

110TH CONGRESS
1ST SESSION

H. R. 4040

To establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2007

Mr. RUSH (for himself, Mr. STEARNS, Mr. DINGELL, Mr. BARTON of Texas, Mr. TOWNS, Mr. WHITFIELD, Mr. GORDON of Tennessee, Mr. BURGESS, Mr. STUPAK, Mr. WYNN, Mr. GENE GREEN of Texas, Ms. DEGETTE, Mrs. CAPPS, Ms. HARMAN, Mr. ALLEN, Ms. SOLIS, Mr. GONZALEZ, Mr. INSLEE, Ms. BALDWIN, Mr. ROSS, Mr. MATHESON, Mr. BARROW, Mr. HILL, Mr. EMANUEL, Mr. CLYBURN, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BOYD of Florida, Mrs. BOYDA of Kansas, Mr. CARDOZA, Mr. CLAY, Mr. CLEAVER, Mr. DAVIS of Illinois, Mr. ELLISON, Mrs. GILLIBRAND, Mr. AL GREEN of Texas, Mr. HALL of New York, Mr. HODES, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Mr. KILDEE, Mr. LARSON of Connecticut, Ms. JACKSON-LEE of Texas, Mr. LIPINSKI, Mrs. MCCARTHY of New York, Ms. LORETTA SANCHEZ of California, Mr. SCOTT of Virginia, Mr. SESTAK, Mr. THOMPSON of Mississippi, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Consumer Product Safety Modernization Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References.

TITLE I—CHILDREN’S PRODUCT SAFETY

Sec. 101. Ban on children’s products containing lead; lead paint rule.

Sec. 102. Mandatory third-party testing for certain children’s products.

Sec. 103. Tracking labels for children’s products.

Sec. 104. Standards and consumer registration of durable nursery products.

Sec. 105. Labeling requirement for certain internet and catalogue advertising
of toys and games.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

Sec. 201. Reauthorization of the Commission.

Sec. 202. Structure and quorum.

Sec. 203. Submission of copy of certain documents to Congress.

Sec. 204. Expedited rulemaking.

Sec. 205. Public disclosure of information.

Sec. 206. Prohibition on stockpiling under other Commission-enforced statutes.

Sec. 207. Notification of noncompliance with any Commission-enforced statute.

Sec. 208. Corrective action plans.

Sec. 209. Website notice, notice to third party internet sellers, and radio and
television notice.

Sec. 210. Identification of manufacturer, importers, retailers, and distributors.

Sec. 211. Export of recalled and non-conforming products.

Sec. 212. Prohibition on sale of recalled products.

Sec. 213. Increased civil penalty.

Sec. 214. Criminal penalties to include asset forfeiture.

Sec. 215. Sharing of information with Federal, State, local, and foreign govern-
ment agencies.

6 **SEC. 2. REFERENCES.**

7 (a) COMMISSION.—As used in this Act, the term
8 “Commission” means the Consumer Product Safety Com-
9 mission.

10 (b) CONSUMER PRODUCT SAFETY ACT.—Except as
11 otherwise expressly provided, whenever in this Act an

1 amendment is expressed as an amendment to a section
2 or other provision, the reference shall be considered to be
3 made to a section or other provision of the Consumer
4 Product Safety Act (15 U.S.C. 2051 et seq.).

5 **TITLE I—CHILDREN’S PRODUCT**
6 **SAFETY**

7 **SEC. 101. BAN ON CHILDREN’S PRODUCTS CONTAINING**
8 **LEAD; LEAD PAINT RULE.**

9 (a) CHILDREN’S PRODUCTS CONTAINING LEAD.—

10 (1) BANNED HAZARDOUS SUBSTANCE.—Effective
11 tive 60 days after the date of enactment of this Act,
12 except as provided in paragraph 2(B), any children’s
13 product containing more than the amounts of lead
14 set forth in paragraph (2)(A) shall be a banned haz-
15 ardous substance within the meaning of section
16 2(q)(1) of the Federal Hazardous Substances Act
17 (15 U.S.C. 1261(q)(1)).

18 (2) STANDARD FOR AMOUNT OF LEAD.—The
19 amounts of lead referred to in paragraph (1) shall
20 be—

21 (A)(i) 600 parts per million lead for any
22 part of the product;

23 (ii) 250 parts per million lead for any part
24 of the product, effective 2 years after the date
25 of enactment of this Act; and

1 (iii) 100 parts per million lead for any part
2 of a product, effective 4 years after the date of
3 enactment of this Act, unless the Commission
4 determines, after notice and a hearing, that a
5 standard of 100 parts per million is not fea-
6 sible; or

7 (B) 90 parts per million of soluble lead for
8 any part of the product, as determined by the
9 Commission by rule.

10 (3) COMMISSION REVISIONS OF THE STAND-
11 ARD.—

12 (A) MORE STRINGENT STANDARD.—The
13 Commission may revise the standard set forth
14 in paragraph (2) to any lower amount of lead
15 than is set forth in such subsection that the
16 Commission determines is feasible to achieve.

17 (B) PERIODIC REVIEW.—The Commission
18 shall, based on the best available scientific and
19 technical information, periodically review and
20 revise the standard set forth in this section to
21 require the lowest amount of lead that the
22 Commission determines is feasible to achieve.

23 (4) DEFINITION OF CHILDREN’S PRODUCT.—

24 (A) IN GENERAL.—As used in this sub-
25 section, the term “children’s product” means a

1 consumer product as defined in section 3(1) of
2 the Consumer Product Safety Act (15 U.S.C.
3 2052(1)) designed or intended primarily for
4 children 12 years of age or younger.

5 (B) FACTORS TO BE CONSIDERED.—In de-
6 termining whether a product is primarily in-
7 tended for a child 12 years of age or younger,
8 the following factors shall be considered:

9 (i) A statement by a manufacturer
10 about the intended use of such product, in-
11 cluding a label on such product if such
12 statement is reasonable.

13 (ii) Whether the product is rep-
14 resented in its packaging, display or adver-
15 tising as appropriate for use by children 12
16 years of age or younger.

17 (iii) Whether the product is commonly
18 recognized by consumers as being intended
19 for use by child 12 years of age or young-
20 er.

21 (iv) The Age Determination Guideline
22 issued by the Commission in September
23 2002, and any successor thereto.

24 (5) EXCEPTION FOR INACCESSIBLE COMPO-
25 NENT PARTS.—The standards established under

1 paragraph (2) shall not apply to any component of
2 a children’s product that is not accessible to a child
3 through normal and reasonably foreseeable use and
4 abuse of such product, as determined by the Com-
5 mission. A component part is not accessible under
6 this paragraph if such component is not physically
7 exposed by reason of a sealed covering or casing and
8 does not become physically exposed through reason-
9 ably foreseeable use and abuse of the product. The
10 Commission may require that certain electronic de-
11 vices be equipped with a child-resistant cover or cas-
12 ing that prevents exposure of and accessibility to the
13 parts of the product containing lead if the Commis-
14 sion determines that it is not feasible for such prod-
15 ucts to otherwise meet such standards.

16 (6) NO EFFECT ON STATE APPLICATION FOR
17 EXEMPTION.—Nothing in this subsection affects sec-
18 tion 18(b)(3) of the Federal Hazardous Substances
19 Act 15 U.S.C. 1261(b)(3).

20 (b) PAINT STANDARD FOR ALL PRODUCTS.—Not
21 later than 30 days after the date of enactment of this Act,
22 the Commission shall modify section 1303.1 of title 16,
23 Code of Federal Regulations, by substituting “0.009 per-
24 cent” for “0.06 percent” in subsection (a) of that section.

1 **SEC. 102. MANDATORY THIRD-PARTY TESTING FOR CER-**
2 **TAIN CHILDREN'S PRODUCTS.**

3 (a) MANDATORY AND THIRD-PARTY TESTING.—Sec-
4 tion 14(a) (15 U.S.C. 2063(a)) is amended—

5 (1) in paragraph (1), by striking “Every manu-
6 facturer” and inserting “Except as provided in para-
7 graph (2), every manufacturer”;

8 (2) by redesignating paragraph (2) as para-
9 graph (3) and inserting after paragraph (1) the fol-
10 lowing:

11 “(2) Every manufacturer of a children’s prod-
12 uct (and the private labeler of such children’s prod-
13 uct if such product bears a private label) which is
14 subject to a consumer product safety rule under this
15 Act or a similar rule under any other Act enforced
16 by the Commission, shall—

17 “(A) have the product tested by a inde-
18 pendent third party qualified to perform such
19 tests; and

20 “(B) issue a certification which shall—

21 “(i) certify that such product con-
22 forms to such standards or rules; and

23 “(ii) specify the applicable consumer
24 product safety standards or other such
25 rules.”; and

26 (3) in paragraph (3) (as so redesignated)—

1 (A) by striking “required by paragraph (1)
2 of this subsection” and inserting “required by
3 paragraph (1) or (2) (as the case may be)”;
4 and

5 (B) by striking “requirement under para-
6 graph (1)” and inserting “requirement under
7 paragraph (1) or (2) (as the case may be)”.

8 (b) DEFINITION OF CHILDREN’S PRODUCTS AND
9 INDEPENDENT THIRD PARTY.—Section 14 (15 U.S.C.
10 2063) is amended by adding at the end the following:

11 “(d) DEFINITIONS.—In this section, the following
12 definitions apply:

13 “(1) CHILDREN’S PRODUCT.—

14 “(A) IN GENERAL.—The term ‘children’s
15 product’ means a consumer product designed or
16 intended primarily for children 6 years of age
17 or younger. In determining whether a product
18 is primarily intended for a child 6 years of age
19 or younger, the following factors shall be con-
20 sidered:

21 “(i) A statement by a manufacturer
22 about the intended use of such product, in-
23 cluding a label on such product if such
24 statement is reasonable.

1 “(ii) Whether the product is rep-
2 resented in its packaging, display or adver-
3 tising as appropriate for use by children 6
4 years of age or younger.

5 “(iii) Whether the product is com-
6 monly recognized by consumers as being
7 intended for use by child 6 years of age or
8 younger.

9 “(iv) The Age Determination Guide-
10 line issued by the Commission in Sep-
11 tember 2002, and any successor thereto

12 “(B) CHILDREN’S PRODUCT CONTAINING
13 LEAD.—For purposes of the third party testing
14 required by subsection (a)(2) concerning pro-
15 hibited levels of lead in children’s products, the
16 definition of children’s product in section
17 101(a)(4) of the Consumer Product Safety
18 Modernization Act shall apply.

19 “(2) The term ‘independent third party’, means
20 an independent testing entity that is physically sepa-
21 rate from any manufacturer or private labeler whose
22 product will be tested by such entity, and is not
23 owned, managed, controlled, or directed by such
24 manufacturer or private labeler, and that is accred-

1 ited in accordance with an accreditation process es-
2 tablished or recognized by the Commission.”.

3 **SEC. 103. TRACKING LABELS FOR CHILDREN’S PRODUCTS.**

4 Section 14(a) (15 U.S.C. 2063(a)) is further amend-
5 ed by adding at the end the following:

6 “(4) Effective 1 year after the date of enact-
7 ment of the Consumer Product Safety Modernization
8 Act, the manufacturer of a children’s product shall,
9 to the extent feasible, place distinguishing marks on
10 the product and its packaging that will enable the
11 manufacturer and the ultimate purchaser to ascer-
12 tain the location and date of production of the prod-
13 uct, and any other information determined by the
14 manufacturer to facilitate ascertaining the specific
15 source of the product by reference to those marks.”.

16 **SEC. 104. STANDARDS AND CONSUMER REGISTRATION OF**
17 **DURABLE NURSERY PRODUCTS.**

18 (a) SAFETY STANDARDS.—Not later than 1 year
19 after the date of enactment of this Act, the Consumer
20 Products Safety Commission shall—

21 (1) examine and assess the effectiveness of any
22 voluntary consumer product safety standards on
23 which the Commission has relied with respect to du-
24 rable infant or toddler product; and

1 (2) in accordance with section 553 of title 5,
2 United States Code, promulgate consumer product
3 safety rules that—

4 (A) are substantially the same as such vol-
5 untary standards; or

6 (B) are more stringent than such vol-
7 untary standards, if the Commission determines
8 that more stringent standards would further re-
9 duce the risk of injury associated with such
10 products.

11 (b) CONSUMER REGISTRATION REQUIREMENT.—

12 (1) RULEMAKING.—Not later than 1 year after
13 the date of enactment of this Act, the Commission
14 shall, pursuant to its authority under section 16(b)
15 of the Consumer Product Safety Act (15 U.S.C.
16 2065(b)), promulgate a final consumer product safe-
17 ty rule to require manufacturers of durable infant or
18 toddler products—

19 (A) to provide consumers with a postage-
20 paid consumer registration form with each such
21 product;

22 (B) to maintain a record of the names, ad-
23 dresses, email addresses, and other contact in-
24 formation of consumers who register their own-
25 ership of such products with the manufacturer

1 in order to improve the effectiveness of manu-
2 facturer campaigns to recall such products; and

3 (C) to permanently place the manufacturer
4 name and contact information, model name and
5 number, and the date of manufacture on each
6 durable infant or toddler product.

7 (2) REQUIREMENTS FOR REGISTRATION
8 FORM.—The registration form required to be pro-
9 vided to consumers under subsection (a) shall—

10 (A) include spaces for a consumer to pro-
11 vide their name, address, telephone number,
12 and email address;

13 (B) include space sufficiently large to per-
14 mit easy, legible recording of all desired infor-
15 mation;

16 (C) be attached to the surface of each du-
17 rable infant or toddler product so that, as a
18 practical matter, the consumer must notice and
19 handle the form after purchasing the product;

20 (D) include the manufacturer's name,
21 model name and number for the product, and
22 the date of manufacture;

23 (E) include a message explaining the pur-
24 pose of the registration and designed to encour-
25 age consumers to complete the registration;

1 (F) include an option for consumers to
2 register through the Internet; and

3 (G) include a statement that information
4 provided by the consumer shall not be used for
5 any purpose other than to facilitate a recall of
6 or safety alert regarding that product.

7 In issuing regulations under this section, the Com-
8 mission may prescribe the exact text and format of
9 the required registration form.

10 (3) RECORD KEEPING AND NOTIFICATION RE-
11 QUIREMENTS.—The standard required under this
12 section shall require each manufacturer of a durable
13 infant or toddler product to maintain a record of
14 registrants for each product manufactured that in-
15 cludes all of the information provided by each con-
16 sumer registered, and to use such information to no-
17 tify such consumers in the event of a voluntary or
18 involuntary recall of or safety alert regarding such
19 product. Each manufacturer shall maintain such a
20 record for a period of not less than 6 years after the
21 date of manufacture of the product. Consumer infor-
22 mation collected by a manufacturer under this Act
23 may not be used by the manufacturer, nor dissemi-
24 nated by such manufacturer to any other party, for
25 any purpose other than notification to such con-

1 sumer in the event of a product recall or safety
2 alert.

3 (4) STUDY.—The Commission shall conduct a
4 study at such time as it considers appropriate on the
5 effectiveness of the consumer registration forms in
6 facilitating product recalls. Not later than 4 years
7 after the date of enactment of this Act, the Commis-
8 sion shall report its findings to Congress.

9 (c) DEFINITION OF DURABLE INFANT OR TODDLER
10 PRODUCT.—As used in this section, the term “durable in-
11 fant or toddler product”—

12 (1) means a durable product intended for use,
13 or that may be reasonably expected to be used, by
14 children under the age of 5 years; and

15 (2) shall include—

16 (A) full-size cribs and nonfull-size cribs;

17 (B) toddler beds;

18 (C) high chairs, booster chairs, and hook-
19 on chairs;

20 (D) bath seats;

21 (E) gates and other enclosures for con-
22 fining a child;

23 (F) play yards;

24 (G) stationary activity centers;

25 (H) infant carriers;

- 1 (I) strollers;
2 (J) walkers;
3 (K) swings; and
4 (L) bassinets and cradles.

5 **SEC. 105. LABELING REQUIREMENT FOR CERTAIN INTER-**
6 **NET AND CATALOGUE ADVERTISING OF TOYS**
7 **AND GAMES.**

8 Section 24 of the Federal Hazardous Substances Act
9 (15 U.S.C. 1278) is amended—

10 (1) by redesignating subsections (c) and (d) as
11 subsections (d) and (e), respectively;

12 (2) by inserting after subsection (b) the fol-
13 lowing:

14 “(c) INTERNET, CATALOGUE, AND OTHER ADVER-
15 TISING.—

16 “(1) REQUIREMENT.—Any advertisement of a
17 retailer, manufacturer, importer, distributor, private
18 labeler, or licensor that provides a direct means for
19 the purchase or ordering of any toy, game, balloon,
20 small ball, or marble that requires a cautionary
21 statement under subsections (a) and (b), including
22 advertisement on Internet websites or in catalogues
23 or other distributed materials, shall include the ap-
24 propriate cautionary statement required under such
25 subsections in its entirety displayed on or imme-

1 diately adjacent to such advertisement. Such cau-
2 tionary statement shall be displayed in the language
3 that is primarily used in the advertisement, cata-
4 logue, or Internet website, and in a clear and con-
5 spicuous manner consistent with part 1500 of title
6 16, Code of Federal Regulations (or a successor reg-
7 ulation thereto).

8 “(2) ENFORCEMENT.—The requirement in
9 paragraph (1) shall be treated as a consumer prod-
10 uct safety rule promulgated under section 7 of the
11 Consumer Product Safety Act (15 U.S.C. 2056) and
12 the publication or distribution of any advertisement
13 that is not in compliance with the requirements of
14 paragraph (1) shall be treated as a prohibited act
15 under section 19 of such Act (15 U.S.C. 2068).”.

16 **TITLE II—CONSUMER PRODUCT** 17 **SAFETY COMMISSION REFORM**

18 **SEC. 201. REAUTHORIZATION OF THE COMMISSION.**

19 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-
20 sections (a) and (b) of section 32 (15 U.S.C. 2081) are
21 amended to read as follows:

22 “(a) There are authorized to be appropriated to the
23 Commission for the purpose of carrying out the provisions
24 of this Act and any other provision of law the Commission
25 is authorized or directed to carry out—

1 “(1) \$80,000,000 for fiscal year 2009;

2 “(2) \$90,000,000 for fiscal year 2010; and

3 “(3) \$100,000,000 for fiscal year 2011.

4 “(b) In addition to the amounts specified in sub-
5 section (a), there are authorized to be appropriated
6 \$20,000,000 to the Commission for fiscal years 2009
7 through 2011, for the purpose of renovation, repair, recon-
8 struction, re-equipping, and making other necessary cap-
9 ital improvements to the Commission’s research, develop-
10 ment, and testing facility (including bringing the facility
11 into compliance with applicable environmental, safety, and
12 accessibility standards).”.

13 (b) REPORT TO CONGRESS.—Not later than 6
14 months after the date of enactment of this Act, the Com-
15 mission shall transmit to Congress a report of its plans
16 to allocate the funding authorized by subsection (a). Such
17 report shall include—

18 (1) the number of full time inspectors the Com-
19 mission intends to employ;

20 (2) the plan of the Commission for risk assess-
21 ment and inspection of imported consumer products;
22 and

23 (3) the efforts of the Commission to reach and
24 educate informal sellers, such as thrift shops and
25 yard sales, concerning consumer product safety

1 standards, especially standards relating to durable
2 nursery products, in order to prevent the resale of
3 any products that have been recalled.

4 **SEC. 202. STRUCTURE AND QUORUM.**

5 (a) **EXTENSION OF TEMPORARY QUORUM.**—Notwith-
6 standing section 4(d) of the Consumer Product Safety Act
7 (15 U.S.C. 2053(d)), 2 members of the Commission, if
8 they are not affiliated with the same political party, shall
9 constitute a quorum for the transaction of business for
10 the period beginning on the date of enactment of this Act
11 through August 3, 2008.

12 (b) **REPEAL OF LIMITATION.**—The first proviso in
13 the account under the heading “CONSUMER PRODUCT
14 SAFETY COMMISSION, SALARIES AND EXPENSES” in title
15 III of Public Law 102–389 (15 U.S.C. 2053 note) shall
16 cease to be in effect after fiscal year 2010.

17 **SEC. 203. SUBMISSION OF COPY OF CERTAIN DOCUMENTS**
18 **TO CONGRESS.**

19 (a) **IN GENERAL.**—Notwithstanding any rule, regula-
20 tion, or order to the contrary, the Commission shall com-
21 ply with the requirements of section 27(k) of the Con-
22 sumer Product Safety Act (15 U.S.C. 2076) with respect
23 to budget recommendations, legislative recommendations,
24 testimony, and comments on legislation submitted by the

1 Commission to the President or the Office of Management
2 and Budget after the date of enactment of this Act.

3 (b) REINSTATEMENT OF REQUIREMENT.—Section
4 3003(d) of Public Law 104–66 (31 U.S.C. 1113 note) is
5 amended—

6 (1) by striking “or” after the semicolon in
7 paragraph (31);

8 (2) by redesignating paragraph (32) as (33);
9 and

10 (3) by inserting after paragraph (31) the fol-
11 lowing:

12 “(32) section 27(k) of the Consumer Product
13 Safety Act (15 U.S.C. 2076(k)); or”.

14 **SEC. 204. EXPEDITED RULEMAKING.**

15 (a) RULEMAKING UNDER THE CONSUMER PRODUCT
16 SAFETY ACT.—

17 (1) ADVANCED NOTICE OF PROPOSED RULE-
18 MAKING REQUIREMENT.—Section 9 (15 U.S.C.
19 2058) is amended—

20 (A) by striking “shall be commenced” in
21 subsection (a) and inserting “may be com-
22 menced”;

23 (B) by striking “in the notice” in sub-
24 section (b) and inserting “in a notice”;

1 (C) by striking “unless, not less than 60
2 days after publication of the notice required in
3 subsection (a), the” in subsection (c) and in-
4 serting “unless the”;

5 (D) by inserting “or notice of proposed
6 rulemaking” after “advance notice of proposed
7 rulemaking” in subsection (c); and

8 (E) by striking “an advance notice of pro-
9 posed rulemaking under subsection (a) relating
10 to the product involved,” in the third sentence
11 of subsection (c) and inserting “the notice”.

12 (2) CONFORMING AMENDMENT.—Section
13 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by strik-
14 ing “an advance notice of proposed rulemaking or”.

15 (b) RULEMAKING UNDER FEDERAL HAZARDOUS
16 SUBSTANCES ACT.—

17 (1) IN GENERAL.—Section 3(a) of the Federal
18 Hazardous Substances Act (15 U.S.C. 1262(a)) is
19 amended to read as follows:

20 “(a) IN GENERAL.—Whenever in the judgment of the
21 Commission such action will promote the objectives of this
22 Act by avoiding or resolving uncertainty as to its applica-
23 tion, the Commission may by regulation declare to be a
24 hazardous substance, for the purposes of this Act, any

1 substance or mixture of substances, which the Commission
2 finds meets the requirements section 2(f)(1)(A).”.

3 (2) PROCEDURE.—

4 (A) Section 2(q)(2) of the Federal Haz-
5 arduous Substances Act (15 U.S.C. 1261(q)(2))
6 is amended by striking “Proceedings for the
7 issuance, amendment, or repeal of regulations
8 pursuant to clause (B) of subparagraph (1) of
9 this paragraph shall be governed by the provi-
10 sions of sections 701(e), (f), and (g) of the Fed-
11 eral Food, Drug, and Cosmetic Act: Provided,
12 That if” and inserting “Proceedings for the
13 issuance, amendment, or repeal of regulations
14 pursuant to clause (B) of subparagraph (1) of
15 this paragraph shall be governed by the provi-
16 sions of subsections (f) through (i) of section 3
17 of this Act, except that if”.

18 (B) Section 3(a)(2) of the Federal Haz-
19 arduous Substances Act (15 U.S.C. 1262(a)(2))
20 is amended to read as follows:

21 “(2) Proceedings for the issuance, amendment, or re-
22 peal of regulations under this subsection and the admissi-
23 bility of the record of such proceedings in other pro-
24 ceedings, shall be governed by the provisions of sub-
25 sections (f) through (i) of this section.”.

1 (3) ADVANCED NOTICE OF PROPOSED RULE-
2 MAKING REQUIREMENT.—Section 3 of the Federal
3 Hazardous Substances Act (15 U.S.C. 1262) is
4 amended—

5 (A) by striking “shall be commenced” in
6 subsection (f) and inserting “may be com-
7 menced”;

8 (B) by striking “in the notice” in sub-
9 section (g)(1) and inserting “in a notice”; and

10 (C) by striking “unless, not less than 60
11 days after publication of the notice required in
12 subsection (f), the” in subsection (h) and in-
13 serting “unless the”.

14 (4) CONFORMING AMENDMENTS.—The Federal
15 Hazardous Substances Act (15 U.S.C. 1261 et seq.)
16 is amended—

17 (A) by striking paragraph (d) of section 2
18 and inserting the following:

19 “(d) The term ‘Commission’ means the Con-
20 sumer Product Safety Commission.”;

21 (B) by striking “Secretary” each place it
22 appears and inserting “Commission” except—

23 (i) in section 10(b) (15 U.S.C. 1269);

24 (ii) in section 14 (15 U.S.C. 1273);

25 and

1 (iii) in section 21(a) (15 U.S.C.
2 1276(a));

3 (C) by striking “Department” each place it
4 appears, except in section 14(b), and inserting
5 “Commission”;

6 (D) by striking “he” and “his” each place
7 they appear in reference to the Secretary and
8 inserting “it” and “its”, respectively;

9 (E) by striking “Secretary of Health, Edu-
10 cation, and Welfare” each place it appears in
11 section 10(b) (15 U.S.C. 1269(b) and inserting
12 “Commission”;

13 (F) by striking “Secretary of Health, Edu-
14 cation, and Welfare” each place it appears in
15 section 14 (15 U.S.C. 1273) and inserting
16 “Commission”;

17 (G) by striking “Department of Health,
18 Education, and Welfare” in section 14(b) (15
19 U.S.C. 1273(b)) and inserting “Commission”;

20 (H) by striking “Consumer Product Safety
21 Commission” each place it appears and insert-
22 ing “Commission”; and

23 (I) by striking “(hereinafter in this section
24 referred to as the ‘Commission’)” in section
25 20(a)(1) (15 U.S.C. 1275(a)(1)).

1 **SEC. 205. PUBLIC DISCLOSURE OF INFORMATION.**

2 Section 6(b) (15 U.S.C. 2055(b)) is amended—

3 (1) in paragraph (1)—

4 (A) by striking “30 days” and inserting
5 “15 days”;

6 (B) by striking “finds that the public” and
7 inserting “publishes a finding that the public”;
8 and

9 (C) by striking “and publishes such a find-
10 ing in the Federal Register”;

11 (2) in paragraph (2)—

12 (A) by striking “10 days” and inserting “5
13 days”;

14 (B) by striking “finds that the public” and
15 inserting “publishes a finding that the public”;
16 and

17 (C) by striking “and publishes such a find-
18 ing in the Federal Register”;

19 (3) in paragraph (4), by striking “section 19
20 (related to prohibited acts)” and inserting “any con-
21 sumer product safety rule under this Act or similar
22 rule under or provision of any other Act adminis-
23 tered by the Commission”; and

24 (4) in paragraph (5)—

25 (A) in subparagraph (B), by striking “;
26 or” and inserting a semicolon;

1 (B) in subparagraph (C), by striking the
2 period and inserting “; or”;

3 (C) by adding at the end the following:

4 “(D) the Commission publishes a finding that
5 the public health and safety require public disclosure
6 with a lesser period of notice than is required under
7 paragraph (1).”; and

8 (D) in the matter following such subpara-
9 graph (as added by subparagraph (C)), by
10 striking “section 19(a)” and inserting “any
11 consumer product safety rule under this Act or
12 similar rule under or provision of any other Act
13 administered by the Commission”.

14 **SEC. 206. PROHIBITION ON STOCKPILING UNDER OTHER**
15 **COMMISSION-ENFORCED STATUTES.**

16 Section 9(g)(2) (15 U.S.C. 2058(g)(2)) is amended—

17 (1) by inserting “or to which a rule under any
18 other law enforced by the Commission applies,” after
19 “applies,”; and

20 (2) by striking “consumer product safety” the
21 second, third, and fourth places it appears.

22 **SEC. 207. NOTIFICATION OF NONCOMPLIANCE WITH ANY**
23 **COMMISSION-ENFORCED STATUTE.**

24 Section 15(b) (15 U.S.C. 2064(b)) is amended—

1 (1) by redesignating paragraphs (2) and (3) as
2 paragraphs (3) and (4), respectively; and

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) fails to comply with any other rule affect-
6 ing health and safety promulgated by the Commis-
7 sion under the Federal Hazardous Substances Act,
8 the Flammable Fabrics Act, or the Poison Preven-
9 tion Packaging Act;”.

10 **SEC. 208. CORRECTIVE ACTION PLANS.**

11 Section 15(d) (15 U.S.C. 2064(d)) is amended—

12 (1) by inserting “(1)” after the subsection des-
13 ignation;

14 (2) by redesignating paragraphs (1), (2), and
15 (3) as subparagraphs (A), (B), and (C);

16 (3) by striking “more (A)” in subparagraph
17 (C), as redesignated, and inserting “more (i)”;

18 (4) by striking “or (B)” in subparagraph (C),
19 as redesignated, and inserting “or (ii)”;

20 (5) by striking “An order under this subsection
21 may” and inserting:

22 “(2) An order under this subsection shall”;

23 (6) by striking “, satisfactory to the Commis-
24 sion,” and inserting “, as promptly as practicable

1 under the circumstances, as determined by the Com-
2 mission, for approval by the Commission,”; and

3 (7) by adding at the end the following:

4 “(3)(A) If the Commission approves an action plan,
5 it shall indicate its approval in writing.

6 “(B) If the Commission finds that an approved action
7 plan is not effective, or that the manufacturer, retailer,
8 or distributor is not executing an approved action plan ef-
9 fectively, the Commission may by order amend, or require
10 amendment of, the action plan.

11 “(C) If the Commission determines, after notice and
12 opportunity for comment, that a manufacturer, retailer,
13 or distributor has failed to comply substantially with its
14 obligations under its action plan, the Commission may re-
15 voke its approval of the action plan.”.

16 **SEC. 209. WEBSITE NOTICE, NOTICE TO THIRD PARTY**
17 **INTERNET SELLERS, AND RADIO AND TELE-**
18 **VISION NOTICE.**

19 Section 15(c)(1) (15 U.S.C. 2064(c)(1)) is amended
20 by inserting “, including posting clear and conspicuous no-
21 tice on its Internet website, providing notice to any third
22 party Internet website on which such manufacturer, re-
23 tailer, or distributor has placed the product for sale, and
24 announcements in languages other than English and on
25 radio and television where the Commission determines

1 that a substantial number of consumers to whom the recall
2 is directed may not be reached by other notice” after
3 “comply”.

4 **SEC. 210. IDENTIFICATION OF MANUFACTURER, IMPORT-**
5 **ERS, RETAILERS, AND DISTRIBUTORS.**

6 Section 16 (15 U.S.C. 2065) is amended by adding
7 at the end thereof the following:

8 “(c) Upon request by an officer or employee duly des-
9 ignated by the Commission—

10 “(1) every importer, retailer, or distributor of a
11 consumer product (or other product or substance
12 over which the Commission has jurisdiction under
13 this or any other Act) shall identify the manufac-
14 turer of that product by name, address, or such
15 other identifying information as the officer or em-
16 ployee may request, to the extent that such informa-
17 tion is in the possession of the importer, retailer, or
18 distributor; and

19 “(2) every manufacturer shall identify by name,
20 address, or such other identifying information as the
21 officer or employee may request—

22 “(A) each retailer or distributor to which
23 the manufacturer directly supplied a given con-
24 sumer product (or other product or substance

1 over which the Commission has jurisdiction
2 under this or any other Act);

3 “(B) each subcontractor involved in the
4 production or fabrication of such product or
5 substance; and

6 “(C) each subcontractor from which the
7 manufacturer obtained a component thereof.”.

8 **SEC. 211. EXPORT OF RECALLED AND NON-CONFORMING**
9 **PRODUCTS.**

10 (a) IN GENERAL.—Section 18 (15 U.S.C. 2067) is
11 amended by adding at the end the following:

12 “(c) Notwithstanding any other provision of this sec-
13 tion, the Commission may prohibit, by order, a person
14 from exporting from the United States for purpose of sale
15 any consumer product, or other product or substance that
16 is regulated under any Act enforced by the Commission,
17 that the Commission determines, after notice to the manu-
18 facturer—

19 “(1) is not in conformity with an applicable
20 consumer product safety rule under this Act or a
21 similar rule under any such other Act;

22 “(2) is subject to an order issued under section
23 12 or 15 of this Act or designated as a banned haz-
24 ardous substance under the Federal Hazardous Sub-
25 stances Act (15 U.S.C. 1261 et seq.); or

1 “(3) is subject to a voluntary corrective action
2 taken by the manufacturer, in consultation with the
3 Commission, of which action the Commission has
4 notified the public and that would have been subject
5 to a mandatory corrective action under this or an-
6 other Act enforced by the Commission if voluntary
7 action had not been taken by the manufacturer,
8 unless the importing country has notified the Commission
9 that such country accepts the importation of such prod-
10 uct.”.

11 (b) PROHIBITED ACT.—Section 19(a)(10) (15 U.S.C.
12 2068(a)(10)) is amended by striking the period at the end
13 and inserting “ or violate an order of the Commission
14 issued under section 18(c); or”.

15 (c) CONFORMING AMENDMENTS TO OTHER ACTS.—

16 (1) FEDERAL HAZARDOUS SUBSTANCES ACT.—
17 Section 5(b)(3) of the Federal Hazardous Sub-
18 stances Act (15 U.S.C. 1264(b)(3)) is amended by
19 striking “substance presents an unreasonable risk of
20 injury to persons residing in the United States” and
21 inserting “substance is prohibited under section
22 18(c) of the Consumer Product Safety Act,”.

23 (2) FLAMMABLE FABRICS ACT.—Section 15 of
24 the Flammable Fabrics Act (15 U.S.C. 1202) is
25 amended by adding at the end the following:

1 “(d) Notwithstanding any other provision of this sec-
2 tion, the Consumer Product Safety Commission may pro-
3 hibit, by order, a person from exporting from the United
4 States for purpose of sale any fabric, related material, or
5 product that the Commission determines, after notice to
6 the manufacturer—

7 “(1) is not in conformity with an applicable
8 consumer product safety rule under the Consumer
9 Product Safety Act or with a rule under this Act;

10 “(2) is subject to an order issued under section
11 12 or 15 of the Consumer Product Safety Act or
12 designated as a banned hazardous substance under
13 the Federal Hazardous Substances Act (15 U.S.C.
14 1261 et seq.); or

15 “(3) is subject to a voluntary corrective action
16 taken by the manufacturer, in consultation with the
17 Commission, of which action the Commission has
18 notified the public and that would have been subject
19 to a mandatory corrective action under this or an-
20 other Act enforced by the Commission if voluntary
21 action had not been taken by the manufacturer,
22 unless the importing country has notified the Commission
23 that such country accepts the importation of such prod-
24 uct.”.

1 **SEC. 212. PROHIBITION ON SALE OF RECALLED PRODUCTS.**

2 Section 19(a) (as amended by section 210) (15
3 U.S.C. 2068(a)) is further amended—

4 (1) by striking paragraph (1) and inserting the
5 following:

6 “(1) sell, offer for sale, manufacture for sale,
7 distribute in commerce, or import into the United
8 States any consumer product, or other product or
9 substance that is regulated under any other Act en-
10 forced by the Commission, that is—

11 “(A) not in conformity with an applicable
12 consumer product safety standard under this
13 Act, or any similar rule under any such other
14 Act;

15 “(B) subject to voluntary corrective action
16 taken by the manufacturer, in consultation with
17 the Commission, of which action the Commis-
18 sion has notified the public; or

19 “(C) subject to an order issued under sec-
20 tion 12 or 15 of this Act, designated a banned
21 hazardous substance under the Federal Haz-
22 ardous Substances Act (15 U.S.C. 1261 et
23 seq.);”;

24 (2) by striking “or” after the semicolon in
25 paragraph (7);

1 (3) by striking “and” after the semicolon in
2 paragraph (8); and

3 (4) by striking “insulation).” in paragraph (9)
4 and inserting “insulation);”.

5 **SEC. 213. INCREASED CIVIL PENALTY.**

6 (a) **MAXIMUM CIVIL PENALTIES OF THE CONSUMER**
7 **PRODUCT SAFETY COMMISSION.—**

8 (1) **INITIAL INCREASE IN MAXIMUM CIVIL PEN-**
9 **ALTIES.—**

10 (A) **TEMPORARY INCREASE.—**Notwith-
11 standing the dollar amounts specified for max-
12 imum civil penalties specified in section
13 20(a)(1) of the Consumer Product Safety Act
14 (15 U.S.C. 2069(a)(1)), section 5(c)(1) of the
15 Federal Hazardous Substances Act, and section
16 5(e)(1) of the Flammable Fabrics Act (15
17 U.S.C. 1194(e)(1)), the maximum civil pen-
18 alties for any violation specified in such sections
19 shall be \$5,000,000, beginning on the date that
20 is the earlier of the date on which final regula-
21 tions are issued under section 3(b) or 360 days
22 after the date of enactment of this Act.

23 (B) **EFFECTIVE DATE.—**Paragraph (1)
24 shall cease to be in effect on the date on which

1 the amendments made by subsection (b)(1)
2 shall take effect.

3 (2) PERMANENT INCREASE IN MAXIMUM CIVIL
4 PENALTIES.—

5 (A) AMENDMENTS.—

6 (i) CONSUMER PRODUCT SAFETY
7 ACT.—Section 20(a)(1) 15 U.S.C.
8 2069(a)(1)) is amended by striking
9 “\$1,250,000” both places it appears and
10 inserting “\$10,000,000”.

11 (ii) FEDERAL HAZARDOUS SUB-
12 STANCES ACT.—Section 5(c)(1) of the Fed-
13 eral Hazardous Substances Act (15 U.S.C.
14 1264(c)(1)) is amended by striking
15 “\$1,250,000” both places it appears and
16 inserting “\$10,000,000”.

17 (iii) FLAMMABLE FABRICS ACT.—Sec-
18 tion 5(e)(1) of the Flammable Fabrics Act
19 (15 U.S.C. 1194(e)(1)) is amended by
20 striking “\$1,250,000” and inserting
21 “\$10,000,000”.

22 (B) EFFECTIVE DATE.—The amendments
23 made by paragraph (1) shall take effect on the
24 date that is 1 year after the earlier of—

1 (i) the date on which final regulations
2 are issued pursuant to section 3(b); or

3 (ii) 360 days after the date of enact-
4 ment of this Act.

5 (b) DETERMINATION OF PENALTIES BY THE CON-
6 SUMER PRODUCT SAFETY COMMISSION.—

7 (1) FACTORS TO BE CONSIDERED.—

8 (A) CONSUMER PRODUCT SAFETY ACT.—

9 Section 20(b) (15 U.S.C. 2069(b)) is amend-
10 ed—

11 (i) by inserting “the nature, cir-
12 cumstances, extent, and gravity of the vio-
13 lation, including” after “shall consider”;

14 (ii) by striking “products distributed,
15 and” and inserting “products distrib-
16 uted,”; and

17 (iii) by inserting “, and such other
18 factors as appropriate” before the period.

19 (B) FEDERAL HAZARDOUS SUBSTANCES

20 ACT.—Section 5(c)(3) of the Federal Haz-
21 ardous Substances Act (15 U.S.C. 1264(c)(3))

22 is amended—

23 (i) by inserting “the nature, cir-
24 cumstances, extent ,and gravity of the vio-
25 lation, including” after “shall consider”;

1 (ii) by striking “substance distributed,
2 and” and inserting “substance distrib-
3 uted,”; and

4 (iii) by inserting “, and such other
5 factors as appropriate” before the period.

6 (C) FLAMMABLE FABRICS ACT.—Section
7 5(e)(2) of the Flammable Fabrics Act (15
8 U.S.C. 1194(e)(2)) is amended—

9 (i) by striking “nature and number”
10 and inserting “nature, circumstances, ex-
11 tent, and gravity”;

12 (ii) by striking “absence of injury,
13 and” and inserting “absence of injury,”;
14 and

15 (iii) by inserting “, and such other
16 factors as appropriate” before the period.

17 (2) REGULATIONS.—Not later than 1 year after
18 the date of enactment of this Act, and in accordance
19 with the procedures of section 553 of title 5, United
20 States Code, the Commission shall issue a final reg-
21 ulation providing its interpretation of the penalty
22 factors described in section 20(b) of the Consumer
23 Product Safety Act (15 U.S.C. 2069(b)), section
24 5(c)(3) of the Federal Hazardous Substances Act
25 (15 U.S.C. 1264(e)(3)), and section 5(e)(2) of the

1 Flammable Fabrics Act (15 U.S.C. 1194(e)(2)), as
2 amended by subsection (a).

3 **SEC. 214. CRIMINAL PENALTIES TO INCLUDE ASSET FOR-**
4 **FEITURE.**

5 Section 21 (15 U.S.C. 2070) is amended by adding
6 at the end thereof the following:

7 “(c)(1) In addition to the penalty provided by sub-
8 section (a), the penalty for a criminal violation of this Act
9 or any other Act enforced by the Commission may include
10 the forfeiture of assets associated with the violation.

11 “(2) In this subsection, the term ‘criminal violation’
12 means a violation of this Act of any other Act enforced
13 by the Commission for which the violator is sentenced
14 under this section, section 5(a) of the Federal hazardous
15 Substances Act (15 U.S.C. 2064(a)), or section 7 of the
16 Flammable Fabrics Act (15 U.S.C. 1196).”.

17 **SEC. 215. SHARING OF INFORMATION WITH FEDERAL,**
18 **STATE, LOCAL, AND FOREIGN GOVERNMENT**
19 **AGENCIES.**

20 Section 29 (15 U.S.C. 2078) is amended by adding
21 at the end the following:

22 “(f)(1) The Commission may make information ob-
23 tained by the Commission under section 6 available to any
24 Federal, State, local, or foreign government agency upon
25 the prior certification of an appropriate official of any

1 such agency, either by a prior agreement or memorandum
2 of understanding with the Commission or by other written
3 certification, that such material will be maintained in con-
4 fidence and will be used only for official law enforcement
5 or consumer protection purposes, if—

6 “(A) the agency has set forth a bona fide legal
7 basis for its authority to maintain the material in
8 confidence;

9 “(B) the materials are to be used for purposes
10 of investigating, or engaging in enforcement pro-
11 ceedings related to, possible violations of—

12 “(i) laws regulating the manufacture, im-
13 portation, distribution, or sale of defective or
14 unsafe consumer products, or other practices
15 substantially similar to practices prohibited by
16 any law administered by the Commission;

17 “(ii) a law administered by the Commis-
18 sion, if disclosure of the material would further
19 a Commission investigation or enforcement pro-
20 ceeding; or

21 “(iii) with respect to a foreign law enforce-
22 ment agency, with the approval of the Attorney
23 General, other foreign criminal laws, if such
24 foreign criminal laws are offenses defined in or
25 covered by a criminal mutual legal assistance

1 treaty in force between the government of the
2 United States and the foreign law enforcement
3 agency's government; and

4 “(C) the foreign government agency is not from
5 a foreign state that the Secretary of State has deter-
6 mined, in accordance with section 6(j) of the Export
7 Administration Act of 1979 (50 U.S.C. App.
8 2405(j)), has repeatedly provided support for acts of
9 international terrorism, unless and until such deter-
10 mination is rescinded pursuant to section 6(j)(4) of
11 that Act (50 U.S.C. App. 2405(j)(4)).

12 “(2) The Commission may abrogate any agree-
13 ment or memorandum of understanding entered into
14 under paragraph (1) if the Commission determines
15 that the foreign government agency with which such
16 agreement or memorandum of understanding was
17 entered into has failed to maintain in confidence any
18 information provided under such agreement or
19 memorandum of understanding, or has used any
20 such information for purposes other than those set
21 forth in such agreement or memorandum of under-
22 standing.

23 “(3)(A) Except as provided in subparagraph
24 (B) of this paragraph, the Commission shall not be

1 required to disclose under section 552 of title 5,
2 United States Code, or any other provision of law—

3 “(i) any material obtained from a foreign
4 government agency, if the foreign government
5 agency has requested confidential treatment, or
6 has precluded such disclosure under other use
7 limitations, as a condition of providing the ma-
8 terial;

9 “(ii) any material reflecting a consumer
10 complaint obtained from any other foreign
11 source, if that foreign source supplying the ma-
12 terial has requested confidential treatment as a
13 condition of providing the material; or

14 “(iii) any material reflecting a consumer
15 complaint submitted to a Commission reporting
16 mechanism sponsored in part by foreign govern-
17 ment agencies.

18 “(B) Nothing in this subsection shall authorize
19 the Commission to withhold information from the
20 Congress or prevent the Commission from complying
21 with an order of a court of the United States in an
22 action commenced by the United States or the Com-
23 mission.

24 “(4) In this subsection, the term ‘foreign government
25 agency’ means—

1 “(A) any agency or judicial authority of a for-
2 eign government, including a foreign state, a polit-
3 ical subdivision of a foreign state, or a multinational
4 organization constituted by and comprised of foreign
5 states, that is vested with law enforcement or inves-
6 tigative authority in civil, criminal, or administrative
7 matters; and

8 “(B) any multinational organization, to the ex-
9 tent that it is acting on behalf of an entity described
10 in subparagraph (A).”.

○