

Consumer Product Safety Improvement Act Sent to President for Signing

The House and Senate have passed the *Consumer Product Safety Improvement Act of 2008* (HR 4040). The bill has been sent to the President who is expected to sign it into law.

Legislators have agreed on a unified bill that includes: new limits for lead in children's products; a lower limit for lead in paint and surface coatings; a ban on certain phthalates; mandatory third party testing; tracking labels and product registration cards; whistleblower protection; and increased civil penalties.



Summary of Key Points

- Defines "children" as age 12 and under
- Mandatory testing by an accredited 3rd party laboratory or firewalled proprietary laboratory
- Does not identify a testing frequency
- Every manufacturer shall provide a certificate of compliance for each product to accompany the shipment and to be furnished to each distributor or retailer
- Paints and surface coatings on toys, other articles intended for use by children, and on furniture, is reduced to 90ppm (0.009%) total lead, one year after enactment
- Restricts total lead in any part of a children's product:
 - 600ppm, 180 days after enactment
 - 300ppm, one year after enactment
 - 100ppm, three years after enactment
 - If the Consumer Product Safety Commission (CPSC) determines this limit is not technologically feasible, CPSC will establish a limit between 300ppm and 100ppm
 - CPSC shall review the best available technical and scientific data every five years and lower the limit based on this data
 - Components that are not accessible to a child under normal, foreseeable use and abuse are exempt from these limits
- A ban on phthalates effective 180 days after enactment:
 - For children's toys (defined as product for use during play by children 12 years of age and under) and child care articles (products to facilitate sleep, relaxation, or the feeding of children age three and under, or to help children with sucking or teething)
 - These products must not contain DEHP, DBP, or BBP exceeding 0.1%
- An interim ban on phthalates effective 180 days after enactment:
 - For children's toys or child care articles that can be placed in a child's mouth (any part that can be placed in the mouth and is less than 5 centimeters in one dimension)
 - These products must not contain DINP, DIDP, or DnOP exceeding 0.1%

Full Text of Legislation

This is the text of the final version as agreed to by the Senate and sent to the President:
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h4040enr.txt.pdf

(Please see second page for more information)

Additional Requirements:

- Preemption of state laws unless an exemption is granted
- Increased maximum civil penalties to \$15 M
- New whistleblower protection
- Tracking labels on children's product and packaging, one year after enactment
- Product registration cards/forms for all durable infant or toddler products, one year after enactment
- CPSC to examine effectiveness of voluntary safety standards for durable infant/toddler products
- ASTM F963-07 (except Section 4.2) to be considered a safety rule and mandatory, 180 days after enactment
- Certain toys and games sold in catalogs and on the internet to include cautionary labeling as specified in FHSA
- X-ray fluorescence (XRF) or other alternative methods may be used for screening lead in small painted areas of less than 10 milligrams or 1 square centimeter
- CPSC staff to increase to at least 500 with additional funding provided by October 1, 2013
- The allowance of State Attorneys General to bring action on behalf of the residents of their state
- Import and export provisions which include a ban on the export of recalled and non-conforming products and the development of risk assessment methodology
- The establishment and maintenance of a publicly available searchable database
- Reinstates a five-member commission after one year and establishes a two-member quorum (from different parties) for one year after date of enactment.
- New requirements for all-terrain vehicles
- The CPSC to conduct a study and identify any risks to consumers on the use of formaldehyde in manufacturing of textile and apparel articles, within two years after enactment

CONTACT INFORMATION

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