

# *Safety Assurance for Every (SAFE) Consumer Product Act*

## *SUMMARY of H.R. 3691*

### 1. Require Children's Products to Undergo Independent Third-Party Testing (Section 4)

Currently, manufacturer testing certifications can be performed by any entity, without regulation or restriction.

- *The SAFE Consumer Product Act* would require all child safety certifications to be carried out by independent third-party entities. This would give consumers at least a minimal level of assurance that the children's products they buy are safe.
- The bill would also allow the CPSC, at its discretion, to require other products to undergo third-party testing.
- The CPSC would create an entity to accredit what non-governmental independent third-parties qualify to perform such tests or testing programs.
- The Toy Industry Association (TIA) during recent congressional testimony has encouraged the Federal government to adopt a requirement that all toys sold in the U.S. undergo inspection to assure that they conform to our standards. ([Click here to view TIA's House testimony](#))

### 2. Enhance CPSC Recall and Inspection Authority (Section 5)

Currently, the CPSC has to convene a formal hearing before manufacturers can be forced to recall a product— this time delay means that unsafe products may continue to be used by children and sold by retailers despite an acknowledgement of their potential hazards.

- *The SAFE Consumer Product Act* would provide the CPSC with strengthened recall authority to ensure defective and hazardous consumer products are taken off store shelves expeditiously before they get in the hands of children.
  - Once a recall need is identified by the CPSC, manufacturers could be ordered to cease distribution, provide notice to consumers and distributors, and recall the product. Manufacturers would have an opportunity for a hearing shortly after any order from the CPSC.
- The bill would make it clear that it is illegal to knowingly sell any consumer product subject to a recall.
- It would require manufacturers to choose a recall remedy that is acceptable to the CPSC.
- Tracking labels for children's products would also be required. This information would facilitate future recalls by making it easier to distinguish defective products.
- Finally, it provides the CPSC with the explicit authority to inspect retailers. Currently, the commission only has the authority to inspect any factory, warehouse, or establishment in which consumer products are manufactured or held.

### 3. Expand Civil and Criminal Penalties (Section 6)

Civil Penalties - Currently, the limit on civil penalties that can be levied by the CPSC is only \$1.825 million. This amount is inadequate to serve as an effective deterrent for large manufacturers and retailers.

- *The SAFE Consumer Product Act* would eliminate the cap on civil penalties. The CPSC would consider the nature of the product defect, the severity of the risk of injury, the occurrence of absence of injury, the number of defective products distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

Criminal Penalties – Currently, the CPSC has to issue a notice of noncompliance to individuals, officers, or agents who engage in prohibited actions.

- *The SAFE Consumer Product Act* would eliminate this requirement to streamline the timeliness and efficiency of the criminal penalty process.

#### 4. Expedite Recall Disclosure to the Public (Section 7)

- *The SAFE Consumer Product Act* would reduce the period of notice to manufacturers and private labelers prior to public disclosure from 30 days to 10 days. This will help facilitate the timely public announcement of recalls.
- The bill would require manufacturers and retailers to post recall notices on their Internet website.

#### 5. Ban Lead in Children’s Products (Section 8)

Although the CPSC issued a ban on lead-containing paint (600 parts per million) and on toys and furniture coated with such paint in 1977, it has yet to explicitly ban lead in children’s toys.

- *The SAFE Consumer Product Act* would require the CPSC to prescribe regulations classifying any children's product containing lead (more than 40 parts per million) as a banned substance under the Hazardous Substances Act. This would include products marketed or used by children under age 12.
  - The American Academy of Pediatrics supports both of these thresholds to ensure the safety of our children. ([Click here to view AAP’s House testimony](#))

#### 6. Require Consumer Product Registration Forms for Children’s Toys (Section 9)

*The SAFE Consumer Product Act* would require manufactures of children’s products to include a product registration form (not later than 270 days) for products subject to a consumer product safety standard or a voluntary standard. This recordkeeping will help to ensure consumer who purchase recalled products can be properly informed of defects etc.

#### 7. Enhance Internet Advertising of Children’s Toys (Section 10)

*The SAFE Consumer Product Act* would require warning labels in a clear location on any Internet advertisements for a children’s product.

#### 8. Allow the CPSC to Continue Regulatory Activities (Section 11)

The CPSC has been without a third commissioner since July 2006. The two remaining commissioner were able to continue their regulatory activities for 6 months after the vacancy—so from January 15, 2007 until last month the panel was unable to vote on civil penalties or take regulatory action—only in August did Senator Pryor insert a one-

sentence provision into a recently approved homeland security bill that allows the two remaining commission members to comprise a quorum, at least until January 2008.

- *The SAFE Consumer Product Act* urges the president to nominate members to fill any vacancy in the membership of the Commission as expeditiously as practicable so that the CPSC can function effectively.
- Upon expiration of the temporary quorum, the CPSC may take an action if it is necessary in the public interest and the Commission transmits its reasons to Congress.

#### 9. Ensure States are Not Preempted by the CPSC (Section 12)

*The SAFE Consumer Product Act* makes it clear that consumer product safety standards issued by the CPSC do not preempt State or local laws. There are several States, including California and Vermont, which have taken the lead on strengthening consumer protection laws.

#### 10. Provide Additional Resources to the CPSC (Section 13)

The CPSC shrinking budget is just \$62 million this year, even though the agency regulates an industry that sells \$1.4 trillion annually.

The FY08 Financial Services Appropriations bill includes \$66.8 million, which is \$4.11 above last year's allocation and \$3.588 more than the president's budget request—nearly 7 percent increase in funding.

- *The SAFE Consumer Product Act* would authorize additional funds for the CPSC:
  - \$75,600,000 for fiscal year 2008.
  - \$87,950,000 for fiscal year 2009.
  - \$100,300,000 for fiscal year 2010.
  - \$112,650,000 for fiscal year 2011.
  - \$125,000,000 for fiscal year 2012.
- Acting CPSC Chairman Nord acknowledges that the agency has had to limit its focus; it investigates only 10 percent to 15 percent of the reported injuries or deaths linked to consumer goods—the number of reports has grown in recent years.