

In the Senate of the United States,

March 6, 2008.

Resolved, That the bill from the House of Representatives (H.R. 4040) entitled “An Act to establish consumer product safety standards and other safety requirements for children’s products and to reauthorize and modernize the Consumer Product Safety Commission.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the*

3 *“CPSC Reform Act”.*

1 **(b) TABLE OF CONTENTS.**—*The table of contents for*
 2 *this Act is as follows:*

- Sec. 1. Short title; table of contents.*
- Sec. 2. Amendment of Consumer Product Safety Act.*
- Sec. 3. Reauthorization.*
- Sec. 4. Personnel.*
- Sec. 5. Full Commission requirement; interim quorum.*
- Sec. 6. Submission of copy of certain documents to Congress.*
- Sec. 7. Public disclosure of information.*
- Sec. 8. Rulemaking.*
- Sec. 9. Prohibition on stockpiling under other Commission-enforced statutes.*
- Sec. 10. Third party certification of children's products.*
- Sec. 11. Tracking labels for products for children.*
- Sec. 12. Substantial product hazard reporting requirement.*
- Sec. 13. Corrective action plans.*
- Sec. 14. Identification of manufacturer by importers, retailers, and distributors.*
- Sec. 15. Prohibited acts.*
- Sec. 16. Penalties.*
- Sec. 17. Preemption.*
- Sec. 18. Sharing of information with Federal, State, local, and foreign government agencies.*
- Sec. 19. Financial responsibility.*
- Sec. 20. Enforcement by State attorneys general.*
- Sec. 21. Whistleblower protections.*
- Sec. 22. Ban on children's products containing lead; lead paint rule.*
- Sec. 23. Alternative measures of lead content.*
- Sec. 24. Study of preventable injuries and deaths of minority children related to certain consumer products.*
- Sec. 25. Cost-benefit analysis under the Poison Prevention Packaging Act of 1970.*
- Sec. 26. Inspector general reports.*
- Sec. 27. Public internet website links.*
- Sec. 28. Child-resistant portable gasoline containers.*
- Sec. 29. Toy safety standard.*
- Sec. 30. All-terrain vehicle safety standard.*
- Sec. 31. Garage door opener standard.*
- Sec. 32. Reducing deaths and injuries from carbon monoxide poisoning.*
- Sec. 33. Completion of cigarette lighter rulemaking.*
- Sec. 34. Consumer product registration forms and standards for durable infant or toddler products.*
- Sec. 35. Repeal.*
- Sec. 36. Consumer Product Safety Commission presence at National Targeting Center of U.S. Customs and Border Protection.*
- Sec. 37. Development of risk assessment methodology to identify shipments of consumer products that are likely to contain consumer products in violation of safety standards.*
- Sec. 38. Seizure and destruction of imported products in violation of consumer product safety standards.*
- Sec. 39. Database of manufacturing facilities and suppliers involved in violations of consumer product safety standards.*
- Sec. 40. Ban on certain products containing specified phthalates.*
- Sec. 41. Equestrian helmets.*
- Sec. 42. Requirements for recall notices.*

Sec. 43. Study and report on effectiveness of authorities relating to safety of imported consumer products.

Sec. 44. Ban on importation of toys made by certain manufacturers.

Sec. 45. Consumer product safety standards use of formaldehyde in textile and apparel articles.

1 SEC. 2. AMENDMENT OF CONSUMER PRODUCT SAFETY ACT.

2 *Except as otherwise expressly provided, whenever in*
3 *this Act an amendment or repeal is expressed in terms of*
4 *an amendment to, or repeal of, a section or other provision,*
5 *the reference shall be considered to be made to a section or*
6 *other provision of the Consumer Product Safety Act (15*
7 *U.S.C. 2051 et seq.).*

8 SEC. 3. REAUTHORIZATION.

9 *(a) IN GENERAL.—Section 32 (15 U.S.C. 2081) is*
10 *amended—*

11 *(1) by redesignating subsection (c) as subsection*
12 *(e); and*

13 *(2) by striking subsections (a) and (b) and in-*
14 *serting the following:*

15 *“(a)(1) There are authorized to be appropriated to the*
16 *Commission for the purpose of carrying out the provisions*
17 *of this Act and any other provision of law the Commission*
18 *is authorized or directed to carry out—*

19 *“(A) \$88,500,000 for fiscal year 2009;*

20 *“(B) \$96,800,000 for fiscal year 2010;*

21 *“(C) \$106,480,000 for fiscal year 2011;*

22 *“(D) \$117,128,000 for fiscal year 2012;*

23 *“(E) \$128,841,000 for fiscal year 2013;*

1 “(F) \$141,725,000 for fiscal year 2014; and

2 “(G) \$155,900,000 for fiscal year 2015.

3 “(2) From amounts appropriated pursuant to para-
4 graph (1), there shall shall be made available, for each of
5 fiscal years 2009 through 2015, up to \$1,200,000 for travel,
6 subsistence, and related expenses incurred in furtherance of
7 the official duties of Commissioners and employees with re-
8 spect to attendance at meetings or similar functions, which
9 shall be used by the Commission for such purposes in lieu
10 of acceptance of payment or reimbursement for such ex-
11 penses from any person—

12 “(A) seeking official action from, doing business
13 with, or conducting activities regulated by, the Com-
14 mission; or

15 “(B) whose interests may be substantially af-
16 fected by the performance or nonperformance of the
17 Commissioner’s or employee’s official duties.

18 “(b) There are authorized to be appropriated to the
19 Commission for the Office of Inspector General—

20 “(1) \$1,600,000 for fiscal year 2009;

21 “(2) \$1,770,000 for fiscal year 2010;

22 “(3) \$1,936,000 for fiscal year 2011;

23 “(4) \$2,129,600 for fiscal year 2012;

24 “(5) \$2,342,560 for fiscal year 2013;

25 “(6) \$2,576,820 for fiscal year 2014; and

1 “(7) \$2,834,500 for fiscal year 2015.

2 “(c) There are authorized to be appropriated to the
3 Commission for the purpose of renovation, repair, construc-
4 tion, equipping, and making other necessary capital im-
5 provements to the Commission’s research, development, and
6 testing facility (including bringing the facility into compli-
7 ance with applicable environmental, safety, and accessi-
8 bility standards), \$40,000,000 for fiscal years 2009 and
9 2010.

10 “(d) There are authorized to be appropriated to the
11 Commission for research, in cooperation with the National
12 Institute of Science and Technology, the Food and Drug Ad-
13 ministration, and other relevant Federal agencies into safe-
14 ty issues related to the use of nanotechnology in consumer
15 products, \$1,000,000 for fiscal years 2009 and 2010.”.

16 **SEC. 4. PERSONNEL.**

17 (a) *PROFESSIONAL STAFF.*—

18 (1) *IN GENERAL.*—The Consumer Product Safety
19 Commission shall increase the number of fulltime per-
20 sonnel employed by the Commission to at least 500 by
21 October 1, 2013, subject to the availability of appro-
22 priations.

23 (2) *PORTS OF ENTRY; OVERSEAS INSPECTORS.*—
24 The Consumer Product Safety Commission shall hire
25 at least 50 additional personnel to be assigned to duty

1 (1) *IN GENERAL.*—*The Congress finds that it is*
2 *necessary, in order for the Consumer Product Safety*
3 *Commission to function effectively and carry out the*
4 *purposes for which the Consumer Product Safety Act*
5 *was enacted, for the full complement of 5 members of*
6 *the Commission to serve and participate in the busi-*
7 *ness of the Commission and urges the President to*
8 *nominate members to fill any vacancy in the member-*
9 *ship of the Commission as expeditiously as prac-*
10 *ticable.*

11 (2) *REPEAL OF LIMITATION.*—*Title III of Public*
12 *Law 102–389 is amended by striking the first proviso*
13 *in the item captioned “CONSUMER PRODUCT SAFETY*
14 *COMMISSION, SALARIES AND EXPENSES” (15 U.S.C.*
15 *2053 note).*

16 (b) *TEMPORARY QUORUM.*—*Notwithstanding section*
17 *4(d) of the Consumer Product Safety Act (15 U.S.C.*
18 *2053(d)), 2 members of the Consumer Product Safety Com-*
19 *mission, if they are not affiliated with the same political*
20 *party, shall constitute a quorum for the transaction of busi-*
21 *ness for the 9-month period beginning on the date of enact-*
22 *ment of this Act.*

1 **SEC. 6. SUBMISSION OF COPY OF CERTAIN DOCUMENTS TO**
2 **CONGRESS.**

3 (a) *IN GENERAL.*—Notwithstanding any rule, regula-
4 tion, or order to the contrary, the Commission shall comply
5 with the requirements of section 27(k) of the Consumer
6 Product Safety Act (15 U.S.C. 2076(k)) with respect to
7 budget recommendations, legislative recommendations, tes-
8 timony, and comments on legislation submitted by the Com-
9 mission to the President or the Office of Management and
10 Budget after the date of enactment of this Act.

11 (b) *REINSTATEMENT OF REQUIREMENT.*—Section
12 3003(d) of Public Law 104–66 (31 U.S.C. 1113 note) is
13 amended—

14 (1) by striking “or” after the semicolon in para-
15 graph (31);

16 (2) by redesignating paragraph (32) as (33); and

17 (3) by inserting after paragraph (31) the fol-
18 lowing:

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

21 **SEC. 7. PUBLIC DISCLOSURE OF INFORMATION.**

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

23 (1) by inserting “A manufacturer or private la-
24 beler shall submit any such mark within 15 calendar
25 days after the date on which it receives the Commis-

1 *sion’s offer.” after “paragraph (2).” in subsection*
2 *(a)(3);*

3 *(2) by striking “30 days” in subsection (b)(1)*
4 *and inserting “15 days”;*

5 *(3) by striking “finds that the public” in sub-*
6 *section (b)(1) and inserting “publishes a finding that*
7 *the public”;*

8 *(4) by striking “notice and publishes such a*
9 *finding in the Federal Register),” in subsection (b)(1)*
10 *and inserting “notice),”;*

11 *(5) by striking “10 days” in subsection (b)(2)*
12 *and inserting “5 days”;*

13 *(6) by striking “finds that the public” in sub-*
14 *section (b)(2) and inserting “publishes a finding that*
15 *the public”;*

16 *(7) by striking “notice and publishes such a*
17 *finding in the Federal Register.” in subsection (b)(2)*
18 *and inserting “notice.”;*

19 *(8) in subsection (b)—*

20 *(A) by striking “(3)” and inserting*
21 *“(3)(A)”;* and

22 *(B) by adding at the end thereof the fol-*
23 *lowing:*

24 *“(B) If the Commission determines that the public*
25 *health and safety requires expedited consideration of an ac-*

1 *tion brought under subparagraph (A), the Commission may*
2 *file a request with the District Court for such expedited con-*
3 *sideration. If the Commission files such a request, the Dis-*
4 *trict Court shall—*

5 “(i) *assign the matter for hearing at the earliest*
6 *possible date;*

7 “(ii) *give precedence to the matter, to the great-*
8 *est extent practicable, over all other matters pending*
9 *on the docket of the court at the time;*

10 “(iii) *expedite consideration of the matter to the*
11 *greatest extent practicable; and*

12 “(iv) *grant or deny the requested injunction*
13 *within 30 days after the date on which the Commis-*
14 *sion’s request was filed with the court.”;*

15 (9) *by striking “section 19 (related to prohibited*
16 *acts);” in subsection (b)(4) and inserting “any con-*
17 *sumer product safety rule or provision of this Act or*
18 *similar rule or provision of any other Act enforced by*
19 *the Commission;”;*

20 (10) *by striking “or” after the semicolon in sub-*
21 *section (b)(5)(B);*

22 (11) *by striking “disclosure.” in subsection*
23 *(b)(5)(C) and inserting “disclosure; or”;*

24 (12) *by inserting in subsection (b)(5) after sub-*
25 *paragraph (C) the following:*

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

5 (13) in the matter following subparagraph (D) of
6 subsection (b)(5) (as added by paragraph (12) of this
7 section), by striking “section 19(a),” and inserting
8 “any consumer product safety rule or provision under
9 this Act or similar rule or provision of any other Act
10 enforced by the Commission,”; and

11 (14) by adding at the end of subsection (b) the
12 following:

13 “(9) *PUBLICLY AVAILABLE DATABASE OF REPORTED*
14 *DEATHS, INJURIES, ILLNESS, AND RISK OF SUCH INCI-*
15 *DENTS.—*

16 “(A) *IN GENERAL.—Not later than 1 year after*
17 *the date of enactment of the CPSC Reform Act, the*
18 *Commission shall establish and maintain a publicly*
19 *available searchable database accessible on the Com-*
20 *mission’s web site. The database shall include any re-*
21 *ports of injuries, illness, death, or risk of such injury,*
22 *illness, or death related to the use of consumer prod-*
23 *ucts received by the Commission from—*

24 “(i) consumers;

1 “(i) local, State, or Federal government
2 agencies;

3 “(iii) health care professionals, including
4 physicians, hospitals, and coroners;

5 “(iv) child service providers;

6 “(v) public safety entities, including police
7 and fire fighters; and

8 “(vi) other non-governmental sources, other
9 than information provided to the Commission by
10 retailers, manufacturers, or private labelers pur-
11 suant to a voluntary or required submission
12 under section 15 or other mandatory or vol-
13 untary program.

14 “(B) *ADDITIONAL CONTENTS.*—*In addition to*
15 *the reports described in subparagraph (A), the Com-*
16 *mission may include in the database any additional*
17 *information it determines to be in the public interest.*

18 “(C) *ORGANIZATION OF DATABASE.*—*The Com-*
19 *mission shall categorize the information available on*
20 *the database by date, product, manufacturer, the*
21 *model of the product, and any other category the*
22 *Commission determines to be in the public interest.*

23 “(D) *TIMING.*—*The Commission shall make such*
24 *reports available on the Commission website no later*

1 *than 15 days after the date on which they are re-*
2 *ceived.*

3 “(E) *REMOVAL OF INACCURATE OR INCORRECT*
4 *INFORMATION.—If the Commission determines, after*
5 *investigation, that information made available on the*
6 *database is incorrect the Commission shall promptly*
7 *remove it from the database.*

8 “(F) *MANUFACTURER COMMENTS.—A manufac-*
9 *turer, private labeler, or retailer shall be given an op-*
10 *portunity to comment on any information involving*
11 *a product manufactured by that manufacturer, or*
12 *distributed by that private labeler or retailer, as the*
13 *case may be. Any such comments may be included in*
14 *the database alongside the information involving such*
15 *product if requested by the manufacturer, private la-*
16 *beler, or retailer.*

17 “(G) *DISCLOSURE.—The Commission may not*
18 *disclose the names or addresses of consumers pursuant*
19 *to its authority under this subsection.*

20 “(H) *APPLICATION WITH OTHER PROVISIONS.—*
21 *Subsection (a) and the preceding paragraphs of this*
22 *subsection do not apply to the public disclosure of in-*
23 *formation received by the Commission under subpara-*
24 *graph (A) of this paragraph.”.*

1 **SEC. 8. RULEMAKING.**

2 (a) *ANPR REQUIREMENT.*—

3 (1) *IN GENERAL.*—Section 9 (15 U.S.C. 2058) is
4 amended—

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

8 (B) by striking “in the notice” in subsection
9 (b) and inserting “in a notice”;

10 (C) by striking “unless, not less than 60
11 days after publication of the notice required in
12 subsection (a), the” in subsection (c) and insert-
13 ing “unless the”;

14 (D) by striking “an advance notice of pro-
15 posed rulemaking under subsection (a) relating
16 to the product involved,” in the third sentence of
17 subsection (c) and inserting “the notice,”; and

18 (E) by striking “Register.” in the matter
19 following paragraph (4) of subsection (c) and in-
20 serting “Register. Nothing in this subsection
21 shall preclude any person from submitting an
22 existing standard or portion of a standard as a
23 proposed consumer product safety standard.”.

24 (2) *CONFORMING AMENDMENT.*—Section 5(a)(3)
25 (15 U.S.C. 2054(a)(3)) is amended by striking “an
26 advance notice of proposed rulemaking or”.

1 **(b) RULEMAKING UNDER FEDERAL HAZARDOUS SUB-**
2 **STANCES ACT.—**

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

6 **“(a) RULEMAKING.—**

7 **“(1) IN GENERAL.—***Whenever in the judgment of*
8 *the Commission such action will promote the objec-*
9 *tives of this Act by avoiding or resolving uncertainty*
10 *as to its application, the Commission may by regula-*
11 *tion declare to be a hazardous substance, for the pur-*
12 *poses of this Act, any substance or mixture of sub-*
13 *stances, which it finds meets the requirements of sec-*
14 *tion 2(f)(1)(A).*

15 **“(2) PROCEDURE.—***Proceedings for the issuance,*
16 *amendment, or repeal of regulations under this subsection*
17 *and the admissibility of the record of such proceedings in*
18 *other proceedings, shall be governed by the provisions of sub-*
19 *sections (f) through (i) of this section.”.*

20 **(2) PROCEDURE.—***Section 2(q)(2) of the Federal*
21 *Hazardous Substances Act (15 U.S.C. 1261(q)(2)) is*
22 *amended by striking “Proceedings for the issuance,*
23 *amendment, or repeal of regulations pursuant to*
24 *clause (B) of subparagraph (1) of this paragraph*
25 *shall be governed by the provisions of sections 701(e),*

1 (f), and (g) of the Federal Food, Drug, and Cosmetic
2 Act: Provided, That if” and inserting “Proceedings
3 for the issuance, amendment, or repeal of regulations
4 pursuant to clause (B) of subparagraph (1) of this
5 paragraph shall be governed by the provisions of sub-
6 sections (f) through (i) of section 3 of this Act, except
7 that if”.

8 (3) *ANPR REQUIREMENT.*—Section 3 of the Fed-
9 eral Hazardous Substances Act (15 U.S.C. 1262) is
10 amended—

11 (A) by striking “shall be commenced” in
12 subsection (f) and inserting “may be com-
13 menced”;

14 (B) by striking “in the notice” in subsection
15 (g)(1) and inserting “in a notice”; and

16 (C) by striking “unless, not less than 60
17 days after publication of the notice required in
18 subsection (f), the” in subsection (h) and insert-
19 ing “unless the”.

20 (4) *OTHER CONFORMING AMENDMENTS.*—The
21 Federal Hazardous Substances Act (15 U.S.C. 1261 et
22 seq.) is amended—

23 (A) by striking paragraphs (c) and (d) of
24 section 2 and inserting the following:

1 “(c) *The term ‘Commission’ means the Consumer*
2 *Product Safety Commission.*”;

3 (B) *by striking “Secretary” each place it*
4 *appears and inserting “Commission” except—*

5 (i) *in section 10(b) (15 U.S.C.*
6 *1269(b));*

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

8 *and*

9 (iii) *in section 21(a) (15 U.S.C.*
10 *1276(a));*

11 (C) *by striking “Department” each place it*
12 *appears, except in sections 5(c)(6)(D)(i) and*
13 *14(b) (15 U.S.C. 1264(c)(6)(D)(i) and 1273(b)),*
14 *and inserting “Commission”;*

15 (D) *by striking “he” and “his” each place*
16 *they appear in reference to the Secretary and in-*
17 *serting “it” and “its”, respectively;*

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

22 (F) *by striking “Secretary of Health, Edu-*
23 *cation, and Welfare” each place it appears in*
24 *section 14 (15 U.S.C. 1273) and inserting “Com-*
25 *mission”;*

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

4 (H) by striking “Consumer Product Safety
5 Commission” each place it appears and insert-
6 ing “Commission”;

7 (I) by striking “(hereinafter in this section
8 referred to as the ‘Commission’)” in section
9 14(d) (15 U.S.C. 1273(d)) and section 20(a)(1)
10 (15 U.S.C. 1275(a)(1)); and

11 (J) by striking paragraph (5) of section
12 18(b) (15 U.S.C. 1261 note).

13 (c) *RULEMAKING UNDER FLAMMABLE FABRICS ACT.*—

14 (1) *IN GENERAL.*—Section 4 of the *Flammable*
15 *Fabrics Act* (15 U.S.C. 1193) is amended—

16 (A) by striking “shall be commenced” in
17 subsection (g) and inserting “may be commenced
18 by a notice of proposed rulemaking or”; and

19 (B) by striking “unless, not less than 60
20 days after publication of the notice required in
21 subsection (g), the” in subsection (i) and insert-
22 ing “unless the”.

23 (2) *OTHER CONFORMING AMENDMENTS.*—*The*
24 *Flammable Fabrics Act* (15 U.S.C. 1193) is
25 amended—

1 (A) *by striking paragraph (i) of section 2*
2 *(15 U.S.C. 1191(i)) and inserting the following:*

3 *“(i) The term ‘Commission’ means the Consumer*
4 *Product Safety Commission.”;*

5 (B) *by striking “Secretary of Commerce”*
6 *each place it appears and inserting “Commis-*
7 *sion”;*

8 (C) *by striking “Secretary” each place it*
9 *appears and inserting “Commission”, except in*
10 *sections 9 and 14 (15 U.S.C. 1198 and 1201);*

11 (D) *by striking “he” and “his” each place*
12 *they appear in reference to the Secretary and in-*
13 *serting “it” and “its”, respectively;*

14 (E) *by striking paragraph (5) of section*
15 *4(e) (15 U.S.C. 1193(e)) and redesignating para-*
16 *graph (6) as paragraph (5);*

17 (F) *by striking “Consumer Product Safety*
18 *Commission (hereinafter in this section referred*
19 *to as the ‘Commission’)” in section 15 (15*
20 *U.S.C. 1202) and inserting “Commission”;*

21 (G) *by striking section 16(d) (15 U.S.C.*
22 *1203(d)) and inserting the following:*

23 *“(d) In this section, a reference to a flammability*
24 *standard or other regulation for a fabric, related material,*
25 *or product in effect under this Act includes a standard of*

1 *flammability continued in effect by section 11 of the Act*
2 *of December 14, 1967 (Public Law 90–189).”; and*

3 *(H) by striking “Consumer Product Safety*
4 *Commission” in section 17 (15 U.S.C. 1204) and*
5 *inserting “Commission”.*

6 **SEC. 9. PROHIBITION ON STOCKPILING UNDER OTHER**
7 **COMMISSION-ENFORCED STATUTES.**

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

9 *(1) by inserting “or to which a rule under any*
10 *other law enforced by the Commission applies,” after*
11 *“applies,”; and*

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

14 **SEC. 10. THIRD PARTY CERTIFICATION OF CHILDREN’S**
15 **PRODUCTS.**

16 *(a) IN GENERAL.—Section 14(a) (15 U.S.C. 2063(a))*
17 *is amended—*

18 *(1) by redesignating paragraph (2) as para-*
19 *graph (5);*

20 *(2) by striking “Every manufacturer” in para-*
21 *graph (1) and inserting “Except as provided in para-*
22 *graph (2), every manufacturer”;*

23 *(3) by designating the second and third sentences*
24 *of subsection (a) as paragraphs (3) and (4), respec-*
25 *tively;*

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

3 “(2) *Beginning 60 days after the date on which the*
4 *Commission publishes notice of an interim procedure des-*
5 *ignated under subsection (d)(2) of this section, every manu-*
6 *facturer, or its designee, of a children’s product (and the*
7 *private labeler, or its designee, of such product if it bears*
8 *a private label) manufactured or imported after such 60th*
9 *day that is subject to a children’s product safety standard*
10 *shall—*

11 “(A) *have the product tested by a third party*
12 *laboratory qualified to perform such tests or testing*
13 *programs; and*

14 “(B) *issue a certification which shall—*

15 “(i) *certify that such product meets that*
16 *standard; and*

17 “(ii) *specify the applicable children’s prod-*
18 *uct safety standard.”;*

19 (5) *by striking “Such certificate shall” in para-*
20 *graph (3) as redesignated by paragraph (1) and in-*
21 *serting “A certificate required under this subsection*
22 *shall”;* *and*

23 (6) *in paragraph (5), as redesignated by para-*
24 *graph (1)—*

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),”; and

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

7 (b) *TESTING PROGRAMS.*—Section 14(b) (15 U.S.C.
8 2063(b)) is amended—

9 (1) by inserting “(1)” before the first sentence;

10 (2) by designating the second sentence as para-
11 graph (2); and

12 (3) in paragraph (2), as so designated, by strik-
13 ing “Any test or” and inserting “Except as provided
14 in subsection (a)(2), any test or”.

15 (c) *CHILDREN’S PRODUCTS; TESTING BY INDE-
16 PENDENT THIRD LABORATORIES; CERTIFICATION.*—Section
17 14 (15 U.S.C. 2063) is amended by adding at the end the
18 following:

19 “(d) *APPLICATION TO OTHER CONSUMER PRODUCTS;
20 CERTIFIER STANDARDS; AUDIT.*—

21 “(1) *IN GENERAL.*—The Commission—

22 “(A) within 1 year after the date of enact-
23 ment of the CPSC Reform Act shall by rule—

24 “(i) establish protocols and
25 standards—

1 “(I) for acceptance of certification
2 or continuing guarantees of compliance
3 by manufacturers under this section;
4 and

5 “(II) for verifying that products
6 tested by third party laboratories com-
7 ply with applicable standards under
8 this Act and other Acts enforced by the
9 Commission;

10 “(ii) prescribe standards for accredita-
11 tion of third party laboratories, either by
12 the Commission or by 1 or more inde-
13 pendent standard-setting organizations to
14 which the Commission delegates authority,
15 to engage in certifying compliance under
16 subsection (a)(2) for children’s products or
17 products to which the Commission extends
18 the certification requirements of that sub-
19 section;

20 “(iii) establish requirements, or dele-
21 gate authority to 1 or more independent
22 standard-setting organizations, for third
23 party laboratory testing, as the Commission
24 determines to be necessary to ensure compli-
25 ance with any applicable rule or order, of

1 *random samples of products certified under*
2 *this section to determine whether they meet*
3 *the requirements for certification;*

4 “(iv) *establish requirements for peri-*
5 *odic audits of third party laboratories by*
6 *an independent standard-setting organiza-*
7 *tion as a condition for accreditation of such*
8 *laboratories under this section; and*

9 “(v) *establish a program by which*
10 *manufacturers may label products as com-*
11 *pliant with the certification requirements of*
12 *subsection (a)(2); and*

13 “(B) *may by rule extend the certification*
14 *requirements of subsection (a)(2) to other con-*
15 *sumer products or to classes or categories of con-*
16 *sumer products.*

17 “(2) *INTERIM PROCEDURE.—Within 30 days*
18 *after the date of enactment of the CPSC Reform Act,*
19 *the Commission shall—*

20 “(A) *consider existing laboratory testing*
21 *certification procedures established by inde-*
22 *pendent standard-setting organizations; and*

23 “(B) *designate an existing procedure, or ex-*
24 *isting procedures, for manufacturers of children’s*

1 *products to follow until the Commission issues a*
2 *final rule under paragraph (1)(A).*

3 “(e) *DEFINITIONS.—In this section:*

4 “(1) *CHILDREN’S PRODUCT.—The term ‘chil-*
5 *dren’s product’ means a consumer product designed*
6 *or intended for use by, or care of, a child 7 years of*
7 *age or younger that is introduced into the interstate*
8 *stream of commerce. In determining whether a prod-*
9 *uct is intended for use by a child 7 years of age or*
10 *younger, the following factors shall be considered:*

11 “(A) *A statement by a manufacturer about*
12 *the intended use of such product, including a*
13 *label on such product, if such statement is rea-*
14 *sonable.*

15 “(B) *Whether the product is represented in*
16 *its packaging, display, promotion, or advertising*
17 *as appropriate for children 7 years of age or*
18 *younger.*

19 “(C) *Whether the product is commonly rec-*
20 *ognized by consumers as being intended for use*
21 *by a child 7 years of age or younger.*

22 “(D) *The Age Determination Guidelines*
23 *issued by the Commission in September 2002*
24 *and any subsequent version of such Guideline.*

1 “(2) *CHILDREN’S PRODUCT SAFETY STAND-*
2 *ARD.—The term ‘children’s product safety standard’*
3 *means a consumer product safety rule or standard*
4 *under this Act or any other Act enforced by the Com-*
5 *mission, or a rule or classification under this Act or*
6 *any other Act enforced by the Commission declaring*
7 *a consumer product to be a banned hazardous product*
8 *or substance.*

9 “(3) *THIRD PARTY LABORATORY.—*

10 “(A) *IN GENERAL.—The term ‘third party*
11 *laboratory’ means a testing entity that—*

12 “(i) *is designated by the Commission,*
13 *or by an independent standard-setting orga-*
14 *nization to which the Commission qualifies*
15 *as capable of making such a designation, as*
16 *a testing laboratory that is competent to*
17 *test products for compliance with applicable*
18 *safety standards under this Act and other*
19 *Acts enforced by the Commission; and*

20 “(ii) *except as provided in subpara-*
21 *graph (C), is a non-governmental entity*
22 *that is not owned, managed, or controlled*
23 *by the manufacturer or private labeler.*

24 “(B) *TESTING AND CERTIFICATION OF ART*
25 *MATERIALS AND PRODUCTS.—A certifying orga-*

1 nization (as defined in appendix A to section
2 1500.14(b)(8) of title 16, Code of Federal Regula-
3 tions) meets the requirements of subparagraph
4 (A)(ii) with respect to the certification of art
5 material and art products required under this
6 section or by regulations issued under the Fed-
7 eral Hazardous Substances Act.

8 “(C) FIREWALLED PROPRIETARY LABORA-
9 TORIES.—Upon request, the Commission may
10 certify a laboratory that is owned, managed, or
11 controlled by the manufacturer or private labeler
12 as a third party laboratory if the Commission—

13 “(i) finds that certification of the lab-
14 oratory would provide equal or greater con-
15 sumer safety protection than the manufac-
16 turer’s use of an independent third party
17 laboratory;

18 “(ii) establishes procedures to ensure
19 that the laboratory is protected from undue
20 influence, including pressure to modify or
21 hide test results, by the manufacturer or
22 private labeler; and

23 “(iii) establishes procedures for con-
24 fidential reporting of allegations of undue
25 influence to the Commission.

1 “(D) *PROVISIONAL CERTIFICATION.*—

2 “(i) *IN GENERAL.*—Upon application
3 made to the Commission less than 1 year
4 after the date of enactment of the CPSC Re-
5 form Act, the Commission may provide pro-
6 visional certification of a laboratory de-
7 scribed in subparagraph (C) of this para-
8 graph, or a laboratory described in sub-
9 paragraph (A) of this paragraph, upon a
10 showing that the laboratory—

11 “(I) is certified under laboratory
12 testing certification procedures estab-
13 lished by an independent standard-set-
14 ting organization; or

15 “(II) provides consumer safety
16 protection that is equal to or greater
17 than that which would be provided by
18 use of an independent third party lab-
19 oratory.

20 “(ii) *DEADLINE.*—The Commission
21 shall grant or deny any such application
22 within 45 days after receiving the completed
23 application.

24 “(iii) *EXPIRATION.*—Any such certifi-
25 cation shall expire 90 days after the date on

1 *which the Commission publishes final rules*
2 *under subsections (a)(2) and (d).*

3 “(iv) *ANTI-GAP PROVISION.*—*Within 45*
4 *days after receiving a complete application*
5 *for certification under the final rule pre-*
6 *scribed under subsections (a)(2) and (d) of*
7 *this section from a laboratory provisionally*
8 *certified under this subparagraph, the Com-*
9 *mission shall grant or deny the application*
10 *if the application is received by the Com-*
11 *mission no later than 45 days after the date*
12 *on which the Commission publishes such*
13 *final rule.*

14 “(E) *DECERTIFICATION.*—*The Commission,*
15 *or an independent standard-setting organization*
16 *to which the Commission has delegated such au-*
17 *thority, may decertify a third party laboratory*
18 *(including a laboratory certified as a third party*
19 *laboratory under subparagraph (B) of this para-*
20 *graph) if it finds, after notice and investigation,*
21 *that a manufacturer or private labeler has ex-*
22 *erted undue influence on the laboratory.”.*

23 “(d) *CONFORMING AMENDMENTS.*—*Section 14(b) (15*
24 *U.S.C. 2063(b)) is amended—*

1 (1) by striking “consumer products which are
2 subject to consumer product safety standards” and in-
3 serting “a consumer product that is subject to a con-
4 sumer product safety standard, a children’s product
5 that is subject to a children’s product safety standard,
6 or either such product that is subject to any other rule
7 under this Act (or a similar rule under any other Act
8 enforced by the Commission)”; and

9 (2) by striking “, at the option of the person re-
10 quired to certify the product,” and inserting “be re-
11 quired by the Commission to”.

12 (e) *LABEL AND CERTIFICATION.*—Not later than 1
13 year after the date of enactment of this Act, the Consumer
14 Product Safety Commission shall prescribe a rule in ac-
15 cordance with section 14(a)(5) and (d) of the Consumer
16 Product Safety Act (15 U.S.C. 2063(a)(5) and (d)) for chil-
17 dren’s products (as defined in subsection (e) of such section).

18 (f) *PROHIBITION ON IMPORTS OF CHILDREN’S PROD-*
19 *UCTS WITHOUT THIRD PARTY TESTING CERTIFICATION.*—
20 Section 17(a) (15 U.S.C. 2066(a)) is amended—

21 (1) by striking “or” at the end of paragraph (4);

22 (2) by striking “(g).” in paragraph (5) and in-
23 serting a “(g); or”; and

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

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

3 (2) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) *INTERNET, CATALOGUE, AND OTHER ADVER-*
6 *TISING.—*

7 “(1) *REQUIREMENT.—*

8 “(A) *CAUTIONARY STATEMENT.—Any ad-*
9 *vertisement that provides a direct means of pur-*
10 *chase posted by a manufacturer, retailer, dis-*
11 *tributor, private labeler, or licensor for any toy,*
12 *game, balloon, small ball, or marble that requires*
13 *a cautionary statement under subsections (a)*
14 *and (b), including any advertisement on Internet*
15 *websites or in catalogues or other distributed ma-*
16 *terials, shall include the appropriate cautionary*
17 *statement required under such subsections in its*
18 *entirety displayed on or immediately adjacent to*
19 *such advertisement. A manufacturer, distributor,*
20 *private labeler, or licensor that uses a retailer to*
21 *advertise a product shall inform the retailer of*
22 *any cautionary statement that may apply to*
23 *such products in any communication to the re-*
24 *tailer that contains information about the prod-*
25 *ucts to be advertised. The requirement imposed*

1 *by the preceding sentence shall only apply to ad-*
2 *vertisements by the retailer if the manufacturer,*
3 *importer, distributor, private labeler, or licensor*
4 *affirmatively informs the retailer that such cau-*
5 *tionary statement is required for the product.*

6 “(B) *DISPLAY.*—*The cautionary statement*
7 *described in subparagraph (A) shall be promi-*
8 *nently displayed—*

9 “(i) *in the primary language used in*
10 *the advertisement, catalogue, or Internet*
11 *website;*

12 “(ii) *in conspicuous and legible type in*
13 *contrast by typography, layout, or color*
14 *with other material printed or displayed in*
15 *such advertisement; and*

16 “(iii) *in a manner consistent with*
17 *part 1500 of title 16, Code of Federal Regu-*
18 *lations.*

19 “(C) *DEFINITIONS.*—*In this paragraph, the*
20 *terms ‘manufacturer, retailer, distributor, pri-*
21 *vate labeler, and licensor’—*

22 “(i) *mean any individual who, by such*
23 *individual’s occupation holds himself or*
24 *herself out as having knowledge or skill pe-*
25 *culiar to consumer products, including any*

1 *person who is in the business of manufac-*
2 *turing, selling, distributing, labeling, licens-*
3 *ing, or otherwise placing in the stream of*
4 *commerce consumer products; but*

5 *“(ii) do not include an individual*
6 *whose selling activity is intermittent and*
7 *does not constitute a trade or business.*

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

16 *(b) TRACKING LABELS FOR PRODUCTS FOR CHIL-*
17 *DREN.—Section 14(a) of the Consumer Product Safety Act*
18 *(15 U.S.C. 2063(a)), as amended by section 10(a) of this*
19 *Act, is further amended by adding at the end thereof the*
20 *following:*

21 *“(6) Effective 1 year after the date of enactment*
22 *of the CPSC Reform Act, the manufacturer of a chil-*
23 *dren’s product or other consumer product (as may be*
24 *required by the Commission in its discretion after a*
25 *rulemaking proceeding) shall place distinguishing*

1 *marks on the product and its packaging, to the extent*
 2 *practicable, that will enable the ultimate purchaser to*
 3 *ascertain the manufacturer, production time period,*
 4 *and cohort (including the batch, run number, or other*
 5 *identifying characteristic) of production of the prod-*
 6 *uct by reference to those marks.”.*

7 *(c) ADVERTISING, LABELING, AND PACKAGING REP-*
 8 *RESENTATION.—Section 14(c) (15 U.S.C. 2063(c)) is*
 9 *amended—*

10 *(1) by striking “(c) The” and inserting “(c)(1)*
 11 *The”;*

12 *(2) by striking “rule)—” and inserting “rule):”;*

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

15 *(4) by indenting the sentence beginning “Such*
 16 *labels” and inserting “(2)” before “Such labels”; and*

17 *(5) by adding at the end thereof the following:*

18 *“(4) If an advertisement, label, or package contains*
 19 *a reference to a consumer product safety standard, a state-*
 20 *ment with respect to whether the product meets all applica-*
 21 *ble requirements of that standard.”.*

22 **SEC. 12. SUBSTANTIAL PRODUCT HAZARD REPORTING RE-**
 23 **QUIREMENT.**

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

1 (1) by striking “consumer product distributed in
2 commerce,” and inserting “consumer product (or
3 other product or substance over which the Commission
4 has jurisdiction under this or any other Act, except
5 for motor vehicle equipment as defined in section
6 30102(a)(7) of title 49, United States Code) distrib-
7 uted in commerce,”;

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

10 (3) by inserting after paragraph (1) the fol-
11 lowing:

12 “(2) fails to comply with any rule or standard
13 promulgated by the Commission under this or any
14 other Act;”.

15 **SEC. 13. CORRECTIVE ACTION PLANS.**

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

17 (1) by inserting “(1)” after “(d)”;

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

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

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

24 (5) by striking “whichever of the following ac-
25 tions the person to whom the order is directed elects:”

1 *and inserting “any one or more of the following ac-*
2 *tions it determines to be in the public interest:”;*

3 (6) *by indenting the sentence beginning “An*
4 *order” and inserting “(2)” before “An order”;*

5 (7) *by striking “satisfactory to the Commission,”*
6 *and inserting “for approval by the Commission,”;*

7 (8) *by striking “described in paragraph (3).”*
8 *and inserting “described in paragraph (1)(C).”; and*

9 (9) *by adding at the end the following:*

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

12 “(B) *If the Commission finds that an approved action*
13 *plan is not effective, or that the manufacturer, retailer, or*
14 *distributor is not executing an approved action plan effec-*
15 *tively, the Commission may by order amend, or require*
16 *amendment of, the action plan.*

17 “(C) *If the Commission determines, after notice and*
18 *opportunity for comment, that a manufacturer, retailer, or*
19 *distributor has failed to comply substantially with its obli-*
20 *gations under its action plan, the Commission may revoke*
21 *its approval of the action plan. The manufacturer, retailer,*
22 *or distributor to which the action plan applies may not*
23 *distribute the product to which the action plan relates in*
24 *commerce after receipt of notice of a revocation of the action*
25 *plan.”.*

1 **SEC. 14. IDENTIFICATION OF MANUFACTURER BY IMPORT-**
2 **ERS, RETAILERS, AND DISTRIBUTORS.**

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

5 *“(c) Upon request by an officer or employee duly des-*
6 *ignated by the Commission—*

7 *“(1) every importer, retailer, or distributor of a*
8 *consumer product (or other product or substance over*
9 *which the Commission has jurisdiction under this or*
10 *any other Act) shall identify the manufacturer of that*
11 *product by name, address, or such other identifying*
12 *information as the officer or employee may request to*
13 *the extent that the information is known, or can be*
14 *determined, by the importer, retailer, or distributor;*
15 *and*

16 *“(2) every manufacturer shall identify by name,*
17 *address, or such other identifying information as the*
18 *officer or employee may request—*

19 *“(A) each retailer or distributor to which it*
20 *directly supplied a given consumer product (or*
21 *other product or substance over which the Com-*
22 *mission has jurisdiction under this or any other*
23 *Act);*

24 *“(B) each subcontractor involved in the pro-*
25 *duction or fabrication of such product or sub-*
26 *stance; and*

1 “(C) each subcontractor from which it ob-
2 tained a component thereof.”.

3 **SEC. 15. PROHIBITED ACTS.**

4 (a) *SALE OF RECALLED PRODUCTS.*—Section 19(a)
5 (15 U.S.C. 2068(a)) is amended—

6 (1) by striking paragraph (1) and inserting the
7 following:

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

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

17 “(B) subject to voluntary corrective action
18 taken by the manufacturer, in consultation with
19 the Commission, of which action the Commission
20 has notified the public, but only if the seller, dis-
21 tributor, or manufacturer knew or should have
22 known of such voluntary corrective action; or

23 “(C) subject to an order issued under sec-
24 tion 12 or 15 of this Act, designated a banned

1 *hazardous substance under the Federal Haz-*
2 *ardous Substances Act (15 U.S.C. 1261 et seq.);”;*
3 *(2) by striking “or” after the semicolon in para-*
4 *graph (7);*
5 *(3) by striking “and” after the semicolon in*
6 *paragraph (8);*
7 *(4) by striking “insulation)” in paragraph (9)*
8 *and inserting “insulation);”;* and
9 *(5) by striking “18(b).” in paragraph (10) and*
10 *inserting “18(b); or”.*

11 ***(b) EXPORT OF RECALLED PRODUCTS.—***

12 ***(1) IN GENERAL.—****Section 18 (15 U.S.C. 2067)*
13 *is amended by adding at the end thereof the following:*

14 ***“(c) Notwithstanding any other provision of law, the***
15 *Commission may prohibit a person from exporting from the*
16 *United States for purpose of sale any consumer product,*
17 *or other product or substance that is regulated under this*
18 *Act of any other Act enforced by the Commission, that the*
19 *Commission determines, after notice to the manufacturer—*

20 ***“(1) is not in conformity with an applicable***
21 *consumer product safety standard under this Act or*
22 *with a similar rule under any such other Act and*
23 *does not violate applicable safety standards estab-*
24 *lished by the importing country;*

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

5 “(3) is subject to voluntary corrective action
6 taken by the manufacturer, in consultation with the
7 Commission, of which action the Commission has no-
8 tified the public and that would have been subject to
9 mandatory corrective action under this Act or any
10 other Act enforced by the Commission if voluntary
11 corrective action had not been taken by the manufac-
12 turer, except that the Commission may permit such a
13 product to be exported if it meets applicable safety
14 standards established by the importing country.”.

15 (2) *PENALTY.*—Section 19(a) (15 U.S.C.
16 2068(a)), as amended by subsection (a) of this section,
17 is further amended—

18 (A) by striking “or” after the semicolon in
19 paragraph (10);

20 (B) by striking “37.” in paragraph (11)
21 and inserting “37; or”; and

22 (C) by adding at the end thereof the fol-
23 lowing:

24 “(12) violate an order of the Commission under
25 section 18(c).”.

1 (3) *CONFORMING AMENDMENTS TO OTHER*
2 *ACTS.*—

3 (A) *FEDERAL HAZARDOUS SUBSTANCES*
4 *ACT.*—*Section 5(b)(3) of the Federal Hazardous*
5 *Substances Act (15 U.S.C. 1264(b)(3)) is amend-*
6 *ed by striking “substance presents an unreason-*
7 *able risk of injury to persons residing in the*
8 *United States,” and inserting “substance is pro-*
9 *hibited under section 18(c) of the Consumer*
10 *Product Safety Act.”.*

11 (B) *FLAMMABLE FABRICS ACT.*—*Section 15*
12 *of the Flammable Fabrics Act (15 U.S.C. 1202)*
13 *is amended by adding at the end thereof the fol-*
14 *lowing:*

15 “(d)(1) *Notwithstanding any other provision of law,*
16 *except as provided in paragraph (2), the Consumer Product*
17 *Safety Commission may prohibit a person from exporting*
18 *from the United States for purpose of sale any fabric, re-*
19 *lated material, or product that the Commission determines,*
20 *after notice to the manufacturer—*

21 “(A) *is not in conformity with an applicable*
22 *consumer product safety standard under the Con-*
23 *sumer Product Safety Act or with a rule under this*
24 *Act;*

1 “(B) is subject to an order issued under section
2 12 or 15 of the Consumer Product Safety Act or des-
3 ignated as a banned hazardous substance under the
4 Federal Hazardous Substances Act (15 U.S.C. 1261 et
5 seq.); or

6 “(C) is subject to voluntary corrective action
7 taken by the manufacturer, in consultation with the
8 Commission, of which action the Commission has no-
9 tified the public and that would have been subject to
10 mandatory corrective action under this or another Act
11 enforced by the Commission if voluntary corrective
12 action had not been taken by the manufacturer.

13 “(2) The Commission may permit the exportation of
14 a fabric, related material, or product described in para-
15 graph (1) if it meets applicable safety standards of the
16 country to which it is being exported.”.

17 (c) FALSE CERTIFICATION OF COMPLIANCE WITH
18 TESTING LABORATORY STANDARD.—Section 19(a) (15
19 U.S.C. 2068(a)), as amended by subsection (b)(2) of this
20 section, is further amended—

21 (1) by striking “or” after the semicolon in para-
22 graph (11);

23 (2) by striking “18(c).” in paragraph (12) and
24 inserting “18(c); or”; and

25 (3) by adding at the end thereof the following:

1 “(13) sell, offer for sale, distribute in commerce,
2 or import into the United States any consumer prod-
3 uct bearing a registered safety certification mark
4 owned by an accredited conformity assessment body,
5 which mark is known, or should have been known, by
6 such person to be used in a manner unauthorized by
7 the owner of that certification mark.”.

8 (d) *MISREPRESENTATION OF INFORMATION IN INVES-*
9 *TIGATION.*—Section 19(a) (15 U.S.C. 2068(a)), as amended
10 by subsection (c) of this section, is further amended—

11 (1) by striking “or” after the semicolon in para-
12 graph (12);

13 (2) by striking “false.” in paragraph (13) and
14 inserting “false; or”; and

15 (3) by adding at the end thereof the following:

16 “(14) misrepresent to any officer or employee of
17 the Commission the scope of consumer products sub-
18 ject to an action required under section 12 or 15, or
19 to make a material misrepresentation to such an offi-
20 cer or employee in the course of an investigation
21 under this Act or any other Act enforced by the Com-
22 mission.”.

23 (e) *CERTIFICATES OF COMPLIANCE WITH MANDATORY*
24 *STANDARDS.*—Section 19(a)(6) (15 U.S.C. 2068(a)(6)) is
25 amended to read as follows:

1 “(6) fail to furnish a certificate required by this
2 Act or any other Act enforced by the Commission, or
3 to issue a false certificate if such person in the exer-
4 cise of due care has reason to know that the certificate
5 is false or misleading in any material respect; or to
6 fail to comply with any rule under section 14(c);”.

7 (f) *UNDUE INFLUENCE ON THIRD PARTY LABORA-*
8 *TORIES.*—Section 19(a) (15 U.S.C. 2068(a)), as amended
9 by subsection (d) of this section, is further amended—

10 (1) by striking “or” after the semicolon in para-
11 graph (13);

12 (2) by striking “Commission.” in paragraph
13 (14) and inserting “Commission; or”; and

14 (3) by adding at the end thereof the following:

15 “(15) exercise, or attempt to exercise, undue in-
16 fluence on a third party laboratory (as defined in sec-
17 tion 14(e)(2)) with respect to the testing, or reporting
18 of the results of testing, of any product for compliance
19 with a standard under this Act or any other Act en-
20 forced by the Commission.”.

21 **SEC. 16. PENALTIES.**

22 (a) *CIVIL PENALTIES.*—

23 (1) *IN GENERAL.*—Section 20(a) (15 U.S.C.
24 2069(a)) is amended—

1 (A) by striking “\$5,000” and inserting
2 “\$250,000”;

3 (B) by striking “\$1,250,000” each place it
4 appears and inserting “\$20,000,000”; and

5 (C) by striking “December 1, 1994,” in
6 paragraph (3)(B) and inserting “December 1,
7 2011,”.

8 (2) *FEDERAL HAZARDOUS SUBSTANCES ACT*.—
9 Section 5(c) of the Federal Hazardous Substances Act
10 (15 U.S.C. 1264(c)) is amended—

11 (A) by striking “\$5,000” in paragraph (1)
12 and inserting “\$250,000”;

13 (B) by striking “\$1,250,000” each place it
14 appears in paragraph (1) and inserting
15 “\$20,000,000”; and

16 (C) by striking “December 1, 1994,” in
17 paragraph (6)(B) and inserting “December 1,
18 2011,”.

19 (3) *FLAMMABLE FABRICS ACT*.—Section 5(e) of
20 the Flammable Fabrics Act (15 U.S.C. 1194(e)) is
21 amended—

22 (A) by striking “\$5,000” in paragraph (1)
23 and inserting “\$250,000”;

24 (B) by striking “\$1,250,000” in paragraph
25 (1) and inserting “\$20,000,000”; and

1 (C) by striking “December 1, 1994,” in
2 paragraph (5)(B) and inserting “December 1,
3 2011,”.

4 (4) *MAXIMUM PENALTY FOR CERTAIN VIOLA-*
5 *TIONS.—Section 20(a)(1) (15 U.S.C. 2069(a)), section*
6 *5(c)(1) of the Federal Hazardous Substances Act (15*
7 *U.S.C. 1264(c)), and section 5(e)(1) of the Flammable*
8 *Fabrics Act (15 U.S.C. 1194(e)) are each amended by*
9 *inserting “The Commission shall impose civil pen-*
10 *alties exceeding \$10,000,000 under this paragraph*
11 *only when issuing a finding of aggravated cir-*
12 *cumstances.” after “violations.”.*

13 (b) *CRIMINAL PENALTIES.—*

14 (1) *IN GENERAL.—Section 21(a) (15 U.S.C.*
15 *2070(a)) is amended to read as follows:*

16 “(a) Violation of section 19 of this Act is punishable
17 by—

18 “(1) imprisonment for not more than 5 years for
19 a knowing and willful violation of that section;

20 “(2) a fine determined under section 3571 of title
21 18, United States Code; or

22 “(3) both.”.

23 (2) *DIRECTORS, OFFICERS, AND AGENTS.—Sec-*
24 *tion 21(b) (15 U.S.C. 2070(b)) is amended by striking*
25 *“19, and who has knowledge of notice of noncompli-*

1 *ance received by the corporation from the Commis-*
 2 *sion,” and inserting “19”.*

3 (3) *UNDER THE FEDERAL HAZARDOUS SUB-*
 4 *STANCES ACT.—Section 5(a) of the Federal Haz-*
 5 *ardous Substances Act (15 U.S.C. 1264(a)) is amend-*
 6 *ed by striking “one year, or a fine of not more than*
 7 *\$3,000, or both such imprisonment and fine.” and in-*
 8 *serting “5 years, a fine determined under section*
 9 *3571 of title 18, United States Code, or both.”.*

10 (4) *UNDER THE FLAMMABLE FABRICS ACT.—*
 11 *Section 7 of the Flammable Fabrics Act (15 U.S.C.*
 12 *1196) is amended to read as follows:*

13 “PENALTIES

14 “*SEC. 7. Violation of section 3 or 8(b) of this Act, or*
 15 *failure to comply with section 15(c) of this Act, is punish-*
 16 *able by—*

17 “(1) *imprisonment for not more than 5 years for*
 18 *a knowing and willful violation of that section;*

19 “(2) *a fine determined under section 3571 of title*
 20 *18, United States Code; or*

21 “(3) *both.”.*

22 (c) *CIVIL PENALTY CRITERIA.—Within 1 year after*
 23 *the date of enactment of this Act, the Consumer Product*
 24 *Safety Commission shall initiate a rulemaking in accord-*
 25 *ance with section 553 of title 5, United States Code, to es-*
 26 *tablish additional criteria for the imposition of civil pen-*

1 *alties under section 20 of the Consumer Product Safety Act*
2 *(15 U.S.C. 2069) and any other Act enforced by the Com-*
3 *mission, including factors to be considered in establishing*
4 *the amount of such penalties, such as repeat violations, the*
5 *precedential value of prior adjudicated penalties, the factors*
6 *described in section 20(b) of the Consumer Product Safety*
7 *Act (15 U.S.C. 2069(b)), and other circumstances. Section*
8 *20 (15 U.S.C. 2069) is amended—*

9 *(1) by striking “charged.” in subsection (b) and*
10 *inserting “charged, including how to mitigate undue*
11 *adverse economic impacts on small businesses.”; and*

12 *(2) by striking “charged,” in subsection (c) and*
13 *inserting “charged (including how to mitigate undue*
14 *adverse economic impacts on small businesses),”.*

15 *(d) CRIMINAL PENALTIES TO INCLUDE ASSET FOR-*
16 *FEITURE.—Section 21 (15 U.S.C. 2070) is amended by*
17 *adding at the end thereof the following:*

18 *“(c)(1) In addition to the penalties provided by sub-*
19 *section (a), the penalty for a criminal violation of this Act*
20 *or any other Act enforced by the Commission may include*
21 *the forfeiture of assets associated with the violation.*

22 *“(2) In this subsection, the term ‘criminal violation’*
23 *means a violation of this Act or any other Act enforced by*
24 *the Commission for which the violator is sentenced to pay*
25 *a fine, be imprisoned, or both.”.*

1 **SEC. 17. PREEMPTION.**

2 *The provisions of sections 25 and 26 of the Consumer*
3 *Product Safety Act (15 U.S.C. 2074 and 2075, respec-*
4 *tively)), section 18 of the Federal Hazardous Substances Act*
5 *(15 U.S.C. 1261 note), section 16 of the Flammable Fabrics*
6 *Act (15 U.S.C. 1203), and section 7 of the Poison Packaging*
7 *Prevention Act of 1970 (15 U.S.C. 1476) establishing the*
8 *extent to which those Acts preempt, limit, or otherwise affect*
9 *any other Federal, State, or local law, any rule, procedure,*
10 *or regulation, or any cause of action under State or local*
11 *law may not be expanded or contracted in scope, or limited,*
12 *modified or extended in application, by any rule or regula-*
13 *tion thereunder, or by reference in any preamble, statement*
14 *of policy, executive branch statements, or other matter asso-*
15 *ciated with the publication of any such rule or regulation.*

16 **SEC. 18. SHARING OF INFORMATION WITH FEDERAL, STATE,**
17 **LOCAL, AND FOREIGN GOVERNMENT AGEN-**
18 **CIES.**

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

21 “(f)(1) *The Commission may make information ob-*
22 *tained by the Commission under section 6 available to any*
23 *Federal, State, local, or foreign government agency upon*
24 *the prior certification of an appropriate official of any such*
25 *agency, either by a prior agreement or memorandum of un-*
26 *derstanding with the Commission or by other written cer-*

1 *tification, that such material will be maintained in con-*
2 *fidence and will be used only for official law enforcement*
3 *or consumer protection purposes, if—*

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

7 “(B) *the materials are to be used for purposes of*
8 *investigating, or engaging in enforcement proceedings*
9 *related to, possible violations of—*

10 “(i) *laws regulating the manufacture, im-*
11 *portation, distribution, or sale of defective or un-*
12 *safe consumer products, or other practices sub-*
13 *stantially similar to practices prohibited by any*
14 *law administered by the Commission;*

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

19 “(iii) *with respect to a foreign law enforce-*
20 *ment agency, with the approval of the Attorney*
21 *General, other foreign criminal laws, if such for-*
22 *oreign criminal laws are offenses defined in or cov-*
23 *ered by a criminal mutual legal assistance treaty*
24 *in force between the government of the United*

1 *States and the foreign law enforcement agency's*
2 *government; and*

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

11 “(2) *Except as provided in paragraph (3) of this sub-*
12 *section, the Commission shall not be required to disclose*
13 *under section 552 of title 5, United States Code, or any*
14 *other provision of law—*

15 “(A) *any material obtained from a foreign gov-*
16 *ernment agency, if the foreign government agency has*
17 *requested confidential treatment, or has precluded*
18 *such disclosure under other use limitations, as a con-*
19 *dition of providing the material;*

20 “(B) *any material reflecting a consumer com-*
21 *plaint obtained from any other foreign source, if the*
22 *foreign source supplying the material has requested*
23 *confidential treatment as a condition of providing the*
24 *material; or*

1 “(C) any material reflecting a consumer com-
2 plaint submitted to a Commission reporting mecha-
3 nism sponsored in part by foreign government agen-
4 cies.

5 “(3) Nothing in this subsection shall authorize the
6 Commission to withhold information from the Congress or
7 prevent the Commission from complying with an order of
8 a court of the United States in an action commenced by
9 the United States or the Commission.

10 “(4) The Commission may terminate a memorandum
11 of understanding or other agreement with another agency
12 if it determines that the other agency has not handled infor-
13 mation made available by the Commission under para-
14 graph (1) or has failed to maintain confidentiality with
15 respect to the information.

16 “(5) In this subsection, the term ‘foreign government
17 agency’ means—

18 “(A) any agency or judicial authority of a for-
19 eign government, including a foreign state, a political
20 subdivision of a foreign state, or a multinational or-
21 ganization constituted by and comprised of foreign
22 states, that is vested with law enforcement or inves-
23 tigative authority in civil, criminal, or administra-
24 tive matters; and

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

4 **SEC. 19. FINANCIAL RESPONSIBILITY.**

5 (a) *IN GENERAL.*—*The Act (15 U.S.C. 2051 et seq.)*
6 *is amended by adding at the end thereof the following:*

7 “*FINANCIAL RESPONSIBILITY*

8 “*SEC. 39. (a) The Commission, in a rulemaking pro-*
9 *ceeding, may establish procedures to require the posting of*
10 *an escrow, proof of insurance, or security acceptable to the*
11 *Commission by—*

12 “(1) *a person that has committed multiple sig-*
13 *nificant violations of this Act or any rule or Act en-*
14 *forced by the Commission;*

15 “(2) *the manufacturer or distributor of a cat-*
16 *egory or class of consumer products; or*

17 “(3) *the manufacturer or distributor of any con-*
18 *sumer product or any product or substance regulated*
19 *under any other Act enforced by the Commission.*

20 “(b) *AMOUNT.*—*The escrow, proof of insurance, or se-*
21 *curity required by the Commission under subsection (a)*
22 *shall be in an amount sufficient—*

23 “(1) *to cover the costs of an effective recall of the*
24 *product or substance; or*

25 “(2) *to cover the costs of holding the product and*
26 *the destruction of the product should such action be*

1 *required by the Commission under this Act or any*
 2 *other act enforced by the Commission.”.*

3 **(b) CONFORMING AMENDMENTS.—**

4 *(1) The table of contents is amended by striking*
 5 *the item relating to section 10 and inserting the fol-*
 6 *lowing:*

 “*Sec. 10. [Repealed].*”.

7 *(2) The table of contents is amended by inserting*
 8 *after the item relating to section 34 the following:*

 “*Sec. 35. Interim cellulose insulation safety standard.*

 “*Sec. 36. Congressional veto of consumer product safety rules.*

 “*Sec. 37. Information reporting.*

 “*Sec. 38. Low-speed electric bicycles.*

 “*Sec. 39. Financial responsibility.*”.

9 **SEC. 20. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

10 *(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.)*
 11 *is amended by inserting after section 26 the following:*

12 “**ENFORCEMENT BY STATE ATTORNEYS GENERAL**

13 “**SEC. 26A. (a)** *Except as provided in subsection (f),*
 14 *whenever the attorney general of a State has reason to be-*
 15 *lieve that the interests of the residents of that State have*
 16 *been, or are being, threatened or adversely affected by a vio-*
 17 *lation of any consumer product safety rule, regulation,*
 18 *standard, certification or labeling requirement, or order*
 19 *prescribed under this Act or any other Act enforced by the*
 20 *Commission (including the sale of a voluntarily or*
 21 *mandatorily recalled product or of a banned hazardous sub-*
 22 *stance or product), the State, as parens patriae, may bring*

1 *a civil action on behalf of its residents in an appropriate*
2 *district court of the United States to obtain injunctive relief*
3 *provided under such Act.*

4 “(b) *The State shall serve written notice to the Com-*
5 *mission of any civil action under subsection (a) at least*
6 *60 days prior to initiating such civil action. The notice*
7 *shall include a copy of the complaint to be filed to initiate*
8 *such civil action, except that if it is not feasible for the*
9 *State to provide such prior notice, the State shall provide*
10 *notice immediately upon instituting such civil action.*

11 “(c) *Upon receiving the notice required by subsection*
12 *(b), the Commission may intervene in such civil action and*
13 *upon intervening—*

14 “(1) *be heard on all matters arising in such civil*
15 *action; and*

16 “(2) *file petitions for appeal of a decision in*
17 *such civil action.*

18 “(d) *Nothing in this section shall prevent the attorney*
19 *general of a State from exercising the powers conferred on*
20 *the attorney general, or other authorized State officer, by*
21 *the laws of such State. Nothing in this section shall prohibit*
22 *the attorney general of a State, or other authorized State*
23 *officer, from proceeding in State or Federal court on the*
24 *basis of an alleged violation of any civil or criminal statute*
25 *of that State.*

1 “(e) *In a civil action brought under subsection (a)—*

2 “(1) *the venue shall be a judicial district in*
3 *which—*

4 “(A) *the manufacturer, distributor, or re-*
5 *tailer operates; or*

6 “(B) *the manufacturer, distributor, or re-*
7 *tailer is authorized to do business;*

8 “(2) *process may be served without regard to the*
9 *territorial limits of the district or of the State in*
10 *which the civil action is instituted; and*

11 “(3) *a person who participated with a manufac-*
12 *turer, distributor, or retailer in an alleged violation*
13 *that is being litigated in the civil action may be*
14 *joined in the civil action without regard to the resi-*
15 *dence of the person.*

16 “(f) *If the Commission has instituted a civil action*
17 *or an administrative action for violation of this Act or any*
18 *other Act enforced by the Commission, no State attorney*
19 *general, or other official or agency of a State, may bring*
20 *an action under this section during the pendency of that*
21 *action against any defendant named in the complaint of*
22 *the Commission for any violation of this Act alleged in the*
23 *complaint.*

24 “(g) *If the attorney general of the State prevails in*
25 *any civil action under subsection (a), it can recover reason-*

1 *able costs and attorney fees from the manufacturer, dis-*
 2 *tributor, or retailer. Any attorney’s fees recovered pursuant*
 3 *to this subsection shall be reviewed by the court to ensure*
 4 *that those fees are consistent with section 2060(f) of this*
 5 *title.*

6 “(h) *If private counsel is retained to assist in any civil*
 7 *action under subsection (a), the private counsel retained to*
 8 *assist the State may not share with participants in other*
 9 *private civil actions that arise out of the same operative*
 10 *facts any information that is—*

11 (1) *subject to a litigation privilege; and*

12 (2) *was obtained during discovery in the action*
 13 *under subsection (a).*

14 *The private counsel retained to assist the State may not*
 15 *use any information that is subject to a litigation privilege*
 16 *and that was obtained while assisting the State in the ac-*
 17 *tion under subsection (a) in any other private civil actions*
 18 *that arise out of the same operative facts.”.*

19 (b) *CONFORMING AMENDMENT.—The table of contents*
 20 *is amended by inserting after the item relating to section*
 21 *26 the following:*

“Sec. 26A. Enforcement by state attorneys general.”.

22 **SEC. 21. WHISTLEBLOWER PROTECTIONS.**

23 (a) *IN GENERAL.—The Act (15 U.S.C. 2051 et seq.),*
 24 *as amended by section 19, is further amended by adding*
 25 *at the end the following:*

1 “WHISTLEBLOWER PROTECTION

2 “SEC. 40. (a) *No manufacturer, private labeler, dis-*
3 *tributor, or retailer, nor any Federal, State, or local govern-*
4 *ment agency, may discharge an employee or otherwise dis-*
5 *criminate against an employee with respect to compensa-*
6 *tion, terms, conditions, or privileges of employment because*
7 *the employee, whether at the employee’s initiative or in the*
8 *ordinary course of the employee’s duties (or any person act-*
9 *ing pursuant to a request of the employee)—*

10 “(1) *provided, caused to be provided, or is about*
11 *to provide or cause to be provided to the employer, the*
12 *Federal Government, or the attorney general of a*
13 *State information relating to any violation of, or any*
14 *act or omission the employee reasonably believes to be*
15 *a violation of an order, regulation, rule, or other pro-*
16 *vision of this Act or any other Act enforced by the*
17 *Commission;*

18 “(2) *testified or is about to testify in a pro-*
19 *ceeding concerning such violation;*

20 “(3) *assisted or participated or is about to assist*
21 *or participate in such a proceeding; or*

22 “(4) *objected to, or refused to participate in, any*
23 *activity, policy, practice, or assigned task that the*
24 *employee (or other such person) reasonably believed to*
25 *be in violation of an order, regulation, rule, or other*

1 *provision of this Act or any other Act enforced by the*
2 *Commission.*

3 “(b)(1) *A person who believes that he or she has been*
4 *discharged or otherwise discriminated against by any per-*
5 *son in violation of subsection (a) may, not later than 180*
6 *days after the date on which such violation occurs, file (or*
7 *have any person file on his or her behalf) a complaint with*
8 *the Secretary of Labor alleging such discharge or discrimi-*
9 *nation and identifying the person responsible for such act.*
10 *Upon receipt of such a complaint, the Secretary shall no-*
11 *tify, in writing, the person named in the complaint of the*
12 *filing of the complaint, of the allegations contained in the*
13 *complaint, of the substance of evidence supporting the com-*
14 *plaint, and of the opportunities that will be afforded to such*
15 *person under paragraph (2).*

16 “(2)(A) *Not later than 60 days after the date of receipt*
17 *of a complaint filed under paragraph (1) and after afford-*
18 *ing the complainant and the person named in the com-*
19 *plaint an opportunity to submit to the Secretary a written*
20 *response to the complaint and an opportunity to meet with*
21 *a representative of the Secretary to present statements from*
22 *witnesses, the Secretary shall initiate an investigation and*
23 *determine whether there is reasonable cause to believe that*
24 *the complaint has merit and notify, in writing, the com-*
25 *plainant and the person alleged to have committed a viola-*

1 *tion of subsection (a) of the Secretary's findings. If the Sec-*
2 *retary concludes that there is reasonable cause to believe*
3 *that a violation of subsection (a) has occurred, the Secretary*
4 *shall accompany the Secretary's findings with a prelimi-*
5 *nary order providing the relief prescribed by paragraph*
6 *(3)(B). Not later than 30 days after the date of notification*
7 *of findings under this paragraph, either the person alleged*
8 *to have committed the violation or the complainant may*
9 *file objections to the findings or preliminary order, or both,*
10 *and request a hearing on the record. The filing of such objec-*
11 *tions shall not operate to stay any reinstatement remedy*
12 *contained in the preliminary order. Any such hearing shall*
13 *be conducted expeditiously. If a hearing is not requested in*
14 *such 30-day period, the preliminary order shall be deemed*
15 *a final order that is not subject to judicial review.*

16 “(B)(i) *The Secretary shall dismiss a complaint filed*
17 *under this subsection and shall not conduct an investigation*
18 *otherwise required under subparagraph (A) unless the com-*
19 *plainant makes a prima facie showing that any behavior*
20 *described in paragraphs (1) through (4) of subsection (a)*
21 *was a contributing factor in the unfavorable personnel ac-*
22 *tion alleged in the complaint.*

23 “(ii) *Notwithstanding a finding by the Secretary that*
24 *the complainant has made the showing required under*
25 *clause (i), no investigation otherwise required under sub-*

1 *paragraph (A) shall be conducted if the employer dem-*
2 *onstrates, by clear and convincing evidence, that the em-*
3 *ployer would have taken the same unfavorable personnel ac-*
4 *tion in the absence of that behavior.*

5 “(iii) *The Secretary may determine that a violation*
6 *of subsection (a) has occurred only if the complainant dem-*
7 *onstrates that any behavior described in paragraphs (1)*
8 *through (4) of subsection (a) was a contributing factor in*
9 *the unfavorable personnel action alleged in the complaint.*

10 “(iv) *Relief may not be ordered under subparagraph*
11 *(A) if the employer demonstrates by clear and convincing*
12 *evidence that the employer would have taken the same unfa-*
13 *vorable personnel action in the absence of that behavior.*

14 “(3)(A) *Not later than 120 days after the date of con-*
15 *clusion of any hearing under paragraph (2), the Secretary*
16 *shall issue a final order providing the relief prescribed by*
17 *this paragraph or denying the complaint. At any time be-*
18 *fore issuance of a final order, a proceeding under this sub-*
19 *section may be terminated on the basis of a settlement*
20 *agreement entered into by the Secretary, the complainant,*
21 *and the person alleged to have committed the violation.*

22 “(B) *If, in response to a complaint filed under para-*
23 *graph (1), the Secretary determines that a violation of sub-*
24 *section (a) has occurred, the Secretary shall order the person*
25 *who committed such violation—*

1 “(i) to take affirmative action to abate the viola-
2 tion;

3 “(ii) to reinstate the complainant to his or her
4 former position together with compensation (includ-
5 ing back pay) and restore the terms, conditions, and
6 privileges associated with his or her employment; and

7 “(iii) to provide compensatory damages to the
8 complainant.

9 *If such an order is issued under this paragraph, the Sec-*
10 *retary, at the request of the complainant, shall assess*
11 *against the person against whom the order is issued a sum*
12 *equal to the aggregate amount of all costs and expenses (in-*
13 *cluding attorneys’ and expert witness fees) reasonably in-*
14 *curred, as determined by the Secretary, by the complainant*
15 *for, or in connection with, the bringing of the complaint*
16 *upon which the order was issued.*

17 “(C) *If the Secretary finds that a complaint under*
18 *paragraph (1) is frivolous or has been brought in bad faith,*
19 *the Secretary may award to the prevailing employer a rea-*
20 *sonable attorneys’ fee, not exceeding \$1,000, to be paid by*
21 *the complainant.*

22 “(4) *If the Secretary has not issued a final decision*
23 *within 210 days after the filing of the complaint, or within*
24 *90 days after receiving a written determination, the com-*
25 *plainant may bring an action at law or equity for review*

1 *in the appropriate district court of the United States with*
2 *jurisdiction, which shall have jurisdiction over such an ac-*
3 *tion without regard to the amount in controversy, and*
4 *which action shall, at the request of either party to such*
5 *action, be tried by the court with a jury. The proceedings*
6 *shall be governed by the same legal burdens of proof speci-*
7 *fied in paragraph (2)(B). The court shall have jurisdiction*
8 *to grant all relief necessary to make the employee whole,*
9 *including injunctive relief and compensatory damages,*
10 *including—*

11 “(A) *reinstatement with the same seniority sta-*
12 *tus that the employee would have had, but for the dis-*
13 *charge or discrimination;*

14 “(B) *the amount of back pay, with interest; and*

15 “(C) *compensation for any special damages sus-*
16 *tained as a result of the discharge or discrimination,*
17 *including litigation costs, expert witness fees, and*
18 *reasonable attorney fees.*

19 “(5)(A) *Any person adversely affected or aggrieved by*
20 *a final order issued under paragraph (3) may obtain review*
21 *of the order in the United States Court of Appeals for the*
22 *circuit in which the violation, with respect to which the*
23 *order was issued, allegedly occurred or the circuit in which*
24 *the complainant resided on the date of such violation. The*
25 *petition for review must be filed not later than 60 days*

1 *after the date of the issuance of the final order of the Sec-*
2 *retary. Review shall conform to chapter 7 of title 5, United*
3 *States Code. The commencement of proceedings under this*
4 *subparagraph shall not, unless ordered by the court, operate*
5 *as a stay of the order.*

6 “(B) *An order of the Secretary with respect to which*
7 *review could have been obtained under subparagraph (A)*
8 *shall not be subject to judicial review in any criminal or*
9 *other civil proceeding.*

10 “(6) *Whenever any person has failed to comply with*
11 *an order issued under paragraph (3), the Secretary may*
12 *file a civil action in the United States district court for*
13 *the district in which the violation was found to occur, or*
14 *in the United States district court for the District of Colum-*
15 *bia, to enforce such order. In actions brought under this*
16 *paragraph, the district courts shall have jurisdiction to*
17 *grant all appropriate relief including, but not limited to,*
18 *injunctive relief and compensatory damages.*

19 “(7)(A) *A person on whose behalf an order was issued*
20 *under paragraph (3) may commence a civil action against*
21 *the person to whom such order was issued to require compli-*
22 *ance with such order. The appropriate United States dis-*
23 *trict court shall have jurisdiction, without regard to the*
24 *amount in controversy or the citizenship of the parties, to*
25 *enforce such order.*

1 “(B) *The court, in issuing any final order under this*
2 *paragraph, may award costs of litigation (including rea-*
3 *sonable attorneys’ and expert witness fees) to any party*
4 *whenever the court determines such award is appropriate.*

5 “(8) *Notwithstanding paragraphs (1) through (7), a*
6 *Federal employee shall be limited to the remedies available*
7 *under chapters 12 and 23 of title 5, United States Code,*
8 *for any violation of this section.*

9 “(c) *Any nondiscretionary duty imposed by this sec-*
10 *tion shall be enforceable in a mandamus proceeding brought*
11 *under section 1361 of title 28, United States Code.*

12 “(d) *Subsection (a) shall not apply with respect to an*
13 *employee of a manufacturer, private labeler, distributor, or*
14 *retailer who, acting without direction from such manufac-*
15 *turer, private labeler, distributor, or retailer (or such per-*
16 *son’s agent), deliberately causes a violation of any require-*
17 *ment relating to any violation or alleged violation of any*
18 *order, regulation, or consumer product safety standard*
19 *under this Act or any other law enforced by the Commis-*
20 *sion.”.*

21 (b) *CONFORMING AMENDMENT.—The table of contents,*
22 *as amended by section 19 of this Act, is further amended*
23 *by inserting after the item relating to section 39 the fol-*
24 *lowing:*

“Sec. 40. *Whistleblower protection.*”.

1 **SEC. 22. BAN ON CHILDREN'S PRODUCTS CONTAINING**
2 **LEAD; LEAD PAINT RULE.**

3 (a) *IN GENERAL.*—Beginning on the date that is 1
4 year after the date of enactment of this Act, any children's
5 product (as defined in section 14(e) of the Consumer Prod-
6 uct Safety Act (15 U.S.C. 2063(e))) that contains lead shall
7 be treated as a banned hazardous substance under the Fed-
8 eral Hazardous Substances Act (15 U.S.C. 1261 et seq.).

9 (b) *TRACE AMOUNTS OF LEAD.*—

10 (1) *INITIAL STANDARD.*—For purposes of sub-
11 section (a), a children's product shall be considered to
12 contain lead if any part of the product contains lead
13 or lead compounds and the lead content of such part
14 (calculated as lead metal) is greater than 0.03 percent
15 by weight of the total weight of such part (or such
16 lesser amount as may be established by the Commis-
17 sion by regulation).

18 (2) *REDUCED THRESHOLD.*—

19 (A) *IN GENERAL.*—Beginning on the date
20 that is 3 years after the date of enactment of this
21 Act, paragraph (1) shall be applied by sub-
22 stituting “0.01 percent” for “0.03 percent” un-
23 less the Consumer Product Safety Commission
24 determines that a standard of 0.01 percent is not
25 technologically feasible. The Commission may
26 make such a determination only after notice and

1 *a hearing and after analyzing the public health*
2 *protections associated with substantially reduc-*
3 *ing lead in children's products.*

4 (B) *ALTERNATIVE REDUCTION.*—*If the*
5 *Commission determines under subparagraph (A)*
6 *that the 0.01 percent standard is not techno-*
7 *logically feasible, the Commission shall, by regu-*
8 *lation, establish a lesser amount that is the low-*
9 *est amount of lead, lower than 0.03 percent by*
10 *weight, the Commission determines to be techno-*
11 *logically feasible to achieve. The amount of lead*
12 *established by the Commission under the pre-*
13 *ceding sentence shall be substituted for the 0.03*
14 *percent standard under paragraph (1) beginning*
15 *on the date that is 3 years after the date of en-*
16 *actment of this Act.*

17 (c) *EXCEPTIONS.*—

18 (1) *INACCESSIBLE COMPONENTS.*—

19 (A) *IN GENERAL.*—*Subsection (a) does not*
20 *apply to a component of a children's product*
21 *that is not accessible to a child because it is not*
22 *physically exposed by reason of a sealed covering*
23 *or casing and will not become physically exposed*
24 *through normal and reasonably foreseeable use*
25 *and abuse of the product.*

1 (B) *INACCESSIBILITY PROCEEDING.*—*With-*
2 *in 2 years after the date of enactment of this Act,*
3 *the Commission shall promulgate a rule pro-*
4 *viding guidance with respect to what product*
5 *components, or classes of components, will be*
6 *considered to be inaccessible for purposes of sub-*
7 *paragraph (A).*

8 (C) *APPLICATION PENDING CPSC GUID-*
9 *ANCE.*—*Until the Commission promulgates a*
10 *rule pursuant to subparagraph (B), the deter-*
11 *mination of whether a product component is in-*
12 *accessible to a child shall be made in accordance*
13 *with the requirements of subparagraph (A) for*
14 *considering a component to be inaccessible to a*
15 *child.*

16 (D) *CERTAIN BARRIERS DISQUALIFIED.*—
17 *For purposes of this paragraph, paint, coatings,*
18 *or electroplating may not be considered to be a*
19 *barrier that would render lead in the substrate*
20 *inaccessible to a child through normal and rea-*
21 *sonably foreseeable use and abuse of the product.*

22 (2) *ELECTRONICS.*—*If the Commission deter-*
23 *mines that it is not feasible for certain electronic de-*
24 *vices, including batteries, to comply with subsection*

1 (a) *at the time the regulations take effect, the Com-*
2 *mission shall, by regulation—*

3 (A) *issue standards to reduce the exposure*
4 *of and accessibility to lead in such electronic de-*
5 *vices; and*

6 (B) *establish a schedule by which such elec-*
7 *tronic devices shall be in full compliance with*
8 *the regulations prescribed under subsection (a).*

9 (3) *LEAD CRYSTAL.—The Commission may by*
10 *rule provide that subsection (a) does not apply to lead*
11 *crystal if the Commission determines, after notice and*
12 *a hearing, that the lead content in lead crystal will*
13 *neither—*

14 (A) *result in the absorption of lead into the*
15 *human body; nor*

16 (B) *have an adverse impact on public*
17 *health and safety.*

18 (d) *REGULATIONS.—Notwithstanding the provisions of*
19 *subsection (b), the Commission may by regulation establish*
20 *such lower thresholds for lead content in children’s products*
21 *than those set forth in subsection (b) as the Commission*
22 *finds to be technologically feasible.*

23 (e) *PAINT STANDARD FOR ALL PRODUCTS.—Effective*
24 *on the date that is 1 year after the date of enactment of*
25 *this Act, the Consumer Product Safety Commission shall*

1 *modify section 1303.1 of its regulations (16 C.F.R. 1303.1)*
2 *by substituting “0.009 percent” for “0.06 percent” in sub-*
3 *section (a) of that section.*

4 (f) *APPLICATION WITH ASTM F963.—To the extent*
5 *that any standard or rule promulgated by the Consumer*
6 *Product Safety Commission under this section (or any sec-*
7 *tion of the Consumer Product Safety Act or any other Act*
8 *enforced by the Commission, as such Acts are affected by*
9 *this section) is inconsistent with the ASTM F963 standard,*
10 *such promulgated standard or rule shall supersede the*
11 *ASTM F963 standard to the extent of the inconsistency.*

12 **SEC. 23. ALTERNATIVE MEASURES OF LEAD CONTENT.**

13 *The Consumer Product Safety Commission, in co-*
14 *operation with the National Academy of Sciences and the*
15 *National Institute of Standards and Technology, shall*
16 *study the feasibility of establishing a measurement stand-*
17 *ard based on a units-of-mass-per-area standard (similar to*
18 *existing measurement standards used by the Department of*
19 *Housing and Urban Development and the Environmental*
20 *Protection Agency to measure for metals in household paint*
21 *and soil, respectively) that is statistically comparable to the*
22 *parts-per-million measurement standard currently used in*
23 *laboratory analysis.*

1 **SEC. 24. STUDY OF PREVENTABLE INJURIES AND DEATHS**
2 **OF MINORITY CHILDREN RELATED TO CER-**
3 **TAIN CONSUMER PRODUCTS.**

4 (a) *IN GENERAL.*—Within 90 days after the date of
5 enactment of this Act, the Government Accountability Office
6 shall initiate a study to assess disparities in the risks and
7 incidence of preventable injuries and deaths among children
8 of minority populations, including Black, Hispanic, Amer-
9 ican Indian, Alaskan Native, Native Hawaiian, and Asian/
10 Pacific Islander children in the United States.

11 (b) *REQUIREMENTS.*—The study shall examine the ra-
12 cial disparities of the rates of preventable injuries and
13 deaths related to suffocation, poisonings, and drowning in-
14 cluding those associated with the use of cribs, mattresses
15 and bedding materials, swimming pools and spas, and toys
16 and other products intended for use by children.

17 (c) *REPORT.*—Not later than 1 year after the date of
18 enactment of this Act, the Comptroller General shall report
19 the findings to the Senate Commerce, Science, and Trans-
20 portation Committee and the House of Representatives En-
21 ergy and Commerce Committee. The report shall include—

22 (1) the Government Accountability Office's find-
23 ings on the incidence of preventable risks of injury
24 and death among children of minority populations
25 and recommendations for minimizing such increased
26 risks;

1 *amended by section 10 of this Act, including the*
2 *ability of the Commission to enforce the prohibi-*
3 *tion on imports of children's products without*
4 *third party testing certification under section*
5 *17(a)(6) of the Act (15 U.S.C. 2066)(a)(6), as*
6 *added by section 10 of this Act;*

7 *(B) an assessment of the ability of the Com-*
8 *mission to enforce section 14(a)(6) of the Act (15*
9 *U.S.C. 2063(a)(6)), as added by section 11 of*
10 *this Act, and section 16(c) of the Act, as added*
11 *by section 14 of this Act; and(C) an audit of the*
12 *Commission's capital improvement efforts, in-*
13 *cluding construction of a new testing facility.*

14 (2) *ANNUAL REPORT.—The Inspector General*
15 *shall submit an annual report, setting forth the In-*
16 *pector General's findings, conclusions, and rec-*
17 *ommendations from the reviews and audits under*
18 *paragraph (1), for each of fiscal years 2009 through*
19 *2015 to the Commission, the Senate Committee on*
20 *Commerce, Science, and Transportation, and the*
21 *House of Representatives Committee on Energy and*
22 *Commerce.*

23 (b) *EMPLOYEE COMPLAINTS.—*

1 (1) *IN GENERAL.*—Within 1 year after the date
2 of enactment of this Act, the Inspector General shall
3 conduct a review of—

4 (A) complaints received by the Inspector
5 General from employees of the Commission about
6 failures of other employees to properly enforce
7 the rules or regulations of the Consumer Product
8 Safety Act or any other Act enforced by the Com-
9 mission, including the negotiation of corrective
10 action plans in the recall process; and

11 (B) the process by which corrective action
12 plans are negotiated by the Commission, includ-
13 ing an assessment of the length of time for these
14 negotiations and the effectiveness of the plans.

15 (2) *REPORT.*—The Inspector General shall sub-
16 mit a report, setting forth the Inspector General’s
17 findings, conclusions, and recommendations, to the
18 Commission, the Senate Committee on Commerce,
19 Science, and Transportation, and the House of Rep-
20 resentatives Committee on Energy and Commerce.

21 (c) *LEAKS.*—

22 (1) *IN GENERAL.*—Within 1 year after the date
23 of enactment of this Act, the Inspector General
24 shall—

1 (A) conduct a review of whether, and to
2 what extent, there have been unauthorized and
3 unlawful disclosures of information by Members,
4 officers, or employees of the Commission to per-
5 sons regulated by the Commission that are not
6 authorized to receive such information; and

7 (B) to the extent that such unauthorized
8 and unlawful disclosures have occurred,
9 determine—

10 (i) what class or kind of information
11 was most frequently involved in such disclo-
12 sures; and

13 (ii) how frequently such disclosures
14 have occurred.

15 (2) *REPORT.*—The Inspector General shall sub-
16 mit a report, setting forth the Inspector General’s
17 findings, conclusions, and recommendations, to the
18 Commission, the Senate Committee on Commerce,
19 Science, and Transportation, and the House of Rep-
20 resentatives Committee on Energy and Commerce.

21 **SEC. 27. PUBLIC INTERNET WEBSITE LINKS.**

22 Not later than 30 days after the date of enactment of
23 this Act, the Consumer Product Safety Commission shall
24 establish and maintain—

1 (1) *a direct link on the homepage of its Internet*
2 *website to the Internet website of the Commission's*
3 *Office of Inspector General; and*

4 (2) *a mechanism on the homepage of the Office*
5 *of Inspector General's Internet website by which indi-*
6 *viduals may anonymously report cases of waste,*
7 *fraud, or abuse with respect to the Commission.*

8 **SEC. 28. CHILD-RESISTANT PORTABLE GASOLINE CON-**
9 **TAINERS.**

10 (a) *CONSUMER PRODUCT SAFETY RULE.—*

11 (1) *ESTABLISHMENT.—There is established, as a*
12 *consumer product safety rule promulgated by the*
13 *Commission in accordance with section 9 of the Con-*
14 *sumer Product Safety Act (15 U.S.C. 2058), a re-*
15 *quirement that each portable gasoline container for*
16 *sale in the United States shall conform to the child-*
17 *resistance requirements for closures on portable gaso-*
18 *line containers specified in the standard ASTM*
19 *F2517-05, issued by ASTM International.*

20 (b) *REVISION OF RULE.—*

21 (1) *IN GENERAL.—Except as provided in para-*
22 *graph (2), if, after the date of the enactment of this*
23 *Act, ASTM International proposes to revise the child*
24 *resistance requirements of ASTM F2517-05—*

1 (A) *ASTM International shall notify the*
2 *Commission of the proposed revision; and*

3 (B) *the proposed revision shall be incor-*
4 *porated in the consumer product safety rule es-*
5 *tablished by subsection (a).*

6 (2) *EXCEPTION.—If, not later than 60 days after*
7 *the date of the notice described in paragraph (1)(A),*
8 *the Commission notifies ASTM International that the*
9 *Commission has determined that such revision is in-*
10 *consistent with subsection (a), the requirement of*
11 *paragraph (1)(B) shall not apply.*

12 (c) *IMPLEMENTING REGULATIONS.—With respect to*
13 *the promulgation of any regulations by the Commission to*
14 *implement the requirements of this section—*

15 (1) *section 553 of title 5, United States Code,*
16 *shall apply; and*

17 (2) *sections 7 and 9 of the Consumer Product*
18 *Safety Act (15 U.S.C. 2056 and 2058) shall not*
19 *apply.*

20 (d) *REPORT.—Not later than 2 years after the date*
21 *of enactment of this Act, the Commission shall submit to*
22 *the Senate Committee on Commerce, Science, and Trans-*
23 *portation and the House of Representatives Committee on*
24 *Energy and Commerce a report on—*

1 (1) *the degree of industry compliance with the*
2 *consumer product safety rule established by subsection*
3 *(a);*

4 (2) *any enforcement actions brought by the Com-*
5 *mission to enforce such rule; and*

6 (3) *incidents involving children interacting with*
7 *portable gasoline containers (including both those that*
8 *are and are not in compliance with the rule estab-*
9 *lished by subsection (a)).*

10 (e) *DEFINITIONS.—In this section:*

11 (1) *COMMISSION.—The term “Commission”*
12 *means the Consumer Product Safety Commission.*

13 (2) *PORTABLE GASOLINE CONTAINER.—The term*
14 *“portable gasoline container” means any portable*
15 *gasoline container intended for use by consumers.*

16 (f) *EFFECTIVE DATE.—The rule established by sub-*
17 *section (a) shall apply to portable gasoline containers man-*
18 *ufactured on or after the date that is 6 months after the*
19 *date of enactment of this Act.*

20 **SEC. 29. TOY SAFETY STANDARD.**

21 (a) *IN GENERAL.—Beginning 60 days after the date*
22 *of enactment of this Act, ASTM International Standard*
23 *F963–07, Consumer Safety Specifications for Toy Safety,*
24 *as it exists on the date of enactment of this Act shall be*
25 *considered to be a consumer product safety rule issued by*

1 *the Consumer Product Safety Commission under section 9*
2 *of the Consumer Product Safety Act (15 U.S.C. 2058).*

3 (b) *REVISIONS.—If more than 60 days after the date*
4 *of enactment of this Act, ASTM International proposes to*
5 *revise Standard F963–07, Consumer Safety Specifications*
6 *for Toy Safety, or a successor standard, it shall notify the*
7 *Commission of the proposed revision and the proposed revi-*
8 *sion shall be incorporated in the consumer product safety*
9 *rule. The revised standard shall be considered to be a con-*
10 *sumer product safety rule issued by the Consumer Product*
11 *Safety Commission under section 9 of the Consumer Prod-*
12 *uct Safety Act (15 U.S.C. 2058), effective 30 days after the*
13 *date on which ASTM International notifies the Commission*
14 *of the revision unless, within 60 days after receiving that*
15 *notice, the Commission notifies ASTM International that*
16 *it has determined that the proposed revision does not im-*
17 *prove the safety of the consumer product covered by the*
18 *standard. If the Commission so notifies ASTM Inter-*
19 *national with respect to a proposed revision of the standard,*
20 *the existing standard shall continue to be considered to be*
21 *a consumer product safety rule without regard to the pro-*
22 *posed revision.*

1 **SEC. 30. ALL-TERRAIN VEHICLE SAFETY STANDARD.**

2 (a) *IN GENERAL.*—*The Act (15 U.S.C. 2051 et seq.),*
3 *as amended by section 21 of this Act, is further amended*
4 *by adding at the end thereof the following:*

5 “*ALL-TERRAIN VEHICLE SAFETY STANDARD*

6 “*SEC. 41. (a) IN GENERAL.*—

7 “(1) *MANDATORY STANDARD.*—*Notwithstanding*
8 *any other provision of law, within 90 days after the*
9 *date of enactment of the CPSC Reform Act the Com-*
10 *mission shall publish in the Federal Register as a*
11 *mandatory consumer product safety standard the*
12 *American National Standard for Four Wheel All-Ter-*
13 *rain Vehicles Equipment Configuration, and Perform-*
14 *ance Requirements developed by the Specialty Vehicle*
15 *Institute of America (American National Standard*
16 *ANSI/SVIA-1-2007). The standard shall take effect*
17 *150 days after it is published.*

18 “(2) *COMPLIANCE WITH STANDARD.*—*After the*
19 *standard takes effect, it shall be unlawful for any*
20 *manufacturer or distributor to import into or dis-*
21 *tribute in commerce in the United States any new as-*
22 *sembled or unassembled all-terrain vehicle unless—*

23 “(A) *the vehicle complies with each applica-*
24 *ble provision of the standard;*

25 “(B) *the vehicle is subject to an ATV action*
26 *plan filed with the Commission before the date of*

1 *enactment of the CPSC Reform Act, or subse-*
2 *quently filed with and approved by the Commis-*
3 *sion, and bears a label certifying such compli-*
4 *ance and identifying the manufacturer, importer*
5 *or private labeler and the ATV action plan to*
6 *which it is subject; and*

7 “(C) *the manufacturer or distributor is in*
8 *compliance with all provisions of the applicable*
9 *ATV action plan.*

10 “(3) *VIOLATION.—The failure to comply with*
11 *any requirement of paragraph (2) shall be deemed to*
12 *be a failure to comply with a consumer product safety*
13 *rule under this Act and subject to all of the penalties*
14 *and remedies available under this Act.*

15 “(4) *COMPLIANT MODELS WITH ADDITIONAL FEA-*
16 *TURES.—Paragraph (2) shall not be construed to pro-*
17 *hibit the distribution in interstate commerce of new*
18 *all-terrain vehicles that comply with the requirements*
19 *of that paragraph but also incorporate characteristics*
20 *or components that are not covered by those require-*
21 *ments. Any such characteristics or components shall*
22 *be subject to the requirements of section 15 of this Act.*

23 “(b) *MODIFICATION OF ALL-TERRAIN VEHICLE SAFE-*
24 *TY STANDARD.—*

1 “(1) *ANSI REVISIONS.*—If the American Na-
2 tional Standard ANSI/SVIA-1-2007 is revised
3 through the applicable consensus standards develop-
4 ment process after the date on which the product safe-
5 ty standard for all-terrain vehicles is published in the
6 Federal Register, the American National Standards
7 Institute shall notify the Commission of the revision.

8 “(2) *COMMISSION ACTION.*—Within 120 days
9 after it receives notice of such a revision by the Amer-
10 ican National Standards Institute, the Commission
11 shall issue a notice of proposed rulemaking in accord-
12 ance with section 553 of title 5, United States Code,
13 to amend the product safety standard for all-terrain
14 vehicles to include any such revision that the Com-
15 mission determines is reasonably related to the safe
16 performance of all-terrain vehicles, and notify the In-
17 stitute of any provision it has determined not to be
18 so related. The Commission shall promulgate an
19 amendment to the standard for all-terrain vehicles
20 within 180 days after the date on which the notice of
21 proposed rulemaking for the amendment is published
22 in the Federal Register.

23 “(3) *UNREASONABLE RISK OF INJURY.*—Notwith-
24 standing any other provision of this Act, the Commis-
25 sion may, pursuant to sections 7 and 9 of this Act,

1 *amend the product safety standard for all-terrain ve-*
2 *hicles to include any additional provision that the*
3 *Commission determines is reasonably necessary to re-*
4 *duce an unreasonable risk of injury associated with*
5 *the performance of all-terrain vehicles.*

6 “(4) *CERTAIN PROVISIONS NOT APPLICABLE.—*
7 *Sections 7, 9, 11, and 30(d) of this Act shall not*
8 *apply to promulgation of any amendment of the*
9 *product safety standard under paragraph (2). Judi-*
10 *cial review of any amendment of the standard under*
11 *paragraph (2) shall be in accordance with chapter 7*
12 *of title 5, United States Code.*

13 “(c) *REQUIREMENTS FOR 3-WHEELED ALL-TERRAIN*
14 *VEHICLES.—Until a mandatory consumer product safety*
15 *rule applicable to 3-wheeled all-terrain vehicles promul-*
16 *gated pursuant to this Act is in effect, new 3-wheeled all-*
17 *terrain vehicles may not be imported into or distributed*
18 *in commerce in the United States. Any violation of this*
19 *subsection shall be considered to be a violation of section*
20 *19(a)(1) of this Act and may also be enforced under section*
21 *17 of this Act.*

22 “(d) *FURTHER PROCEEDINGS.—*

23 “(1) *DEADLINE.—The Commission shall issue a*
24 *final rule in its proceeding entitled ‘Standards for All*

1 *Terrain Vehicles and Ban of Three-wheeled All Ter-*
2 *rain Vehicles’.*

3 “(2) *CATEGORIES OF YOUTH ATVS.*—*In the final*
4 *rule, the Commission may provide for a multiple fac-*
5 *tor method of categorization that, at a minimum,*
6 *takes into account—*

7 “(A) *the weight of the vehicle;*

8 “(B) *the maximum speed of the vehicle;*

9 “(C) *the velocity at which a vehicle of a*
10 *given weight is traveling at the maximum speed*
11 *of the vehicle;*

12 “(D) *the age of children for whose operation*
13 *the vehicle is designed or who may reasonably be*
14 *expected to operate the vehicle; and*

15 “(E) *the average weight of children for*
16 *whose operation the vehicle is designed or who*
17 *may reasonably be expected to operate the vehi-*
18 *cle.*

19 “(e) *DEFINITIONS.*—*In this section:*

20 “(1) *ALL-TERRAIN VEHICLE OR ATV.*—*The term*
21 *‘all-terrain vehicle’ or ‘ATV’ means—*

22 “(A) *any motorized, off-highway vehicle de-*
23 *signed to travel on 3 or 4 wheels, having a seat*
24 *designed to be straddled by the operator and*
25 *handlebars for steering control; but*

1 “(B) does not include a prototype of a mo-
2 torized, off-highway, all-terrain vehicle or other
3 motorized, off-highway, all-terrain vehicle that is
4 intended exclusively for research and develop-
5 ment purposes unless the vehicle is offered for
6 sale.

7 “(2) *ATV ACTION PLAN*.—The term ‘ATV action
8 plan’ means a written plan or letter of undertaking
9 that describes actions the manufacturer or distributor
10 agrees to take to promote ATV safety, including rider
11 training, dissemination of safety information, age
12 recommendations, other policies governing marketing
13 and sale of the vehicles, the monitoring of such sales,
14 and other safety related measures, and that is sub-
15 stantially similar to the plans described under the
16 heading *The Undertakings of the Companies in the*
17 *Commission Notice published in the Federal Register*
18 *on September 9, 1998 (63 FR 48199–48204).*”.

19 (b) *GAO STUDY*.—The Comptroller General shall con-
20 duct a study of the utility, recreational, and other benefits
21 of all-terrain vehicles to which section 38 of the Consumer
22 Product Safety Act (15 U.S.C. 2085) applies, and the costs
23 associated with all-terrain vehicle-related accidents and in-
24 juries.

1 (c) *CONFORMING AMENDMENT.*—*The table of contents,*
2 *as amended by section 21 of this Act, is further amended*
3 *by inserting after the item relating to section 40 the fol-*
4 *lowing:*

“*Sec. 41. All-terrain vehicle safety standard.*”.

5 (d) *EFFECTIVE DATE.*—*The amendment made by sub-*
6 *section (a) shall take effect 90 days after the date of enact-*
7 *ment of this Act.*

8 **SEC. 31. GARAGE DOOR OPENER STANDARD.**

9 (a) *IN GENERAL.*—*Notwithstanding section 203(b) of*
10 *the Consumer Product Safety Improvement Act of 1990 (15*
11 *U.S.C. 2056 note) or any amendment by the American Na-*
12 *tional Standards Institute and Underwriters Laboratories,*
13 *Inc. of its Standards for Safety-UL 325, all automatic resi-*
14 *dential garage door operators that directly drive the door*
15 *in the closing direction that are manufactured more than*
16 *6 months after the date of enactment of this Act shall in-*
17 *clude an external secondary entrapment protection device*
18 *that does not require contact with a person or object for*
19 *the garage door to reverse.*

20 (b) *EXCEPTION.*—*Except as provided in subsection (c),*
21 *subsection (a) does not apply to the manufacture of an auto-*
22 *matic residential garage door operator without a secondary*
23 *external entrapment protection device that does not require*
24 *contact by a company that manufactured such an operator*
25 *before the date of enactment of this Act if Underwriters Lab-*

1 *oratory, Inc., certified that automatic residential garage*
2 *door operator as meeting its Standards for Safety-UL 325*
3 *before the date of enactment of this Act.*

4 (c) *REVIEW AND REVISION.*—

5 (1) *IN GENERAL.*—*Within 1 year after the date*
6 *of enactment of this Act, the Consumer Product Safe-*
7 *ty Commission shall review, and if necessary revise,*
8 *its automatic residential garage door operator safety*
9 *standard, including the requirement established by*
10 *subsection (a), to ensure that the standard provides*
11 *maximum protection for public health and safety.*

12 (2) *REVISED STANDARD.*—*The exception pro-*
13 *vided by subsection (b) shall not apply to automatic*
14 *residential garage door operators manufactured after*
15 *the effective date of any such revised standard if that*
16 *standard adopts the requirement established by sub-*
17 *section (a).*

18 **SEC. 32. REDUCING DEATHS AND INJURIES FROM CARBON**
19 **MONOXIDE POISONING.**

20 (a) *IN GENERAL.*—*The Consumer Product Safety*
21 *Commission shall issue a final rule in its proceeding enti-*
22 *tled “Portable Generators” for which the Commission issued*
23 *an advance notice of proposed rulemaking on December 12,*
24 *2006 (71 Fed. Reg. 74472), no later than 18 months after*
25 *the date of enactment of this Act.*

1 **(b) REPORT.**—*Not later than 120 days after the date*
2 *of enactment of this Act, the Consumer Product Safety Com-*
3 *mission shall submit a report to the Senate Committee on*
4 *Commerce, Science, and Transportation that—*

5 *(1) reviews the effectiveness of its labeling re-*
6 *quirements for charcoal briquettes (16 C.F.R.*
7 *1500.14(b)(6)) during the windstorm that struck the*
8 *Pacific Northwest beginning on December 14, 2006;*

9 *(2) identifies any specific challenges faced by*
10 *non-English speaking populations with use of the cur-*
11 *rent standards; and*

12 *(3) contains recommendations for improving the*
13 *labels on charcoal briquettes.*

14 **SEC. 33. COMPLETION OF CIGARETTE LIGHTER RULE-**
15 **MAKING.**

16 *The Consumer Product Safety Commission shall issue*
17 *a final rule mandating general safety standards for ciga-*
18 *rette lighters in its proceedings entitled “Safety Standard*
19 *for Cigarette Lighters” for which the Commission issued an*
20 *advance notice of proposed rulemaking on April 11, 2005*
21 *(68 Fed. Reg. 11339) no later than 24 months after the date*
22 *of enactment of this Act.*

1 **SEC. 34. CONSUMER PRODUCT REGISTRATION FORMS AND**
2 **STANDARDS FOR DURABLE INFANT OR TOD-**
3 **DLER PRODUCTS.**

4 (a) *SHORT TITLE.*—*This section may be cited as the*
5 *“Danny Keysar Child Product Safety Notification Act”.*

6 (b) *SAFETY STANDARDS.*—

7 (1) *IN GENERAL.*—*The Commission shall—*

8 (A) *in consultation with representatives of*
9 *consumer groups, juvenile product manufactur-*
10 *ers, and independent child product engineers and*
11 *experts, examine and assess the effectiveness of*
12 *any voluntary consumer product safety stand-*
13 *ards for durable infant or toddler product; and*

14 (B) *in accordance with section 553 of title*
15 *5, United States Code, promulgate consumer*
16 *product safety rules that—*

17 (i) *are substantially the same as such*
18 *voluntary standards; or*

19 (ii) *are more stringent than such vol-*
20 *untary standards, if the Commission deter-*
21 *mines that more stringent standards would*
22 *further reduce the risk of injury associated*
23 *with such products.*

24 (c) *REQUIREMENTS FOR CRIBS.*—

25 (1) *MANUFACTURE, SALE, RESALE AND LEASE*
26 *OF CRIBS.*—*It shall be unlawful for any commercial*

1 *user to manufacture, sell, contract to sell or resell,*
2 *lease, sublet, offer or provide for use or otherwise*
3 *place in the stream of commerce any new or used full-*
4 *size or non-full size crib, including a portable crib*
5 *and a crib-pen, that is not in compliance with the*
6 *mandatory rule promulgated in section (b)(1) and*
7 *(b)(2).*

8 (2) *Commercial users include but are not limited*
9 *to hotel, motel or similar transient lodging facilities*
10 *and day care centers.*

11 (3) *DEFINITION OF COMMERCIAL USER.—*

12 (A) *IN GENERAL.—In this subsection, the*
13 *term “commercial user” means—*

14 (i) *any person that manufactures, sells,*
15 *or contracts to sell full-size cribs or non-full-*
16 *size cribs; or*

17 (ii) *any person that deals in full-size*
18 *or non-full-size cribs that are not new or*
19 *that otherwise, based on the person’s occu-*
20 *pation, holds oneself out as having knowl-*
21 *edge or skill peculiar to full-size cribs or*
22 *non-full-size cribs, including child care fa-*
23 *ilities and family child care homes; or*

24 (iii) *is in the business of contracting to*
25 *sell or resell, lease, sublet, or otherwise plac-*

1 *ing in the stream of commerce full-size cribs*
2 *or non-full-size cribs that are not new.*

3 (4) *TIMETABLE FOR RULEMAKING.*—*Not later*
4 *than 1 year after the date of the enactment of this*
5 *Act, the Commission shall commence the rulemaking*
6 *required under paragraph (1) and shall promulgate*
7 *rules for no fewer than 2 categories of durable infant*
8 *or toddler products every 6 months thereafter, begin-*
9 *ning with the product categories that the Commission*
10 *determines to be of highest priority, until the Com-*
11 *mission has promulgated standards for all such prod-*
12 *uct categories. Thereafter, the Commission shall peri-*
13 *odically review and revise the rules set forth under*
14 *this subsection to ensure that such rules provide the*
15 *highest level of safety for such products that is fea-*
16 *sible.*

17 (d) *CONSUMER PRODUCT REGISTRATION FORMS.*—

18 (1) *IN GENERAL.*—*Not later than 1 year after*
19 *the date of enactment of this Act, the Commission*
20 *shall, pursuant to its authority under section 16(b) of*
21 *the Consumer Product Safety Act (15 U.S.C.*
22 *2065(b)), promulgate final consumer product safety*
23 *rules that require manufacturers of durable infant or*
24 *toddler products—*

1 (A) *in accordance with paragraph (2), to*
2 *provide consumers with postage-paid consumer*
3 *registration forms with each such product;*

4 (B) *in accordance with paragraph (5), to*
5 *maintain a record of the names, addresses, e-*
6 *mail addresses, and other contact information of*
7 *consumers who register their ownership of such*
8 *products with the manufacturer in order to im-*
9 *prove the effectiveness of manufacturer cam-*
10 *pagins to recall such products; and*

11 (C) *to place permanently the manufacturer*
12 *name and contact information, model name and*
13 *number, and the date of manufacture on each*
14 *durable infant or toddler product.*

15 (2) *REQUIREMENTS FOR REGISTRATION*
16 *FORMS.—*

17 (A) *IN GENERAL.—The registration forms*
18 *required by paragraph (1)(A) shall provide space*
19 *sufficiently large to permit easy, legible record-*
20 *ing of the information specified in subparagraph*
21 *(B)(i).*

22 (B) *ELEMENTS.—Such forms shall include*
23 *the following:*

24 (i) *Spaces for a consumer to provide*
25 *the following:*

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(I) The consumer's name.

(II) The consumer's postal address.

(III) The consumer's telephone number.

(IV) The consumer's e-mail address.

(ii) The manufacturer's name.

(iii) The model name and number for the product.

(iv) The date of manufacture of the product.

(v) A message that—

(I) explains the purpose of the registration; and

(II) is designed to encourage consumers to complete the registration.

(vi) A statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

(vii) A message that explains the option to register via the Internet, as required by paragraph (4).

1 (C) *PLACEMENT.*—Such form shall be at-
2 tached to the surface of each durable infant or
3 toddler product so that, as a practical matter,
4 the consumer will notice and handle the form
5 after purchasing the product.

6 (3) *TEXT AND FORMAT OF REGISTRATION*
7 *FORMS.*—In promulgating regulations under para-
8 graph (1), the Commission may prescribe the exact
9 text and format of such form.

10 (4) *INTERNET REGISTRATION.*—In promulgating
11 regulations under paragraph (1), the Commission
12 shall require manufacturers of durable infant or tod-
13 dler products to provide a mechanism for consumers
14 to submit to the manufacturer via the Internet elec-
15 tronic versions of the registration forms required by
16 paragraph (1)(A).

17 (5) *RECORD KEEPING AND NOTIFICATION RE-*
18 *QUIREMENTS.*—

19 (A) *IN GENERAL.*—The rules promulgated
20 under paragraph (1) shall require each manufac-
21 turer of a durable infant or toddler product—

22 (i) to maintain a record of consumers
23 who register for such product that includes
24 all of the information provided by such con-
25 sumers; and

1 (ii) to use such information to notify
2 such consumers in the event of a voluntary
3 or involuntary recall of, or safety alert re-
4 garding, such product.

5 (B) *PERIOD OF MAINTENANCE.*—Such rules
6 shall require such manufacturers of durable in-
7 fant or toddler products to maintain the records
8 described in subparagraph (A)(i) for a period of
9 not less than 6 years after the date of manufac-
10 ture of the product concerned.

11 (C) *LIMITATION ON USE OF INFORMATION*
12 *COLLECTED.*—The rules promulgated under
13 paragraph (1) shall prohibit manufacturers from
14 using or disseminating to any other party the
15 information collected by the manufacturer under
16 this subsection for any purpose other than notifi-
17 cation to the consumer concerned in the event of
18 a product recall or safety alert regarding the
19 product concerned.

20 (D) *RESERVATION.*—Nothing in this section
21 requires a manufacturer to collect, retain, or use
22 any information unless it is provided by the con-
23 sumer.

24 (e) *REPORT AND STUDY.*—Not later than 4 years after
25 the date of enactment of this Act, the Commission shall—

1 (1) *conduct a study on the effectiveness of the*
2 *rules promulgated under subsection (a) in facilitating*
3 *product recalls; and*

4 (2) *submit to Congress a report on the findings*
5 *of the Commission with respect to the study required*
6 *by paragraph (1).*

7 (f) *USE OF ALTERNATIVE RECALL NOTIFICATION*
8 *TECHNOLOGY.—*

9 (1) *IN GENERAL.—If the Commission determines*
10 *that a recall notification technology can be used by a*
11 *manufacturer of durable infant or toddler products*
12 *and such technology is as effective or more effective in*
13 *facilitating recalls of durable infant or toddler prod-*
14 *ucts as the registration forms required by subsection*
15 *(a)—*

16 (A) *the Commission shall submit to the*
17 *Committee on Commerce, Science, and Transpor-*
18 *tation of the Senate and the Committee on En-*
19 *ergy and Commerce of the House of Representa-*
20 *tives a report on such determination; and*

21 (B) *a manufacturer of durable infant or*
22 *toddler products that uses such technology in lieu*
23 *of such registration forms to facilitate recalls of*
24 *durable infant or toddler products shall be con-*
25 *sidered in compliance with the regulations pro-*

1 *mulgated under such subsection with respect to*
2 *subparagraphs (A) and (B) of paragraph (1) of*
3 *such subsection.*

4 (2) *STUDY AND REPORT.*—*Not later than 1 year*
5 *after the date of the enactment of this Act and peri-*
6 *odically thereafter as the Commission considers ap-*
7 *propriate, the Commission shall—*

8 (A) *for a period of not less than 6 months*
9 *and not more than 1 year—*

10 (i) *conduct a review of recall notifica-*
11 *tion technology; and*

12 (ii) *assess, through testing and empiri-*
13 *cal study, the effectiveness of such tech-*
14 *nology in facilitating recalls of durable in-*
15 *fant or toddler products; and*

16 (B) *submit to the committees described in*
17 *paragraph (1)(A) a report on the review and as-*
18 *essment required by subparagraph (A).*

19 (3) *REGULATIONS.*—*The Commission shall pre-*
20 *scribe regulations to carry out this subsection.*

21 (g) *DEFINITIONS.*—*In this section:*

22 (1) *COMMISSION.*—*The term “Commission”*
23 *means the Consumer Product Safety Commission.*

24 (2) *DURABLE INFANT OR TODDLER PRODUCT.*—
25 *The term “durable infant or toddler product” means*

1 *a durable product intended for use by, or that may*
2 *be reasonably expected to be used by, children younger*
3 *than the age of 5 years, including the following:*

4 *(A) Full-size cribs and nonfull-size cribs.*

5 *(B) Toddler beds.*

6 *(C) High chairs, booster chairs, and hook-on*
7 *chairs.*

8 *(D) Bath seats.*

9 *(E) Gates and other enclosures for confining*
10 *a child.*

11 *(F) Play yards.*

12 *(G) Stationary activity centers.*

13 *(H) Infant carriers.*

14 *(I) Strollers.*

15 *(J) Walkers.*

16 *(K) Swings.*

17 *(L) Bassinets and cradles.*

18 **SEC. 35. REPEAL.**

19 *Section 30 (15 U.S.C. 2079) is amended by striking*
20 *subsection (d) and redesignating subsections (e) and (f) as*
21 *subsections (d) and (e), respectively.*

1 **SEC. 36. CONSUMER PRODUCT SAFETY COMMISSION PRES-**
2 **ENCE AT NATIONAL TARGETING CENTER OF**
3 **U.S. CUSTOMS AND BORDER PROTECTION.**

4 (a) *IN GENERAL.*—*Except as provided in subsection*
5 *(c), not later than 6 months after the date of the enactment*
6 *of this Act, the Consumer Product Safety Commission shall*
7 *enter into a memorandum of understanding with the Sec-*
8 *retary of Homeland Security for the assignment by the*
9 *Commission of not less than 1 full-time equivalent per-*
10 *sonnel to work at the National Targeting Center of U.S.*
11 *Customs and Border Protection.*

12 (b) *RESPONSIBILITIES.*—*Any personnel assigned*
13 *under subsection (a) shall, in cooperation with other per-*
14 *sonnel working at the National Targeting Center, identify*
15 *products, before such products are imported into the cus-*
16 *toms territory of the United States, that—*

17 (1) *are intended for importation into such cus-*
18 *toms territory; and*

19 (2) *pose a high risk to consumer safety.*

20 (c) *WAIVER.*—*The Consumer Product Safety Commis-*
21 *sion may waive the requirement of subsection (a) if the*
22 *Commission determines that an assignment under sub-*
23 *section (a) would not improve the effectiveness of the Com-*
24 *mission in identifying products described in subsection (b)*
25 *before such products are imported into the customs territory*
26 *of the United States.*

1 **SEC. 37. DEVELOPMENT OF RISK ASSESSMENT METHODOLOGY TO IDENTIFY SHIPMENTS OF CONSUMER PRODUCTS THAT ARE LIKELY TO CONTAIN CONSUMER PRODUCTS IN VIOLATION OF SAFETY STANDARDS.**

6 (a) *IN GENERAL.*—Not later than 1 year after the date
7 of the enactment of this Act, the Consumer Product Safety
8 Commission shall develop a risk assessment methodology for
9 identification of shipments of consumer products that are—

10 (1) *intended for import into the customs territory of the United States; and*

12 (2) *are likely to include consumer products that would be refused admission into such customs territory under section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)).*

16 (b) *USE OF INTERNATIONAL TRADE DATA SYSTEM.*—
17 *The methodology developed under subsection (a) shall, as far as practicable, use the International Trade Data System (ITDS) established under section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411) to evaluate and assess information about shipments of consumer products intended for import into the customs territory of the United States before such shipments enter such customs territory.*

24 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated such sums as may be necessary to carry out this section.*

1 **SEC. 38. SEIZURE AND DESTRUCTION OF IMPORTED PROD-**
2 **UCTS IN VIOLATION OF CONSUMER PRODUCT**
3 **SAFETY STANDARDS.**

4 (a) *LIST OF PRODUCT DEFECTS THAT CONSTITUTE A*
5 *SUBSTANTIAL PRODUCT HAZARD.*—

6 (1) *IN GENERAL.*—*Not later than 6 months after*
7 *the date of the enactment of this Act, the Consumer*
8 *Product Safety Commission shall publish a list of*
9 *product defects that constitute a substantial product*
10 *hazard (as defined in section 15 of the Consumer*
11 *Product Safety Act (15 U.S.C. 2064)).*

12 (2) *UPDATES.*—*The Consumer Product Safety*
13 *Commission shall, as the Commission considers*
14 *appropriate—*

15 (A) *update the list required by paragraph*

16 (1); *and*

17 (B) *provide a copy of the updated list to the*
18 *Secretary of Homeland Security.*

19 (b) *DESTRUCTION OF NONCOMPLIANT IMPORTED*
20 *PRODUCTS.*—*Section 17(e) (15 U.S.C. 2066(e)) is amended*
21 *to read as follows:*

22 “(e) *PRODUCT DESTRUCTION.*—*The Secretary of*
23 *Homeland Security shall ensure the destruction of any*
24 *product refused admission into the customs territory of the*
25 *United States under this section unless such product is ex-*
26 *ported, under regulations prescribed by the Secretary or the*

1 *Commission, as appropriate, within 90 days of the date of*
2 *notice of such refusal or within such additional time as may*
3 *be permitted pursuant to such regulations.”.*

4 *(c) INSPECTION AND RECORDKEEPING REQUIREMENTS*
5 *AS CONDITIONS ON IMPORTATION.—Section 17(g) (15*
6 *U.S.C. 2066(g)) is amended by striking “Commission may”*
7 *and inserting “Commission shall”.*

8 *(d) PROVISION OF INFORMATION TO COOPERATING*
9 *AGENCIES.—Section 17(h)(2) (15 U.S.C. 2066(h)(2)) is*
10 *amended by striking “Commission may” and inserting*
11 *“Commission shall”.*

12 *(e) CONSTRUCTION.—Section 17 (15 U.S.C. 2066) is*
13 *amended by adding at the end the following:*

14 *“(i) CONSTRUCTION.—Nothing in this section shall be*
15 *construed to prevent the Secretary of Homeland Security*
16 *from prohibiting entry or directing the destruction or ex-*
17 *port of a consumer product under any other provision of*
18 *law.”.*

19 *(f) CONFORMING AMENDMENTS.—Such section 17 is*
20 *further amended—*

21 *(1) in subsection (a), by striking “Any con-*
22 *sumer” and inserting “REFUSAL OF ADMISSION.—*
23 *Any consumer”;*

24 *(2) in subsection (b), by striking “The” in the*
25 *first sentence and inserting “SAMPLES.—The”;*

1 (3) *in subsection (c), by striking “If” and insert-*
2 *ing “MODIFICATION.—If”;*

3 (4) *in subsection (d), by striking “All actions”*
4 *in the first sentence and inserting “SUPERVISION OF*
5 *MODIFICATIONS.—All actions”;*

6 (5) *in subsection (f), by striking “All expenses”*
7 *in the first sentence and inserting “PAYMENT OF EX-*
8 *PENSES OCCASIONED BY REFUSAL OF ADMISSION.—*
9 *All expenses”;*

10 (6) *in subsection (g), by striking “The Commis-*
11 *sion” and inserting “IMPORTATION CONDITIONED*
12 *UPON MANUFACTURER’S COMPLIANCE.—The Com-*
13 *mission”;*

14 (7) *in subsection (h), by striking “(h)(1) The*
15 *Commission” and inserting “(h) PRODUCT SURVEIL-*
16 *LANCE PROGRAM.—(1) The Commission”.*

17 (g) *TECHNICAL AMENDMENTS.—Such section 17 is*
18 *further amended—*

19 (1) *by striking “Secretary of the Treasury” each*
20 *place it occurs and inserting “Secretary of Homeland*
21 *Security”;* *and*

22 (2) *by striking “Department of the Treasury”*
23 *each place it occurs and inserting “Department of*
24 *Homeland Security”.*

1 **SEC. 39. DATABASE OF MANUFACTURING FACILITIES AND**
2 **SUPPLIERS INVOLVED IN VIOLATIONS OF**
3 **CONSUMER PRODUCT SAFETY STANDARDS.**

4 (a) *DOCUMENTATION OF ACTS AND OMISSIONS.*—If the
5 *Consumer Product Safety Commission* discovers evidence
6 that a violation of a consumer product safety rule was the
7 result of an act or omission by a manufacturing facility
8 or supplier, the Commission shall document the following:

- 9 (1) *The date on which the violation occurred.*
- 10 (2) *A description of the violation and the cir-*
11 *cumstances that led to the violation.*
- 12 (3) *Details of the act or omission and the rela-*
13 *tion of such act or omission to the violation.*
- 14 (4) *Identifying information about the manufac-*
15 *turing facility or supplier, including the name and*
16 *address of such manufacturing facility or supplier.*

17 (b) *DATABASE.*—The *Consumer Product Safety Com-*
18 *mission* shall establish and maintain a database that con-
19 tains the following:

- 20 (1) *All of the information documented under sub-*
21 *section (a).*
- 22 (2) *Any information submitted under subsection*
23 *(d).*

24 (c) *NOTICE.*—The *Commission* shall take reasonable
25 steps to provide notice to each manufacturing facility or
26 supplier documented in the database required by subsection

1 *(b) of the inclusion of such manufacturing facility or sup-*
2 *plier in such database and the reasons for such inclusion.*

3 *(d) COMMENTS.—The Commission shall establish a*
4 *process by which a manufacturing facility or supplier in-*
5 *cluded in the database required by subsection (b) for an*
6 *act or omission described in subsection (a) may submit in-*
7 *formation to the Commission for inclusion in the database.*
8 *Such information may consist of—*

9 *(1) evidence refuting evidence contained in the*
10 *database that a violation described in subsection (a)*
11 *was the result of an act or omission by such manufac-*
12 *turing facility or supplier; and*

13 *(2) evidence of remedial measures taken by such*
14 *manufacturing facility or supplier to correct such act*
15 *or omission.*

16 *Information submitted under this subsection shall be treated*
17 *the same as information in the database for purposes of*
18 *subsections (g) and (h).*

19 *(e) AVAILABILITY OF DATABASE TO U.S. CUSTOMS*
20 *AND BORDER PROTECTION.—The Consumer Product Safety*
21 *Commission shall make the database established under sub-*
22 *section (b) available on a real-time basis to the Commis-*
23 *sioner responsible for the U.S. Customs and Border Protec-*
24 *tion of the Department of Homeland Security.*

1 (f) *USE OF DATABASE BY U.S. CUSTOMS AND BORDER*
2 *PROTECTION.*—*The Commissioner responsible for the U.S.*
3 *Customs and Border Protection of the Department of Home-*
4 *land Security shall use the information stored in the data-*
5 *base required by subsection (b) in determining—*

6 (1) *whether a container being imported into the*
7 *United States contains consumer products that are in*
8 *violation of a consumer product safety standard of the*
9 *Commission; and*

10 (2) *whether action should be taken with respect*
11 *to any consumer products in such container under*
12 *section 17 of the Consumer Product Safety Act (15*
13 *U.S.C. 2066).*

14 (g) *LIMITATION ON DISCLOSURE OF INFORMATION IN*
15 *DATABASE.*—

16 (1) *IN GENERAL.*—*The Consumer Product Safety*
17 *Commission and the Commissioner responsible for the*
18 *U.S. Customs and Border Protection of the Depart-*
19 *ment of Homeland Security shall not disclose any in-*
20 *formation contained in or provide access to the data-*
21 *base required by subsection (b) to any person except*
22 *as provided in paragraph (2), provided that this lim-*
23 *itation does not apply to the disclosure of information*
24 *that was collected, received, or maintained by the*

1 *Commission for purpose other than inclusion in the*
2 *database.*

3 (2) *EXCEPTION FOR LAW ENFORCEMENT AND NA-*
4 *TIONAL SECURITY.—The Consumer Product Safety*
5 *Commission and the Commissioner responsible for the*
6 *U.S. Customs and Border Protection of the Depart-*
7 *ment of Homeland Security may disclose information*
8 *contained in and provide access to the database re-*
9 *quired by subsection (b) to a law enforcement agency*
10 *or an intelligence agency of the United States if the*
11 *Commission or the Commissioner determine that such*
12 *disclosure is necessary—*

13 (A) *to prevent a crime; or*

14 (B) *to detect, prevent, or respond to a threat*
15 *to national security.*

16 (3) *EXEMPTION FROM FREEDOM OF INFORMA-*
17 *TION ACT DISCLOSURE REQUIREMENTS.—The data-*
18 *base required by subsection (b) shall not be subject to*
19 *the disclosure requirements of section 552 or 552A of*
20 *title 5, United States Code.*

21 (h) *LIMITATION ON USE OF INFORMATION IN DATA-*
22 *BASE FOR CERTAIN CIVIL OR CRIMINAL PENALTIES.—*

23 (1) *PROHIBITION ON IMPOSITION BY CONSUMER*
24 *PRODUCT SAFETY COMMISSION OF PENALTIES SOLELY*
25 *ON BASIS OF DATABASE.—The Consumer Product*

1 *Safety Commission may not impose any penalty*
2 *under section 20 or 21 of the Consumer Product Safe-*
3 *ty Act (15 U.S.C. 2069, 2070) on any person solely*
4 *on the inclusion of information on a person in the*
5 *database required by subsection (b).*

6 (2) *PROHIBITION ON IMPOSITION BY U.S. CUS-*
7 *TOMS AND BORDER PROTECTION OF PENALTIES SOLE-*
8 *LY ON BASIS OF DATABASE.—Notwithstanding any*
9 *other provision of law, the Commissioner responsible*
10 *for the U.S. Customs and Border Protection of the*
11 *Department of Homeland Security may not impose*
12 *any civil or criminal penalty on any person solely on*
13 *the inclusion of information on a person in the data-*
14 *base required by subsection (b).*

15 (i) *AUTHORIZATION OF APPROPRIATIONS.—There are*
16 *authorized to be appropriated such sums as may be nec-*
17 *essary to carry out this section.*

18 **SEC. 40. BAN ON CERTAIN PRODUCTS CONTAINING SPECI-**
19 **FIED PHTHALATES.**

20 (a) *BANNED HAZARDOUS SUBSTANCE.—Effective Jan-*
21 *uary 1, 2009, any children’s product or child care article*
22 *that contains a specified phthalate shall be treated as a*
23 *banned hazardous substance under the Federal Hazardous*
24 *Substances Act (15 U.S.C. 1261 et seq.) and the prohibi-*

1 *tions contained in section 4 of such Act shall apply to such*
2 *product or article.*

3 *(b) PROHIBITION ON USE OF CERTAIN ALTERNATIVES*
4 *TO SPECIFIED PHTHALATES IN CHILDREN'S PRODUCTS*
5 *AND CHILD CARE ARTICLES.—*

6 *(1) IN GENERAL.—If a manufacturer modifies a*
7 *children's product or child care article that contains*
8 *a specified phthalate to comply with the ban under*
9 *subsection (a), such manufacturer shall not use any*
10 *of the prohibited alternatives to specified phthalates*
11 *described in paragraph (2).*

12 *(2) PROHIBITED ALTERNATIVES TO SPECIFIED*
13 *PHTHALATES.—The prohibited alternatives to speci-*
14 *fied phthalates described in this paragraph are the*
15 *following:*

16 *(A) Carcinogens rated by the Environ-*
17 *mental Protection Agency as Group A, Group B,*
18 *or Group C carcinogens.*

19 *(B) Substances described in the List of*
20 *Chemicals Evaluated for Carcinogenic Potential*
21 *of the Environmental Protection Agency as fol-*
22 *lows:*

23 *(i) Known to be human carcinogens.*

24 *(ii) Likely to be human carcinogens.*

1 (iii) *Suggestive of being human car-*
2 *cinogens.*

3 (C) *Reproductive toxicants identified by the*
4 *Environmental Protection Agency that cause any*
5 *of the following:*

6 (i) *Birth defects.*

7 (ii) *Reproductive harm.*

8 (iii) *Developmental harm.*

9 (c) *PREEMPTION.—Nothing in this section or section*
10 *18(b)(1)(B) of the Federal Hazardous Substances Act (15*
11 *U.S.C. 1261 note) shall preclude or deny any right of any*
12 *State or political subdivision thereof to adopt or enforce any*
13 *provision of State or local law that—*

14 (1) *applies to a phthalate that is not described*
15 *in subsection (d)(3);*

16 (2) *applies to a phthalate described in subsection*
17 *(d)(3) that is not otherwise regulated under this sec-*
18 *tion;*

19 (3) *with respect to any phthalate, requires the*
20 *provision of a warning of risk, illness, or injury; or*

21 (4) *prohibits the use of alternatives to phthalates*
22 *that are not described in subsection (b)(2).*

23 (d) *DEFINITIONS.—In this section:*

24 (1) *CHILDREN’S PRODUCT.—The term “chil-*
25 *dren’s product” means a toy or any other product de-*

1 *signed or intended by the manufacturer for use by a*
2 *child when the child plays.*

3 (2) *CHILD CARE ARTICLE.—The term “child care*
4 *article” means all products designed or intended by*
5 *the manufacturer to facilitate sleep, relaxation, or the*
6 *feeding of children, or to help children with sucking*
7 *or teething.*

8 (3) *CHILDREN’S PRODUCT OR CHILD CARE ARTI-*
9 *CLE THAT CONTAINS A SPECIFIED PHTHALATE.—The*
10 *term “children’s product or child care article that*
11 *contains a specified phthalate” means—*

12 (A) *a children’s product or a child care ar-*
13 *ticle any part of which contains any combina-*
14 *tion of di-(2-ethylhexyl) phthalate (DEHP),*
15 *dibutyl phthalate (DBP), or benzyl butyl phthal-*
16 *ate (BBP) in concentrations exceeding 0.1 per-*
17 *cent; and*

18 (B) *a children’s product or a child care ar-*
19 *ticle intended for use by a child that—*

20 (i) *can be placed in a child’s mouth;*

21 *and*

22 (ii)(I) *contains any combination of*
23 *diisononyl phthalate (DINP), diisodecyl*
24 *phthalate (DIDP), or di-n-octyl phthalate*

1 (*DnOP*), in concentrations exceeding 0.1
2 percent; or

3 (II) contains any combination of di-(2-
4 ethylhexyl) phthalate (*DEHP*), dibutyl
5 phthalate (*DBP*), benzyl butyl phthalate
6 (*BBP*), diisononyl phthalate (*DINP*),
7 diisodecyl phthalate (*DIDP*), or di-*n*-octyl
8 phthalate (*DnOP*), in concentrations exceed-
9 ing 0.1 percent.

10 **SEC. 41. EQUESTRIAN HELMETS.**

11 (a) *STANDARDS.*—

12 (1) *IN GENERAL.*—Every equestrian helmet man-
13 ufactured on or after the date that is 9 months after
14 the date of the enactment of this Act shall meet—

15 (A) the interim standard specified in para-
16 graph (2), pending the establishment of a final
17 standard pursuant to paragraph (3); and

18 (B) the final standard, once that standard
19 has been established under paragraph (3).

20 (2) *INTERIM STANDARD.*—The interim standard
21 for equestrian helmets is the American Society for
22 Testing and Materials (*ASTM*) standard designated
23 as *F 1163*.

24 (3) *FINAL STANDARD.*—

1 (A) *REQUIREMENT.*—*Not later than 60*
2 *days after the date of the enactment of this Act,*
3 *the Consumer Product Safety Commission shall*
4 *begin a proceeding under section 553 of title 5,*
5 *United States Code—*

6 *(i) to establish a final standard for*
7 *equestrian helmets that incorporates all the*
8 *requirements of the interim standard speci-*
9 *fied in paragraph (2);*

10 *(ii) to provide in the final standard a*
11 *mandate that all approved equestrian hel-*
12 *metts be certified to the requirements pro-*
13 *mulgated under the final standard by an*
14 *organization that is accredited to certify*
15 *personal protection equipment in accord-*
16 *ance with ISO Guide 65; and*

17 *(iii) to include in the final standard*
18 *any additional provisions that the Commis-*
19 *sion considers appropriate.*

20 (B) *INAPPLICABILITY OF CERTAIN LAWS.*—
21 *Sections 7, 9, and 30(d) of the Consumer Prod-*
22 *uct Safety Act (15 U.S.C. 2056, 2058, and*
23 *2079(d)) shall not apply to the proceeding under*
24 *this subsection, and section 11 of such Act (15*

1 *U.S.C. 2060) shall not apply with respect to any*
2 *standard issued under such proceeding.*

3 (C) *EFFECTIVE DATE.*—*The final standard*
4 *shall take effect not later than 1 year after the*
5 *date it is issued.*

6 (4) *FAILURE TO MEET STANDARDS.*—

7 (A) *FAILURE TO MEET INTERIM STAND-*
8 *ARD.*—*Until the final standard takes effect, an*
9 *equestrian helmet that does not meet the interim*
10 *standard, required under paragraph (1)(A), shall*
11 *be considered in violation of a consumer product*
12 *safety standard promulgated under the Con-*
13 *sumer Product Safety Act.*

14 (B) *STATUS OF FINAL STANDARD.*—*The*
15 *final standard developed under paragraph (3)*
16 *shall be considered a consumer product safety*
17 *standard promulgated under the Consumer Prod-*
18 *uct Safety Act.*

19 (b) *DEFINITIONS.*—*In this section:*

20 (1) *APPROVED EQUESTRIAN HELMET.*—*The term*
21 *“approved equestrian helmet” means an equestrian*
22 *helmet that meets—*

23 (A) *the interim standard specified in sub-*
24 *section (a)(2), pending establishment of a final*
25 *standard under subsection (a)(3); and*

1 (B) the final standard, once it is effective
2 under subsection (a)(3).

3 (2) *EQUESTRIAN HELMET*.—The term “eques-
4 trian helmet” means a hard shell head covering in-
5 tended to be worn while participating in an eques-
6 trian event or activity.

7 **SEC. 42. REQUIREMENTS FOR RECALL NOTICES.**

8 (a) *IN GENERAL*.—Section 15 (15 U.S.C. 2064) is
9 amended by adding at the end the following:

10 “(i) *REQUIREMENTS FOR RECALL NOTICES*.—

11 “(1) *IN GENERAL*.—If the Commission deter-
12 mines that a product distributed in commerce pre-
13 sents a substantial product hazard and that action
14 under subsection (d) is in the public interest, the
15 Commission may order the manufacturer or any dis-
16 tributor or retailer of the product to distribute notice
17 of the action to the public. The notice shall include
18 the following:

19 “(A) A description of the product,
20 including—

21 “(i) the model number or stock keeping
22 unit (SKU) number of the product;

23 “(ii) the names by which the product is
24 commonly known; and

25 “(iii) a photograph of the product.

1 “(B) A description of the action being taken
2 with respect to the product.

3 “(C) The number of units of the product
4 with respect to which the action is being taken.

5 “(D) A description of the substantial prod-
6 uct hazard and the reasons for the action.

7 “(E) An identification of the manufactur-
8 ers, importers, distributors, and retailers of the
9 product.

10 “(F) The locations where, and Internet
11 websites from which, the product was sold.

12 “(G) The name and location of the factory
13 at which the product was produced.

14 “(H) The dates between which the product
15 was manufactured and sold.

16 “(I) The number and a description of any
17 injuries or deaths associated with the product,
18 the ages of any individuals injured or killed, and
19 the dates on which the Commission received in-
20 formation about such injuries or deaths.

21 “(J) A description of—

22 “(i) any remedy available to a con-
23 sumer;

24 “(ii) any action a consumer must take
25 to obtain a remedy; and

1 “(iii) any information a consumer
2 needs to take to obtain a remedy or infor-
3 mation about a remedy, such as mailing
4 addresses, telephone numbers, fax numbers,
5 and email addresses.

6 “(K) Any other information the Commis-
7 sion determines necessary.

8 “(2) NOTICES IN LANGUAGES OTHER THAN
9 ENGLISH.—The Commission may require a notice de-
10 scribed in paragraph (1) to be distributed in a lan-
11 guage other than English if the Commission deter-
12 mines that doing so is necessary to adequately protect
13 the public.”.

14 (b) PUBLICATION OF INFORMATION ON RECALLED
15 PRODUCTS.—Beginning not later than 1 year after the date
16 of the enactment of this Act, the Consumer Product Safety
17 Commission shall make the following information available
18 to the public as the information becomes available to the
19 Commission:

20 (1) Progress reports and incident updates with
21 respect to action plans implemented under section
22 15(d) of the Consumer Product Safety Act (15 U.S.C.
23 2064(d)).

24 (2) Statistics with respect to injuries and deaths
25 associated with products that the Commission deter-

1 *mines present a substantial product hazard under sec-*
2 *tion 15(c) of the Consumer Product Safety Act (15*
3 *U.S.C. 2064(c)).*

4 *(3) The number and type of communication from*
5 *consumers to the Commission with respect to each*
6 *product with respect to which the Commission takes*
7 *action under section 15(d) of the Consumer Product*
8 *Safety Act (15 U.S.C. 2064(d)).*

9 **SEC. 43. STUDY AND REPORT ON EFFECTIVENESS OF AU-**
10 **THORITIES RELATING TO SAFETY OF IM-**
11 **PORTED CONSUMER PRODUCTS.**

12 *Not later than 180 days after the date of the enactment*
13 *of this Act, the Comptroller General of the United States*
14 *shall—*

15 *(1) conduct a study of the authorities and provi-*
16 *sions of the Consumer Product Safety Act (15 U.S.C.*
17 *2051 et seq.) to assess the effectiveness of such authori-*
18 *ties and provisions in preventing unsafe consumer*
19 *products from entering the customs territory of the*
20 *United States;*

21 *(2) develop a plan to improve the effectiveness of*
22 *the Consumer Product Safety Commission in pre-*
23 *venting unsafe consumer products from entering such*
24 *customs territory; and*

1 (3) submit to Congress a report on the findings
2 of the Comptroller General with respect to paragraphs
3 (1) through (3), including legislative recommenda-
4 tions related to—

5 (A) inspection of foreign manufacturing
6 plants by the Consumer Product Safety Commis-
7 sion; and

8 (B) requiring foreign manufacturers to con-
9 sent to the jurisdiction of United States courts
10 with respect to enforcement actions by the Con-
11 sumer Product Safety Commission.

12 **SEC. 44. BAN ON IMPORTATION OF TOYS MADE BY CERTAIN**
13 **MANUFACTURERS.**

14 Section 17 (15 U.S.C. 2066) is amended—

15 (1) in subsection (a), as amended by section
16 10(f) of this Act—

17 (A) in paragraph (5), by striking “; or”
18 and inserting a semicolon;

19 (B) in paragraph (6), by striking the period
20 at the end and inserting “; or”; and

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

22 “(7) is a toy classified under heading 9503,
23 9504, or 9505 of the Harmonized Tariff Schedule of
24 the United States that is manufactured by a company
25 that the Commission has determined—

1 “(A) has shown a persistent pattern of
2 manufacturing such toys with defects that con-
3 stitute substantial product hazards (as defined in
4 section 15(a)(2)); or

5 “(B) has manufactured such toys that
6 present a risk of injury to the public of such a
7 magnitude that the Commission has determined
8 that a permanent ban on all imports of such toys
9 manufactured by such company is equitably jus-
10 tified.”; and

11 (2) by adding at the end the following:

12 “(i) Whenever the Commission makes a determination
13 described in subsection (a)(7) with respect to a manufac-
14 turer, the Commission shall submit to the Secretary of
15 Homeland Security information that appropriately identi-
16 fies the manufacturer.

17 “(j) Not later than March 31 of each year, the Commis-
18 sion shall submit to Congress an annual report identifying,
19 for the 12-month period preceding the report—

20 “(1) toys classified under heading 9503, 9504, or
21 9505 of the Harmonized Tariff Schedule of the United
22 States that—

23 “(A) were offered for importation into the
24 customs territory of the United States; and

1 “(B) the Commission found to be in viola-
2 tion of a consumer product safety standard; and
3 “(2) the manufacturers, by name and country,
4 that were the subject of a determination described in
5 subsection (a)(7)(A) and (B).”.

6 **SEC. 45. CONSUMER PRODUCT SAFETY STANDARDS USE OF**
7 **FORMALDEHYDE IN TEXTILE AND APPAREL**
8 **ARTICLES.**

9 (a) *STUDY ON USE OF FORMALDEHYDE IN MANUFAC-*
10 *TURING OF TEXTILE AND APPAREL ARTICLES.*—Not later
11 *than 2 years after the date of the enactment of this Act,*
12 *the Consumer Product Safety Commission shall conduct a*
13 *study on the use of formaldehyde in the manufacture of tex-*
14 *tile and apparel articles, or in any component of such arti-*
15 *cles, to identify any risks to consumers caused by the use*
16 *of formaldehyde in the manufacturing of such articles, or*
17 *components of such articles.*

Attest:

Secretary.

110TH CONGRESS
2^D SESSION

H. R. 4040

AMENDMENT