said Courtney Griffin, director of consumer product safety for the Consumer Federation of America, a nonprofit advocacy group, “and any number beyond that is outrageous.”

## **‘It’s not worth an entire life’**

---

Sterling Gerber was just shy of 7 months old when he was found unresponsive after falling asleep on a nursing pillow on the floor of his Oklahoma day care in July 2018, according to a police report obtained through a public records request.

The little boy, described by his mom as “one of the happiest babies,” was rushed to the hospital, where he was put on life support. But doctors told his parents he had been without oxygen too long to recover, said Sterling’s mother, Allison Blackburn. A medical examiner ruled it a “sudden unexplained infant death,” and the day care, which had been cited for multiple violations, shut down shortly afterward. The law firm that represented the day care declined to comment.



Allison Blackburn and her son, Sterling Gerber, who died in 2018. Courtesy Allison Blackburn

Blackburn has since warned as many parents as possible not to buy nursing pillows.

“It’s not worth risking putting your baby in a pillow,” said Blackburn, who now lives in Aurora, Colorado. “It’s not worth an entire life.”

Blackburn has kept mementos of her son’s brief life, including a box of Sterling’s clothes that she’s left untouched the past five years. She has two other boys, ages 3 and 4, who are learning ways to honor their big brother’s memory.

“We do kind of what we call a ‘yes day’ on his passing day, where we go out and do whatever they want,” such as buying toys or eating chicken nuggets for all three meals, Blackburn said. “Anything that they ask, they get — for one day.”

William Allen Cruze Lowe, known as “Cruze,” was 19 days old in June 2021 when his mom propped him up on a nursing pillow to sleep at home in Clinton, Tennessee. He had some sniffles, and his mother said she thought the elevated angle would help him breathe more easily.



Courtney McBride with her son, William Allen Cruze Lowe, who was 19 days old when he died. Courtesy Courtney McBride

In the morning, Cruze's father, William Lowe, reached for his son's tiny hand, expecting the baby to make a fist around his finger like he always did. But Cruze didn't move.

Cruze's cause of death was acute bronchopneumonia, a medical examiner's report concluded, adding that the unsafe sleep environment "likely contributed to the demise."

Lowe still wonders if he could have saved his son.

"If I had woke up 10 minutes earlier, I could have got him," he said.

Cruze's mom, Courtney McBride, said that she didn't know how sick her baby was, or that the pillow could cause him harm. She said that unlike the recalled Fisher-Price Rock 'n Play sleeper, which has been tied to the deaths of about 100 babies, she had never heard safety concerns related to nursing pillows.

"I never thought it would be anything that could contribute to a life-or-death situation," she said.

## **A new product, and new concerns**

---

Nursing pillows are a relatively new innovation — and it took time for them to catch on.

Susan Henderson, a Colorado mother, invented the C-shaped Boppy pillow in 1989, after her daughter's day care asked parents to bring in pillows that could be used to support babies who couldn't yet sit on their own.

She said she soon realized that the pillow could be even more useful as a nursing support to reduce mothers' neck and arm strain as they held and fed their babies. The pillows can position babies more comfortably as they latch onto the breast, which helps with milk production — one of many challenges new moms can face.

During the first few years, Henderson's company struggled to stay afloat, but the Boppy soon took off. A growing number of Americans were embracing breastfeeding, encouraged by public health campaigns and research showing the benefits for both babies and mothers. By 2006, The Boppy Company had reportedly reached \$15 million to \$25 million in annual sales; the company was sold two years later. Nursing pillows are now a mainstay of baby registry lists, and Boppy competitors have swarmed the market.

While most nursing pillows have labels warning against using them unsupervised or for sleep, some, including Boppy, have also been labeled or marketed as places for infants to practice tummy time on their stomachs, or as a support for sitting or reclining.

"The Boppy pillow is not limited to breastfeeding; it offers a range of versatile uses," the company says on its website. Leachco similarly describes its nursing pillow as a "multipurpose" product suitable for supervised tummy time or for lounging while awake.

That might lead caregivers to believe it's safe to leave their baby unattended in those positions, some safety advocates and medical experts said. But that can quickly turn deadly.

“Absolutely use it to support breastfeeding so you're comfortable and the baby's comfortable,” said Dr. Lois Kaye Lee, who chairs the council for injury, violence and poison prevention at the American Academy of Pediatrics. “But after that, put it away.”

Some manufacturers are promoting a similar message: On Amazon, Snuggle Me says its nursing pillows — described as “feeding supports” — should never be used “for propping, sitting up or tummy time.”



The Boppy Original Support Nursing Pillow, the Boston Billow Bedford Nursing Pillow and the Leachco Cuddle-U Nursing Pillow. Boppy; Boston Billow; Leachco

Babies are particularly vulnerable to the threat posed by pillows and similar soft objects as they sleep, said Erin Mannen, assistant professor of mechanical and biomedical engineering at Boise State University, who has studied the issue. While adults and older children have an internal arousal response that wakes them up when there's danger, babies have a less developed response — and don't have the muscle strength and motor control to get themselves out of an unsafe position on soft cushions, Mannen said.

“Sometimes 15 minutes away from the baby is something that we need for our sanity,” she said. “Unfortunately, even in that short amount of time, some really dangerous and sad situations can occur if babies aren't in safe products.”

As nursing pillows grew more popular, medical experts and safety regulators were becoming increasingly concerned about the dangers of soft surfaces, bedding and other objects surrounding babies as they slept. In 1992, the CPSC banned beanbag-like infant cushions after dozens of babies died. Four years later, the American Academy of Pediatrics recommended that babies sleep on a firm surface without any soft bedding to reduce the risk of sudden infant death syndrome, in addition to being placed on their backs.

In 2004, federal regulators announced the first — and so far, only — recall of a nursing pillow.

Unlike most nursing pillows, which are stuffed with foam or polyester fiber, the Boston Billow is filled with plastic beads that mold to the shape of a baby's head and body. In its recall announcement, the CPSC said the product was prohibited under the 1992 ban. The agency did not mention any deaths or injuries in the recall announcement, but warned that infants were at risk of suffocation if "placed on these pillows and left unattended."

The company fought back, and in 2008, the agency reversed course and ruled that the Billow — and other "substantially similar" nursing pillows — were exempt from the infant cushion ban. The CPSC said at the time that nursing pillows served a useful purpose and that infants were unlikely to suffocate if the pillows were used properly for breastfeeding.

Boston Billows, which continues to sell the same nursing pillow, said it is unaware of any safety incidents involving its products. (NBC News did not identify any deaths associated with the Billow.)

Ken Igoe, the company's co-founder and CEO, said in an interview the Billow was never designed or marketed to prop up babies and he faulted companies that did so.

"They're promoting the use of a product in an unsafe way," he said. "And that may be contributing to these tragic deaths."



Photographs of Autumn Wells at her mother Taylor Wells' home in Belmont, Miss. Andrea Morales for NBC News

## The first warning

---

Over the next decade, evidence continued to mount that babies were dying in their sleep in soft bedding — and that their deaths were avoidable.

In December 2019, a study by researchers with the Centers for Disease Control and Prevention identified 141 deaths of babies who had been set down to sleep on or with U-shaped pillows over a 12-year period. It determined that the pillow was directly to blame for airway obstruction in at least nine of the cases.

The following October, alarmed by growing reports that babies were dying in nursing pillows as well as infant loungers — cushioned pads meant for supervised awake time — the CPSC issued a general public warning against using any “pillow-like products” for sleep. The 2020 warning mentioned deaths “possibly associated” with the pillows but did not give a number.

By 2021, CPSC commissioners were deciding whether to move forward with a proposal to expand the 1992 ban, which could potentially target nursing pillows and loungers. The CPSC ultimately delayed that plan — and in the meantime commissioned new research and worked with industry representatives and consumer advocates on voluntary safety standards, which are still being drafted.

“Under our statute, we cannot put rules in place by snapping our fingers,” CPSC Commissioner Peter Feldman said in a statement. “Courts will block agency action when we take shortcuts.”

Mannen, the Boise State professor, spearheaded the research the CPSC commissioned, which was released in October 2022. Her team examined 28 cases from January 2019 to March 2021 in which nursing pillows, or nursing pillows that are also marketed as loungers, were tied to babies’ deaths. Two of the deaths occurred when mothers breastfeeding their babies fell asleep themselves, while the rest occurred when infants were laid down on the nursing pillows to sleep.

Mannen believes that firmer nursing pillows with defined edges are safer than the rounded, tubular design because firmer pillows would be a less inviting place to set babies down. Others have suggested widening the curve of the pillows to make it harder to prop up babies on them.

While Mannen did not specify brands that follow her recommendations, one that might fit the criteria is My Brest Friend, a nursing pillow that launched in 1995 and has a firmer surface, a sharper edge and a wider curve than tighter C-shaped pillows like the Boppy. Made by Zenoff Products, My Brest Friend was solely designed for breastfeeding and is not conducive to other uses, like propping a baby, according to Andrew Zenoff, the company’s founder and CEO.

Last year, the family of a 3-month-old who died on a nursing pillow in New Jersey in 2020 sued Boppy and its parent company, alleging that they knew or should have known about the product’s “defective and unreasonably dangerous design,” yet continued to sell it



anyway. The companies denied this in court filings and said the baby's parents were "guilty of negligence which either caused or contributed" to their infant's death. The case is ongoing.

Dr. Rachel Moon, who leads the SIDS task force for the American Academy of Pediatrics, argues that it's the manufacturers' responsibility to make their products' design less deadly.

"You have to make sure that it's going to still be safe, even if people don't use it correctly," she said. "Because these are babies — the babies can't protect themselves, and they can't make those decisions."



Autumn Wells' grandfather, Joel Wells, at the family burial plot. Andrea Morales for NBC News

## A battle over the nursing pillow's future

---

While the Consumer Product Safety Commission didn't move forward with a plan to regulate nursing pillows in 2021, it became clear to the industry that it could only be a matter of time before federal regulators proposed rules that could dramatically alter the business.

The Breastfeeding Infant Development Support Alliance launched last year; by April 2022, Boppy and Snuggle Me had each contributed more than \$5,000, according to [federal lobbying disclosures](#). The group hired lobbyists from Bracewell, a prominent industry law firm, and met with CPSC commissioners and their staff at least three times last year, agency records show.

In meetings last summer, members of the alliance — including Boppy’s co-CEO, Snuggle Me’s chief sales officer, Bracewell lobbyists and a doula who is also a breastfeeding counselor — said they were concerned that the CPSC might expand the 1992 infant cushion ban.

The group said the idea “came out of nowhere and scared the stakeholders,” according to notes from July 2022 meetings with CPSC Commissioner Feldman and CPSC Chair Hoehn-Saric’s staff, provided to NBC News by an attendee.

Members of the alliance warned that if nursing pillows were not readily available, mothers might resort to using standard pillows to make themselves comfortable while breastfeeding instead — which they argued would be even more unsafe, according to the attendee’s notes.

When a CPSC staffer asked what companies could do to stop parents from misusing the products, Boppy and Snuggle Me emphasized that their warning labels instruct consumers to use their products only for awake time, and pointed to their work on voluntary safety standards, according to the meeting notes.

The companies, overall, “stressed that they’re not the culprit,” the notes said.

Three months later, in October 2022, the CPSC released its operating plan for the following year: It would finally propose the first federal safety regulations for nursing pillows, but not as an expansion of the infant cushion ban.

Since then, the industry-backed group has ramped up its campaign. Shortly after Mother’s Day, the Breastfeeding Infant Development Support Alliance issued a press release urging the public to “fight for moms’ rights” by opposing a threat by the CPSC “to significantly change or even ban Nursing Pillows.”

CPSC commissioners began receiving hundreds of emails urging them to “#SupportMoms by protecting nursing pillows” from regulatory overreach, echoing the alliance’s website. The group has also held meetings on Capitol Hill to keep members of Congress “informed of progress,” it said in a statement.

Supporters of the alliance — who include a pediatrician who previously served as a paid consultant for Boppy and nonprofit groups that have received donations from the company — said in interviews that they stepped up not because of their past relationships with manufacturers but because they back the cause.

Dr. Ian Paul, a professor at the Penn State College of Medicine who testified on the alliance’s behalf in 2022, said that nursing pillows benefit a huge number of people and are safe if used properly.

“These extremely rare events are tragic,” he said, but “given how often these pillows are used, the likelihood is very, very low.”

First Candle, a nonprofit group focused on SIDS prevention, is not a member of the alliance but endorses its effort to protect nursing pillows.

“Without this support, breastfeeding could very well become too difficult for mothers, and they will simply give up,” the group said, pointing out that breastfeeding has been associated with reduced risk of SIDS.

Hoehn-Saric, the CPSC chair, accused industry representatives of using “scare tactics” and “disinformation” to mislead the public. “I have been clear that I don’t want to ban nursing pillows; I want to make them safer,” he added in an emailed statement.

Feldman, the CPSC’s sole Republican commissioner, countered that the industry’s concerns about a ban “are not unfounded,” since new rules could have the same effect as a ban by forcing products off the market.

The CPSC is expected to unveil its proposal in the coming weeks. But given the lengthy rulemaking process, which includes a public comment period, the fight could drag on for years.

## **‘There’s nothing that’s going to bring my child back’**

---

At least 36 babies have died in incidents involving nursing pillows since the CPSC’s first and only warning to the public in October 2020, according to NBC News’ investigation. One of them was 4-month-old Autumn Wells.

It was March 2022, and Autumn’s mother, Taylor Wells, was getting excited to celebrate her daughter’s first Easter. She had ordered her a frilly dress with bunnies on it and a little fabric basket embroidered with Autumn’s name. She couldn’t wait to spend the holiday with her active, curious daughter.



Taylor Wells said her daughter, Autumn, always seemed curious about the world around her. Andrea Morales for NBC News

“She would try to stand up,” Wells said. “She had places to be.”

On March 9, Wells, of Belmont, Mississippi, dropped Autumn off at day care and then went to her job at a nearby motorhome factory. That day, staff placed Autumn face-down in a Leachco nursing pillow for a nap and covered her with a blanket, according to police and court documents.

Day care employees discovered Autumn unresponsive. A local coroner found that she had died of asphyxia and blamed the “unsafe sleep environment,” including the nursing pillow and blanket. Leachco did not answer questions and referred to the statement provided by the Breastfeeding Infant Development Support Alliance.

Five people have been indicted in Autumn’s death, including two former day care employees who face manslaughter charges; all have pleaded not guilty. (An attorney for the day care center did not respond to calls and emails.)

“There is no justice in a case like this,” Wells said. “There’s nothing that’s going to bring my child back.”

Autumn wore the new dress her mom got her, but not on Easter. Instead, she was buried in it.

---

**Methodology:** To compile the list of 162 deaths of babies less than 1 year old in incidents involving nursing pillows, NBC News relied on autopsy reports; child fatality reports; state death databases; lawsuits and other court records; and vetted media clips. We also relied on the Consumer Product Safety Commission’s Clearinghouse data, which draws from death certificates, medical examiner reports, news articles and reports from local government agencies. In addition, we drew from the CPSC’s SaferProducts.gov database, which compiles reports from consumers, local health and government officials, and others. And we obtained a list of deaths that the CPSC sent to ASTM International, a technical standards development organization that works on voluntary safety standards.

The Clearinghouse data and SaferProducts.gov reports are reviewed by the CPSC before being posted online or released through Freedom of Information Act requests, though the agency does not guarantee their accuracy or completeness. The database of deaths the CPSC sent to ASTM International as part of a voluntary standards process was also reviewed by the CPSC and is more detailed than Clearinghouse or SaferProducts.gov.

NBC News’ list includes deaths caused by suffocation, positional asphyxia and SIDS in which babies were placed on nursing pillows to sleep or were propped on nursing pillows while breastfeeding or bottle-feeding. It also includes deaths in which the nursing pillow is mentioned as a contributing factor in an unsafe sleep environment that may also involve other factors, such as soft bedding or a bottle left propped in a baby’s mouth. In some incidents, additional causes of death are listed, such as prematurity, a respiratory illness

or co-sleeping with an adult. The list also includes incidents for which no cause of death was listed, or for which the cause was listed as “undetermined” or pending, but which involved a nursing pillow, according to CPSC data and product safety reports to the agency.

The list excludes deaths in which the cause appeared not to be directly related to the nursing pillow, such as deaths caused by blunt-force trauma; deaths in which the baby rolled off the nursing pillow and fell to the floor; and deaths caused by a drug. This list also excludes any potentially duplicative cases, based on the location, date of death and other incident details.

To corroborate information on the deaths, NBC News sought autopsy reports and death certificates through public records requests, obtaining reports from police, medical examiners, child welfare offices and health departments, among other sources. In many cases, it was not possible to obtain autopsy reports or death certificates because the CPSC did not provide detailed location information or because states or local authorities declined to make the documents public.

# 5 takeaways from NBC News' yearlong investigation into deadly consumer products

[nbcnews.com/news/us-news/consumer-product-safety-commission-death-delay-takeaways-rcna130399](https://www.nbcnews.com/news/us-news/consumer-product-safety-commission-death-delay-takeaways-rcna130399)

Suzy Khimm, Elizabeth Chuck



*This article is part of “Death by Delay,” a series on how consumer product hazards have cost lives.*

The federal agency tasked with protecting the public from hazardous products often knows about dangerous and deadly items for years before it takes action.

The Consumer Product Safety Commission, which oversees about 15,000 types of products, is constrained by a system that is slow to identify deaths and limits the federal government's power over manufacturers, NBC News revealed in a yearlong project examining the agency.

Manufacturers say restrictions on the CPSC's authority are necessary guardrails that protect against government overreach and help encourage the development of industry-led voluntary safety standards that are more effective than federal regulation.

But the limits facing America's consumer product safety system also mean that it can take years, even decades, for safety requirements to be put into place.

As that process grinds on, some of the most vulnerable Americans continue to die from products that both regulators and manufacturers know to be hazardous, reporters found: Dozens of babies have died on infant loungers and nursing pillows, and hundreds of toddlers and young children have been accidentally strangled to death on the cords of window blinds, curtains and shades.

Here are five takeaways from NBC News' reporting:

## 1) Death reporting lags behind

---

To justify a new rule or a recall of a hazardous product, the CPSC needs to have evidence that the product poses a risk to consumers — often relying on data that is incomplete and can be delayed for years, experts told NBC News.

Death investigations are usually the responsibility of state and local authorities, who do not always describe the role that a consumer product may have played in fatal incidents or include the product's manufacturer or model. The CPSC has a program that allows medical examiners and coroners to quickly and directly report deaths to the agency, but participation is voluntary and submissions can be incomplete.

That leaves the CPSC to rely on outside sources like news clips, reports submitted by consumers, health professionals and local officials, and death certificates that lag months or even years behind. Under federal law, manufacturers are required to tell the CPSC when they receive information that a product could create “an unreasonable risk of serious injury or death,” but companies are not always forthcoming. The CPSC also conducts its own in-depth investigations into some deaths, which are time- and labor-intensive.

Such obstacles can end up delaying federal action, as well as the information that reaches the public about dangerous products, NBC News found.

To compile its own count of deaths related to nursing pillows and loungers, NBC News drew from incident data listed in two CPSC databases, the Clearinghouse and SaferProducts.gov. This data is often incomplete and limited, so reporters also relied on hundreds of public records requests and dozens of interviews with family members and attorneys, among other sources.

The CPSC periodically updates its own counts of product-related injuries and deaths based on new information that may come in long after the fact. In an investigation published this week, NBC News found that at least 440 children ages 8 and under were accidentally strangled to death on window covering cords from 1973 to 2022, according to a review of CPSC reports and data obtained through a public records request.

Shortly after NBC News published its story, the CPSC released new data showing that more deaths had occurred in recent years than the agency had previously reported. According to the new data, at least 16 additional children were strangled to death on window cords, raising the total death toll to at least 456.

### Death by Delay

---

- Hundreds of children have been strangled on cords from window coverings in the past 50 years. Officials and manufacturers knew about the danger — why didn't they do more sooner?
- Popular baby loungers are tied to more deaths than U.S. officials previously announced.

- Babies set to sleep on nursing pillows can stop breathing in minutes. Dozens have died.
- Federal officials want to repeal a law that delayed warnings about dangerous products.

## 2) Federal regulators may wait for a ‘body count’ before taking action

---

The lag in reporting to the CPSC can have a major impact, because the agency may hold off on pursuing a new safety rule or product recall until it has evidence that people are dying or being seriously injured. In practice, that can mean more people will be harmed before officials decide to step in, said Elliot Kaye, a Democrat who chaired the CPSC from 2014 to 2017 and expressed frustration with that mindset.

“There has to be a body count before we can act,” he said in a recent interview. “And then that’s often not enough — because there are so many hurdles to overcome.”

Even once the CPSC decides there is enough evidence to take action on a product, the agency often begins by singling out one manufacturer at a time, rather than tackling the entire class of products immediately.

In September 2021, for example, the CPSC and The Boppy Company announced a recall of millions of pillow-like infant loungers after the deaths of eight babies — the first time that the federal government acknowledged deaths linked to the product. But soon afterward, the CPSC delayed a broader plan to regulate loungers and other infant cushions.

Yet babies had died years earlier in incidents involving loungers sold by other manufacturers. In May, NBC News reported that there had been at least 25 deaths since 2015, most commonly when babies suffocated or asphyxiated after being placed to sleep on the cushions, against manufacturers’ instructions. Infant loungers sold by at least four other manufacturers were involved in the deaths tallied by NBC News.

## 3) Critics say the CPSC is hamstrung by federal law

---

Even when the CPSC decides that a product is so hazardous that federal regulators need to intervene, the agency is constrained by laws designed to limit its ability to act on its own.

Under a federal provision known as Section 6(b), the CPSC must consult with manufacturers before disclosing information about specific products, even if officials deem the items so dangerous that the agency wants to issue a public warning or pursue a recall. No other federal health or safety agency is similarly restricted.

Industry leaders say that Section 6(b) — created under the Reagan administration — is a necessary backstop. The measure guards against “the release of incomplete or inaccurate information that creates unnecessary worry and confusion,” Lisa Trofe,



executive director of the Juvenile Products Manufacturers Association, said in a statement.

But some Democratic lawmakers and CPSC commissioners are now calling for its repeal, blaming the provision for delaying public warnings about deadly products such as baby loungers and treadmills.

“It is an aberration — it is an isolated instance of industry throttling an agency,” Sen. Richard Blumenthal, D-Conn., said earlier this year. Along with Rep. Jan Schakowsky, D-Ill., Blumenthal has introduced legislation to repeal Section 6(b), but it has yet to advance.

#### **4) CPSC must show current standards fall short**

---

Another Reagan-era provision gives manufacturers a way to head off mandatory safety rules: They can create a voluntary standard instead.

Voluntary standards are created outside of the federal government through a process that can proceed more quickly than federal rulemaking. While the effort is collaborative, typically involving the CPSC and consumer advocates, it is often led or heavily influenced by manufacturers.

If a voluntary standard is in place for a product, the CPSC must first determine whether it is effective and broadly adopted by manufacturers before the agency can create mandatory safety requirements.

That can contribute to delays in federal action and make regulators more cautious about pushing for mandatory requirements, current and former CPSC commissioners said. In some cases, regulators will wait for decades before moving forward with federal rules for common household products, even when young children continue to suffer gruesome deaths, NBC News found.

For example, the window covering industry spent many years regularly updating its voluntary standard for corded blinds, shades and curtains, making safety improvements in partnership with the CPSC. But the CPSC eventually determined that the voluntary standard failed to do enough to protect children and in 2022 issued its first mandatory rules — nearly 37 years after its first public warning about the hazard.

The industry immediately challenged one of the two new rules, focused on custom-made window coverings, saying that it was based on faulty analysis and would have a calamitous financial impact on some manufacturers. A federal court agreed that the CPSC hadn't followed proper procedures and tossed the rule this fall, though the other CPSC rule focused on window coverings purchased off the shelf remains in effect.

The Window Covering Manufacturers Association, the group that sued the CPSC, said in a recent statement to NBC News that deaths are now “extremely rare” in the U.S. thanks to the industry's voluntary standard.

The CPSC — which says that about nine children a year still strangle themselves to death on window cords — plans to propose a new mandatory rule next year.

## 5) Deaths can lead to action — but it takes time

---

Despite the regulatory barriers that it faces, the CPSC has stepped up its pursuit of mandatory rulemaking and unilateral warnings about product hazards.

“While reporting delays and regulatory requirements can at times significantly lengthen the rule writing process, the agency is committed to leveraging all of its authority to protect consumers,” the CPSC said in a statement.

In some cases, the CPSC’s action has come after news coverage, moves by lawmakers and pressure from grieving parents.

This summer, NBC News reported that at least 162 babies under a year old had died in incidents involving nursing pillows since 2007, but there were no federal safety rules for the popular infant product. The babies typically died from suffocation or asphyxiation after being placed to sleep on the pillows, which goes against manufacturers’ instructions.

The monthslong investigation revealed a significantly higher number of deaths linked to nursing pillows than the CPSC had publicly disclosed. To compile and corroborate its count of the deaths, NBC News relied on autopsies, death certificates, police reports and child welfare and health department records obtained through Freedom of Information Act requests.

NBC News used a similar approach to its investigation of infant loungers last spring, which also revealed more deaths than the CPSC had previously disclosed.

The CPSC recently began pursuing the first mandatory federal safety rules for nursing pillows and infant loungers, which would require significant design changes to both products with the goal of making them safer. The proposals are now going through the lengthy rulemaking process before being finalized, and it could be years before they take effect.

# Blinds and other window coverings can injure or kill children. Here's how parents can reduce the risk.

---

 [nbcnews.com/news/us-news/child-safe-window-blinds-cordless-shades-prevent-death-injury-rcna130398](https://www.nbcnews.com/news/us-news/child-safe-window-blinds-cordless-shades-prevent-death-injury-rcna130398)

Aria Bendix, Suzy Khimm, Elizabeth Chuck

*This article is part of "Death by Delay," a series on how consumer product hazards have cost lives.*

Window blinds, curtains and shades can injure or kill young children if the dangling cords are accessible to tiny hands. In the last 50 years, hundreds of children in the United States have gotten the cords looped around their necks, strangling themselves to death.

An NBC News investigation found that at least 440 children ages 8 and under have been strangled to death by corded window coverings since 1973. About nine children under age 5 still die every year because of this hazard, according to the Consumer Product Safety Commission.

"They're very curious and they love playing with anything besides toys, so they get tangled up in them and they don't developmentally have the awareness of how to untangle themselves," said Christine Vitale, manager of injury prevention at UPMC Children's Hospital of Pittsburgh.

A study published in the journal Pediatrics looking at injuries related to blinds and shades from 1990 to 2015 found that children were most likely to be injured on the cords that people use to operate the window coverings, though some are also injured from the inner cords that hold the blind slats together.

"In many of these cases, these were children who were put in their own bedroom to go to sleep," said Dr. Gary Smith, director of the Center for Injury Research and Policy at Nationwide Children's Hospital in Columbus, Ohio, and one of the study's researchers. "The parent left the room to allow them to go to sleep, didn't understand that the window blinds that they had in the room had accessible cords and the child must have climbed over and started playing with them."

Experts say there are clear ways to prevent injuries.

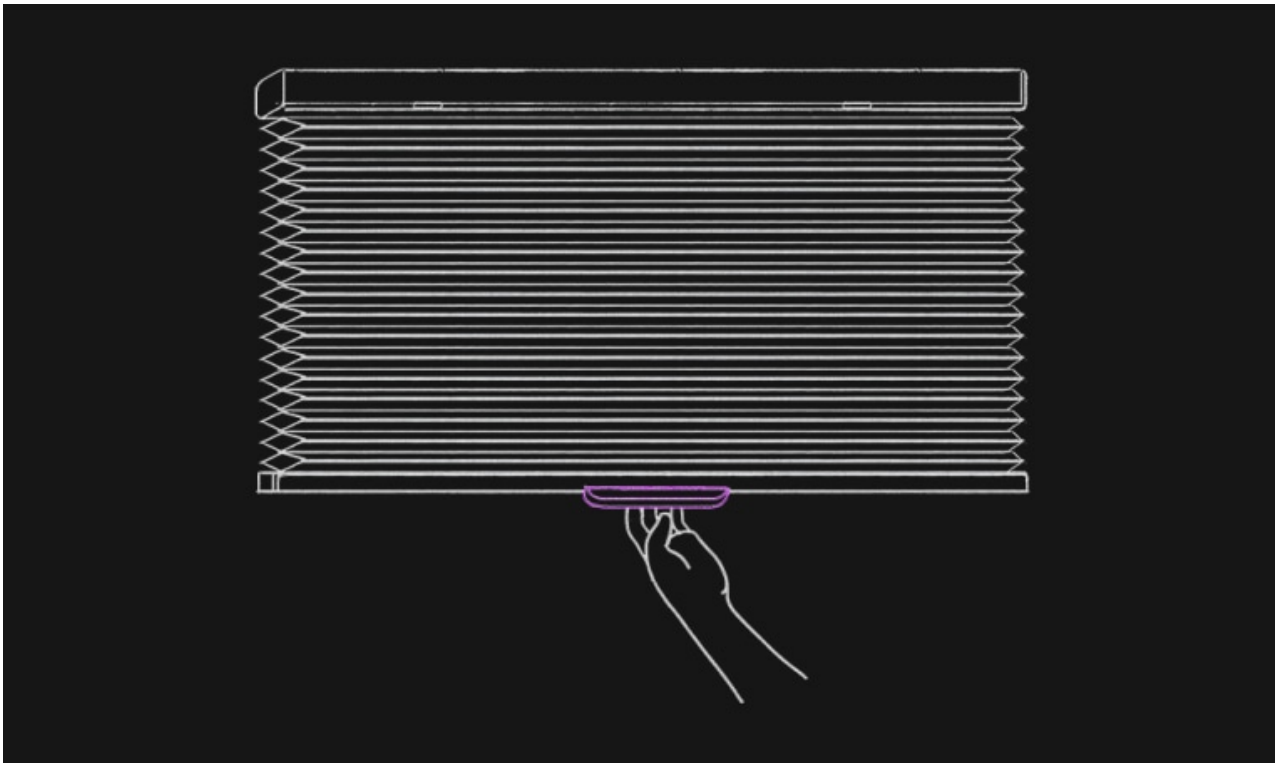
## **The best option: Cordless window coverings**

---

The safest course of action is to replace any window coverings that have cords with cordless versions, Vitale said.

In 2018, the window covering industry released a safety standard with new requirements for stock window coverings purchased off the shelf, instructing manufacturers to make them cordless, limit operating cords to 8 inches long or make the cords inaccessible

through a safety device like a rigid covering. The standard was voluntary until 2022, when the CPSC made the requirements mandatory for all stock window coverings.



A cordless window covering. Ibrahim Rayintakath for NBC News

However, since the rule is relatively new and window coverings typically aren't replaced often, many households still have window coverings with hazardous cords. And the rule doesn't apply to operating cords on custom window coverings.

Gabe Knight, a policy analyst for Consumer Reports' safety policy team, advises that when shopping online "make sure the product is described explicitly as 'cordless,'" since corded window coverings are still available.

If replacing all the blinds in a home isn't an option, safety experts recommend starting with places where children spend the most time, such as bedrooms and living rooms.

## Death by Delay

---

- Hundreds of children have been strangled on cords from window coverings in the past 50 years. Officials and manufacturers knew about the danger — why didn't they do more sooner?
- Popular baby loungers are tied to more deaths than U.S. officials previously announced.
- Babies set to sleep on nursing pillows can stop breathing in minutes. Dozens have died.

## If cordless isn't possible, a few devices can help

---

Both [the CPSC](#) and the [Window Covering Safety Council](#), an industry coalition, urge consumers to use cordless products in homes with young children.

But people can take other steps to make window coverings safer, even if they don't fully eliminate the risk.

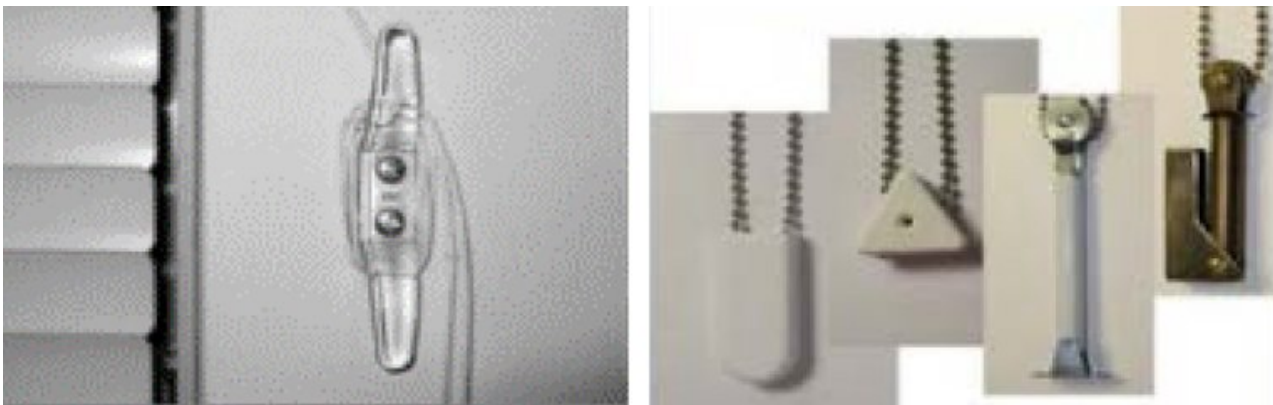
Most importantly, families should try to keep dangling cords out of reach, experts said.

One option for pull cords is to cut them shorter. The blinds should still work properly, Vitale said. "You just don't want to have them hanging down where they can form a loop."

Tying the cords in a knot, however, isn't a good idea because it can create a dangerous loop, experts said.

Safety devices are also available to make cords less accessible and hazardous.

People can order [free kits online](#) from the Window Covering Safety Council that include stationary cord holders, sometimes called [cleats](#), which can be mounted high on a wall with the cords wrapped manually around them. The cords need to be rewrapped every time the window coverings are opened or closed.



Cord cleats, pictured on the left, and tension devices can make cords less hazardous. Consumer Product Safety Commission

For cords or bead chains that form a continuous loop from top to bottom — the kind raised or lowered by pulling on opposite sides of the loop, often used for roll-up shades — consumers can purchase a [tension device](#) that keeps the cord taut and is anchored to the floor or wall. They can also [order one for free](#) through the Window Covering Safety Council.

For roll-up blinds or Roman shades, kits are available that require people to remove the operating cord, then attach metal rings or plastic clips to hold the blinds in place when they're raised.

To reduce the danger from the inner cords that run through window coverings, experts recommend cord stops, which are also [available for free](#). The doughnut-shaped plastic devices hold the inner cords in place so kids can't pull them through blind slats or make

them into a loop. The CPSC advises placing them within an inch or two from the top of the blinds when the blinds are fully lowered.

Another option is a small device called a cord wind-up, some experts said. The round, plastic product clips to and hangs on blind cords, and can be twisted to wrap up the cord, so it's harder for young children to reach.

## **Move furniture and toys away from windows**

---

Finally, caregivers can move furniture such as cribs or beds away from windows to reduce the risk, since children can climb on them to access window coverings; they should also avoid placing kids' toys near windows.

But caregivers should be aware that children can move furniture and other objects over to the window and climb on them to reach for cords.

Experts said it's easy to overlook a hazard linked to such an ordinary household product.

"There are safe alternatives on the market that would prevent these deaths," Smith said, but "these kids are continuing to be put in harm's way and consumers don't necessarily understand that it can happen to their child."



[Aria Bendix](#)

Aria Bendix is the breaking health reporter for NBC News Digital.

Suzy Khimm and Elizabeth Chuck contributed.

# Grieving parents demand online listings for Rock 'n Plays be removed before more babies die

[nbcnews.com/news/us-news/grieving-parents-demand-facebook-listings-rock-n-plays-removed-rcna80463](https://www.nbcnews.com/news/us-news/grieving-parents-demand-facebook-listings-rock-n-plays-removed-rcna80463)

Elizabeth Chuck, Suzy Khimm



*This article is part of “Death by Delay,” a series on how consumer product hazards have cost lives.*

In September 2011, Sara Thompson found her 15-week-old son Alexander unresponsive in a Fisher-Price Rock 'n Play, his face pressed against the device's fabric.

Nearly 12 years later, the inclined infant sleeper is associated with the deaths of about 100 babies, including Alexander. Yet Thompson, who lives in Nazareth, Pennsylvania, routinely sees the Rock 'n Play for sale on platforms like Facebook Marketplace — despite a 2019 recall of the product. She immediately messages the sellers.

Some quickly take down their posts, saying they had no idea it had been recalled, Thompson said. But others get defensive.



Sara Thompson with her son, Alexander. Courtesy Sara Thompson

“They say, ‘The product is fine, it’s the parents’ fault — they should have been watching their babies,’” said Thompson, who settled a lawsuit against Fisher-Price last year.

She is among a small group of grieving parents who’ve taken it upon themselves to curtail sales of the potentially lethal product that remains readily available online.

Their challenge reflects the shortcomings of the federal recall system, which keeps products circulating even after they’re deemed hazardous, safety advocates argue. Online platforms prolong the danger by failing to provide easy ways for users to flag recalled items if they are listed for resale, with Facebook Marketplace, in particular, lacking a clear reporting mechanism, the advocates say.

For the Rock ‘n Play, this has proven particularly perilous. At least eight deaths have been linked to the product since it was recalled in April 2019, prompting the federal Consumer Product Safety Commission to re-announce the recall in January.

But four years after all 4.7 million Rock ‘n Plays were recalled, less than 10% have been returned to the manufacturer, according to a recent letter from Fisher-Price obtained by NBC News.



Babies can die in the Rock 'n Play and other inclined sleepers when their head rolls to the fabric-covered sides of the product, or when their chin drops to their chest, restricting the airway, according to medical experts. Infants left in Rock 'n Plays unrestrained can also roll from their back to their stomach or side, putting them in an unsafe position.

Fisher-Price says that not all deaths reported from the Rock 'n Play have been confirmed to be associated with that brand, specifically.

Under federal law, companies may decline to make recall numbers public, and Fisher-Price only provided them in response to questions from members of Congress who were alarmed about the mounting death toll.

In a letter to members of Congress last month, Fisher-Price said that it had completed more than 465,000 “cumulative corrections.” That number includes both Rock 'n Plays that consumers returned and those that were expunged from warehouses and retail stores.

Fisher-Price also said in the letter that the company has found about 54,000 Rock 'n Play listings online, including on Facebook Marketplace and other platforms, and 98% are now inactive after Fisher-Price worked with the websites to get them removed.

The company's letter added that Fisher-Price had limited information about the babies who died after the recall, but that “the products were purchased by consumers before the initial recall announcement or were acquired second-hand via private sales or as gifts.”

These previously unreported details come a week after the chair of the Consumer Product Safety Commission sent letters to Facebook parent company Meta and Fisher-Price parent company Mattel demanding they do more to stop sales of secondhand Rock 'n Plays.

From February 2022 to March 2023, CPSC staff issued nearly 4,000 takedown requests for Fisher-Price Rock 'n Plays on secondary marketplaces, with most submitted to Facebook Marketplace, which responded swiftly to remove items, the agency said.

Nancy Cowles, executive director of consumer advocacy group Kids in Danger, said part of the problem is that sites like Facebook Marketplace don't offer a clear way to flag recalled goods.

Facebook requires users to choose a specific reason for reporting posts, and there is no option that would fit an item that has been recalled, despite the site's own policies prohibiting such sales.

Craigslist and eBay, by contrast, allow users to flag listings for broader reasons and also include prominent links with information about recalls.

Meta did not respond to questions about Rock 'n Play and the lack of a specific reporting mechanism for recalls but said that it uses largely automated systems to review listings.

“We take this issue seriously and when we find listings that violate our rules, we remove them,” a Meta spokesperson said in an email.

In an interview, CPSC Chair Alexander Hoehn-Saric said the agency’s findings made clear that the recall plan that the CPSC and Fisher-Price originally agreed upon in 2019 wasn’t sufficient. Only some customers are offered refunds, while others are offered a voucher to use on other Fisher-Price merchandise. To receive either, parents are required to dismantle the sleeper and send in a specific piece of the product.

“Clearly, in retrospect, what was done then wasn’t enough.”

*Consumer Product Safety Commission Chair Alexander Hoehn-Saric*

“Clearly, in retrospect, what was done then wasn’t enough,” said Hoehn-Saric, who was confirmed as chair in 2021.

Hoehn-Saric urged Fisher-Price to provide a stronger incentive for returning the products, suggesting in his letter that a full refund of all Rock ‘n Plays would be “a good start.”

That’s one reason that consumers are turning to sites like Facebook Marketplace instead, Hoehn-Saric added: “They’re getting real cash.”

Kami Snowbarger, a product safety consultant, agreed that it’s no surprise few recalled products are returned, given all the hoops that consumers must jump through to determine if they qualify for a refund and get it.

“Parents won’t take the time to do all that,” she said.

A Fisher-Price spokesperson said in a statement that it recently told the CPSC it would be willing “to increase the cash refund available to consumers who participate in the recall” but defended its efforts to take the Rock ‘n Play out of circulation.

“The company has worked diligently to remove all recalled product from the market,” it said. In its recent letter to Congress, Fisher-Price also noted that the recall participation rate for the Rock ‘n Play was in line with other recalls that the CPSC has tracked.

The company added that Fisher-Price shares the CPSC’s goal to remove the Rock ‘n Play from the market and directed consumers to its website if they have a recalled item.

But the Rock ‘n Play remains a sought-after item online: On Facebook, a recent search yielded a handful of parents in just the past few weeks looking to purchase the sleeper.

“Does anyone have a Rock N Play they want to sell?” one wrote in a post earlier this month. “It’s almost impossible to find one! Yes, I know they were recalled, but I am not worried about that.”

Kiersten Connolly, whose 6-week-old son Jameson died while sleeping in a Rock ‘n Play four years before the recall, believes the companies need to do more.



Kiersten Connolly, James Hatch and their twin babies, Jameson and Dorothy. Jameson died in a Rock 'n Play in 2015. Courtesy Kiersten Connolly

Her son's death forced her to "learn about stuff you never want to think about," Connolly said, including how to raise one baby while grieving another — Jameson left behind a twin sister, Dorothy — and how to special-order a coffin tiny enough for an infant.

“I could have picked up his casket in one hand,” she said.

After the 2019 recall, Connolly sued Fisher-Price and Mattel, but her suit was dismissed due to New York’s two-year statute of limitations for wrongful-death cases; her attorneys are appealing.

Connolly checks Facebook Marketplace, eBay and e-commerce platform Mercari for Rock ‘n Play listings every week. They’re not always listed as Rock ‘n Plays, so Connolly also uses other keywords, such as “inclined sleeper.” She finds them easily and pleads with the sellers to remove the listings.

“I’ve just simply said, ‘It’s not worth it. It could happen.’ It might not, it probably won’t, but it could,” she said. “And you don’t want to be me. You don’t want to go through what I’ve gone through.”

# Lawmakers call for U.S. to ‘eliminate’ infant loungers after babies died

[nbcnews.com/news/us-news/lawmakers-call-eliminate-infant-loungers-babies-died-rcna94140](https://www.nbcnews.com/news/us-news/lawmakers-call-eliminate-infant-loungers-babies-died-rcna94140)

Suzy Khimm



*This article is part of “Death by Delay,” a series on how consumer product hazards have cost lives.*

Two members of Congress are calling on the federal government to take action on pillow-like infant loungers after an NBC News investigation revealed there have been significantly more deaths linked to the products than officials previously announced.

In a letter sent to the Consumer Product Safety Commission (CPSC) on Friday, Sen. Richard Blumenthal, D-Conn., and Rep. Jan Schakowsky, D-Ill., described the loungers as “unnecessary products” that endangered infants’ lives.

“A strong rule that eliminates pillow-like loungers, and other similar products that invite parents to use them believing these products are safe for infant sleep, is essential,” Blumenthal and Schakowsky said in the letter.

At least 25 deaths have been linked to baby loungers since 2015, NBC News reported this year. In September 2021, the federal government recalled more than 3 million infant loungers manufactured by The Boppy Company, citing eight deaths of infants who had reportedly suffocated after being placed on the product.

But deaths have continued to occur both in the Boppy Newborn Lounger and those sold by other manufacturers, NBC News found. Newborns can suffocate on the pillowy surface of loungers, or asphyxiate when their bodies get stuck in a position that restricts breathing.

Boppy and other manufacturers have said their loungers were never intended for sleep and warned consumers against leaving babies unattended. But newborns can quickly fall asleep on cushioned surfaces like loungers, placing them at heightened risk of suffocation and asphyxiation, medical experts said, and images of babies snoozing away in them continue to proliferate on social media.

The CPSC is expected to move forward with new safety regulations for infant loungers in the coming weeks. These regulations could potentially range from mandatory warning labels to design standards that could effectively ban certain types of loungers, depending on what the commission requires. But any new rules would go through a lengthy, yearslong process that includes public review and feedback.

“I have been encouraged by the steadfast commitment Sen. Blumenthal and Rep. Schakowsky have demonstrated for our work to keep babies safe from hazardous products,” CPSC Chair Alex Hoehn-Saric said in a statement. “We look forward to their continued support as we work to develop performance standards to make these products safer.”

Blumenthal and Schakowsky also praised the agency for suing Leachco after the manufacturer refused to cooperate with a recall of its infant lounger. The CPSC previously reported two deaths linked to Leachco’s product. A hearing for the safety commission’s administrative lawsuit against the company is scheduled for Aug. 7.

Leachco has defended the safety of its lounger when used as intended and countered with a suit against the agency in federal court. The company did not immediately respond to a request for comment.

Last month, the CPSC warned the public against using another lounger that was sold exclusively on Amazon after the company, Gorsetle US, refused to cooperate with a recall. The product no longer appears to be sold on the online retailer’s website. Amazon declined to comment, and Gorsetle did not immediately respond to a request for comment.

Boppy declined to comment on the lawmakers’ letter to the CPSC but referred NBC News to its previous criticism of Meta for failing to do enough to stop its recalled loungers from being sold secondhand on Facebook Marketplace.

In June, the CPSC and Boppy reannounced their recall of the company’s loungers, citing the widespread availability of the product on platforms like Facebook. The federal agency said two additional deaths linked to the product had occurred after the initial recall was announced in 2021.

Meta did not immediately respond to a request for comment. The company has previously said Facebook Marketplace’s policies prohibit the sale of recalled items, and that it removes listings that violate those policies.

**CLARIFICATION** (July 19, 2023, 6:20 p.m. ET): This article has been updated to clarify that the CPSC's action against Leachco was an administrative proceeding and that Leachco's litigation was filed separately in federal court.



Suzy Khimm

Suzy Khimm is a national investigative reporter for NBC News based in Washington, D.C.