

111TH CONGRESS
1ST SESSION

H. R. 1815

To clarify the applicability of certain provisions in the Consumer Product Safety Improvement Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2009

Mr. BARTON of Texas (for himself, Mr. RADANOVICH, Mr. ROGERS of Michigan, Mrs. BLACKBURN, Mr. SESSIONS, Mr. WHITFIELD, Mrs. MYRICK, Mr. BLUNT, Mr. GALLEGLY, Mr. GINGREY of Georgia, Mr. SULLIVAN, Mr. BARTLETT, Mr. PUTNAM, Mr. TERRY, Mr. STEARNS, Mr. PITTS, and Mr. THORNBERRY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To clarify the applicability of certain provisions in the Consumer Product Safety Improvement Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Product
5 Safety Solutions Act of 2009”.

1 **SEC. 2. PROSPECTIVE APPLICATION OF LEAD LIMITS AND**
2 **THIRD PARTY TESTING REQUIREMENTS.**

3 (a) LEAD CONTENT.—Section 101 of the Consumer
4 Product Safety Improvement Act of 2008 (15 U.S.C.
5 1278a) is amended—

6 (1) by redesignating subsection (b) through (g)
7 as subsections (c) through (h), respectively;

8 (2) by inserting after subsection (a) the fol-
9 lowing new subsection:

10 “(b) APPLICATION.—

11 “(1) 600 PARTS PER MILLION.—Subsection
12 (a)(2)(A) shall apply beginning February 10, 2009,
13 only to any children’s product that is manufactured
14 after such date, and after February 9, 2010, to any
15 children’s product regardless of the date of manufac-
16 ture.

17 “(2) 300 PARTS PER MILLION.—Subsection
18 (a)(2)(B) shall apply beginning 2 years after the
19 date of enactment of this Act only to any children’s
20 product that is manufactured after such date, and
21 beginning 3 years after the date of enactment of this
22 Act, to any children’s product regardless of the date
23 of manufacture.”;

24 (3) in subsection (e)(2), by striking “subsection
25 (b)” and inserting “subsection (c)”; and

1 (4) in subsection (g), by striking “or (b)” and
2 inserting “or (c)”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsections (a) shall be treated as having taken effect on
5 August 15, 2008.

6 **SEC. 3. PROSPECTIVE APPLICATION OF PHTHALATES PRO-**
7 **HIBITION.**

8 (a) APPLICATION OF PHTHALATES PROHIBITION.—
9 Section 108 of the Consumer Product Safety Improvement
10 Act of 2008 (15 U.S.C. 1257c) is amended—

11 (1) by redesignated subsections (c) through (e)
12 as subsection (d) through (f), respectively; and

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

15 “(c) APPLICATION.—Subsections (a) and (b)(1) and
16 any rule promulgated under subsection (b)(3) shall apply
17 beginning February 10, 2009, only to any children’s prod-
18 uct that is manufactured after such date, and after Feb-
19 ruary 9, 2010, to any children’s product regardless of the
20 date of manufacture.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsections (a) shall be treated as having taken effect on
23 August 15, 2008.

1 **SEC. 4. CLARIFICATION OF TESTING METHODOLOGIES.**

2 (a) RULEMAKING.—Not later than 180 days after the
3 date of enactment of this Act, the Consumer Product
4 Safety Commission shall promulgate a rule setting forth
5 the testing methodology or methodologies which the Com-
6 mission determines shall be used for purposes of deter-
7 mining compliance with sections 101(a) and 108 of the
8 Consumer Product Safety Improvement Act of 2008 (15
9 U.S.C. 1278a(a); 2057c).

10 (b) EFFECTIVE DATE FOR CONFORMITY CERTIFI-
11 CATION.—Section 14(a)(1) of the Consumer Product Safe-
12 ty Act (15 U.S.C. 2063(a)(1)) is amended by striking
13 “Except as provided” and inserting “Beginning 90 days
14 after the issuance of a rule required by section 4(a) of
15 the Consumer Product Safety Solutions Act of 2009 ex-
16 cept as provided”.

17 (c) TEMPORARY RULE OF COMPLIANCE.—Beginning
18 February 10, 2009, and continuing until a rule is promul-
19 gated under subsection (a), any children’s product that is
20 tested for conformity with the requirements of section
21 101(a) and section 108 of the Consumer Product Safety
22 Improvement Act of 2008 (15 U.S.C. 1278a(a); 2057c)
23 and certified pursuant to section 14(a)(1) of the Con-
24 sumer Product Safety Act (15 U.S.C. 2063(a)(1)) shall
25 be considered to be in compliance with such section if such
26 children’s product was tested in good faith and in accord-

1 ance with a reasonable testing methodology and the prod-
2 uct was certified based on the results of such testing.

3 **SEC. 5. EXCLUSION OF CERTAIN MATERIALS FROM LEAD**
4 **CONTENT LIMIT.**

5 Section 101(c)(1) of the Consumer Product Safety
6 Improvement Act of 2008 (15 U.S.C. 1278a(c)(1)) (as re-
7 designated by section 1) is amended—

8 (1) in the matter preceding subparagraph (A),
9 by striking “material will neither—” and inserting
10 “material—”

11 (2) in subparagraph (A)—

12 (A) by striking “result in the absorption of
13 any lead into the human body” and inserting
14 “will not result in the absorption of lead into
15 the human body in excess of the amounts set
16 forth under subsection (a)(2)”;

17 (B) by inserting “of the age for which the
18 product is intended” after “child”; and

19 (C) by striking “nor” and inserting “or”;
20 and

21 (3) in subparagraph (B), by striking “have any
22 other” and inserting “will not have any”.

1 **SEC. 6. WAIVER OF THIRD PARTY TESTING REQUIREMENT**
2 **FOR CERTAIN COMPONENT PARTS.**

3 Section 14(g) of the Consumer Product Safety Act
4 (15 U.S.C. 2063(g)) is amended by adding at the end the
5 following:

6 “(5) SPECIAL RULE FOR LEAD CONTENT AND
7 PHTHALATE CONTENT TESTING AND CERTIFI-
8 CATION.—Subsection (a) shall not require the manu-
9 facturer or private labeler of a children’s product to
10 test such product for, or certify it with respect to,
11 lead content or phthalate content, as applicable, if—

12 “(A) each component of the product that is
13 required to be tested for compliance with sec-
14 tions 101(a) and 108 of the Consumer Product
15 Safety Improvement Act of 2008 (15 U.S.C.
16 1278a(a); 2057c) has been tested for lead con-
17 tent or phthalate content, as applicable, by the
18 manufacturer or private labeler of the compo-
19 nent; and

20 “(B) the manufacturer or private labeler of
21 each such component certifies that the compo-
22 nent does not contain more lead than the limit
23 established by subsection (a)(2) and (f) of sec-
24 tion 101 of the Consumer Product Safety Im-
25 provement Act of 2008 (15 U.S.C. 1278a(a)(2)
26 and (f)) or the applicable phthalate limit in ef-

1 fect under section 108 of such Act, as applica-
2 ble.”.

3 **SEC. 7. EXEMPTIONS FROM TRACKING LABEL REQUIRE-**
4 **MENTS.**

5 Section 14(a)(5) of the Consumer Product Safety Act
6 (15 U.S.C. 2063(a)(5)) is amended—

7 (1) by striking “Effective” and inserting “(A)
8 IN GENERAL—Effective”;

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(B) COMMISSION EXEMPTIVE AUTHOR-
12 ITY.—The Commission may, by rule, exempt or
13 modify any of the requirements of this section
14 for any product or product category, if the
15 Commission determines such requirement to be
16 unduly burdensome or cost prohibitive in rela-
17 tionship to the potential risk presented by such
18 product or product category, or not practical
19 due to the intended use of such product or
20 product category.”.

21 **SEC. 8. GENERAL APPLICATION AND EXEMPTIVE AUTHOR-**
22 **ITY.**

23 Section 3 of the Consumer Product Safety Improve-
24 ment Act of 2008 (15 U.S.C. 2051 note) is amended—

1 (1) by striking “The” and inserting “(a) IN
2 GENERAL.—The”; and

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

4 “(b) **AUTHORITY TO EXTEND OR DELAY EFFECTIVE**
5 **DATES.**—The Commission may extend the application of
6 the effective date of any provision of this Act or the
7 amendments made by this Act with respect to any par-
8 ticular manufacturer, distributor, or retailer or class of
9 manufacturers, distributors, or retailers if the Commission
10 determines that a delay would better promote public safety
11 and that a later effective date is in the public interest and
12 publishes the reason for such a determination.

13 “(c) **EXEMPTIVE AUTHORITY.**—The Commission
14 may exempt a particular manufacturer, distributor, or re-
15 tailer or class of manufacturers, distributors, or retailers
16 from any provision of this Act or the amendments made
17 by this Act if the Commission determines that a delay
18 would better promote public safety and that such exemp-
19 tion is in the public interest and publishes the reason for
20 such determination.”.

21 **SEC. 9. COMPLIANCE GUIDANCE FOR SMALL BUSINESSES.**

22 (a) **IN GENERAL.**—Not later than 180 days after the
23 date of enactment of this Act, the Consumer Product
24 Safety Commission shall develop and make available on
25 the Commission’s Internet website a compliance guide to

1 assist small businesses in complying with the requirements
2 of the Consumer Product Safety Act (15 U.S.C. 2051 et
3 seq.) and other Acts enforced by the Commission.

4 (b) CONTENTS.—The guide—

5 (1) shall be designed to assist small businesses
6 to determine—

7 (A) whether the Consumer Product Safety
8 Act (or any other Act enforced by the Commis-
9 sion) applies to their business activities;

10 (B) whether they are considered distribu-
11 tors, manufacturers, private labelers, or retail-
12 ers under such Act or Acts; and

13 (C) which rules, standards, regulations, or
14 statutory requirements apply to their business
15 activities;

16 (2) shall provide guidance on how to comply
17 with any such applicable rule, standard, regulation,
18 or requirement, including—

19 (A) what actions they should take to en-
20 sure that they meet the requirements; and

21 (B) how to determine whether they have
22 met the requirements; and

23 (3) may contain such additional information as
24 the Commission considers appropriate, including

- 1 telephone, e-mail, and Internet contacts for compli-
- 2 ance support and information.

