

117TH CONGRESS
1ST SESSION

H. R. 3724

To require greater notification to the public regarding product recalls, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2021

Ms. MENG introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require greater notification to the public regarding product recalls, 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; FINDINGS.**

4 This Act may be cited as the “Total Recall Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds that—

7 (1) the safety of the consumers in the United
8 States relies on the effectiveness of a company’s out-
9 reach;

1 (2) there are at least 400 products recalled
2 each year by the Consumer Product Safety Commis-
3 sion; and

4 (3) according to the Commission, the average
5 response rate of consumers for most product recalls
6 is between 4 and 18 percent.

7 **SEC. 3. INCREASED NOTIFICATION ABOUT RECALLS BY**
8 **COMPANIES PARTICIPATING IN RECALLS.**

9 (a) MANDATING PUBLIC NOTICE AND INCLUDING
10 IMPORTERS.—Section 15 of the Consumer Product Safety
11 Act (15 U.S.C. 2064)—

12 (1) in subsection (c)(1), by striking “the Com-
13 mission may order” and inserting “the Commission
14 shall order”; and

15 (2) in subsection (d)(1), by striking “any dis-
16 tributor or retailer of the product” and inserting
17 “any importer distributor, or retailer of the product
18 to cease distribution of the product or”

19 (b) NOTIFICATION REQUIREMENTS.—

20 (1) REQUIREMENTS.—Section 15(d) of such
21 Act (15 U.S.C. 2064(d)) is further amended—

22 (A) by redesignating paragraph (3) as
23 paragraph (4);

24 (B) by inserting after paragraph (2) the
25 following new paragraph:

1 “(3) The Commission may not approve an action plan
2 submitted pursuant to paragraph (2) unless such action
3 plan provides that the person submitting the action plan
4 has performed or will perform the following:

5 “(A) Not later than the expiration of the 365-
6 day period starting on the date the Commission ap-
7 proves the action plan, spending on advertising the
8 recall of the product subject to the order, using
9 methods including those determined by the Commis-
10 sion for conducting recalls, an amount equal to the
11 greater of—

12 “(i)(I) at least 25 percent of the dollar
13 amount spent by such person in the 12-month
14 period during which such person spent the
15 greatest amount on traditional marketing (not
16 including marketing through the internet) of
17 the product; plus

18 “(II) at least the total dollar amount spent
19 by such person marketing the product through
20 the internet; or

21 “(ii) if the product was part of a subscrip-
22 tion service, at least 5 percent of the dollar
23 amount spent by such person marketing the
24 subscription service under which the product
25 was sold.

1 “(B) Submitting to the Commission such evi-
2 dence the Commission determines adequate to show
3 that such person has complied with the requirements
4 in subparagraph (A).

5 “(C) Posting in a clear and conspicuous man-
6 ner the notice described in subsection (c)(1)(D) on
7 any internet website maintained by such person until
8 the participation rate in the recall that is the subject
9 of the notice is at least 95 percent.

10 “(D) Posting to each social media platform
11 maintained by such person the notice subsection
12 (c)(1)(D), or a description of such notice and a link
13 to such notice, at least 5 times each calendar month
14 for the 12 months after the Commission has ap-
15 proved the action plan.”; and

16 (C) by adding at the end the following new
17 paragraph:

18 “(5) In this subsection—

19 “(A) the term ‘social media platform’ means a
20 website or internet medium that—

21 “(i) permits a person to become a reg-
22 istered user, establish an account, or create a
23 profile for the purpose of allowing users to cre-
24 ate, share, and view user-generated content
25 through such an account or profile;

1 “(ii) enables one or more users to generate
2 content that can be viewed by other users of the
3 medium; and

4 “(iii) primarily serves as a medium for
5 users to interact with content generated by
6 other users of the medium; and

7 “(B) the term ‘subscription service’ means a
8 service under which two or more consumer products
9 are sold to consumers that does not permit the con-
10 sumer to select each product comprising an indi-
11 vidual package.”.

12 (2) TOLLING OF EXPENDITURES.—Paragraph
13 (4) of section 15(d) of such Act (15 U.S.C. 2064(d))
14 (as redesignated by section 3(b)(1)(A) of this Act)
15 is amended by adding at the end the following new
16 subparagraph:

17 “(D) If the Commission revokes its approval of the
18 action plan, the running of the 365-day period in para-
19 graph (3)(A) shall be tolled. If the Commission approves
20 an alternative action plan to the action plan for which ap-
21 proval was revoked, the time period for completing the ex-
22 penditures as required by paragraph (3)(A) for such alter-
23 native action plan shall not exceed the number of days
24 that did not elapse under such 365-day period.”.

1 (c) NOTIFICATION REQUIREMENTS APPLY TO SET-
2 TLEMENT OFFERS.—Section 15(f) of such Act (15 U.S.C.
3 2064(f)) is amended—

4 (1) in paragraph (1)—

5 (A) by striking “Any settlement” and in-
6 serting “Subject to paragraph (2), any settle-
7 ment”; and

8 (B) by striking “unless the settlement
9 offer is clearly frivolous or duplicative of offers
10 previously made”;

11 (2) by redesignating paragraph (2) as para-
12 graph (4); and

13 (3) by inserting after paragraph (1) the fol-
14 lowing new paragraphs:

15 “(2) A settlement offer described in paragraph (1)
16 may not be transmitted if such offer—

17 “(A) is clearly frivolous;

18 “(B) is duplicative of offers previously made; or

19 “(C) does not obligate the manufacturer, dis-
20 tributor, importer, or retailer that is a party to such
21 offer to perform the actions in subparagraphs (A)
22 and (B) of subsection (k)(1).

23 “(3) At the outset of a hearing under this subsection,
24 the Commission shall recommend that a manufacturer,
25 distributor, importer, or retailer that is or becomes a party

1 to a settlement offer perform the actions described in sub-
2 section (d)(3).”.

3 (d) VOLUNTARY CORRECTIVE ACTION NOTIFICA-
4 TION.—Section 15 of such Act (15 U.S.C. 2064) is further
5 amended by adding at the end the following new sub-
6 section:

7 “(k) VOLUNTARY CORRECTIVE ACTION.—

8 “(1) REQUIREMENTS.—Any voluntary correc-
9 tive action taken by a manufacturer, distributor, im-
10 porter, or retailer in consultation with the Commis-
11 sion relating to a product described in subsection (b)
12 may be determined by the Commission as a suffi-
13 cient remedial measure only if, as part of such vol-
14 untary corrective action—

15 “(A) such manufacturer, distributor, im-
16 porter, or retailer provides the notice required
17 by subsection (c); and

18 “(B) such notice is posted in the manner
19 required by subparagraphs (C) and (D) of sub-
20 section (d)(3).

21 “(2) RECOMMENDATIONS.—When a manufac-
22 turer, distributor, importer, or retailer informs the
23 Commission that it will take voluntary corrective ac-
24 tion in consultation with the Commission, the Com-
25 mission shall recommend that such manufacturer,

1 distributor, importer, or retailer perform the actions
2 described in subsection (d) as part of the voluntary
3 corrective action.”.

4 **SEC. 4. APPLICABILITY.**

5 (a) ACTION PLANS AND SETTLEMENT OFFERS.—
6 The amendments made by subsections (a) through (c) of
7 section 3 shall only apply to action plans initiated under
8 section 15(d) of the Consumer Product Safety Act (15
9 U.S.C. 2064(d)) and settlement offers submitted under
10 section 15(f) of such Act, (15 U.S.C. 2064(f)) on or after
11 the date of enactment of this Act.

12 (b) VOLUNTARY CORRECTIVE ACTION.—The amend-
13 ments made by subsection (d) of section 3 shall only apply
14 to voluntary corrective actions about which the Consumer
15 Product Safety Commission is initially informed on or
16 after the date of enactment of this Act.

17 **SEC. 5. RECALL PARTICIPATION RATES REPORTED TO**
18 **CONGRESS.**

19 (a) REPORT TO CONGRESS.—Section 27(j) of the
20 Consumer Product Safety Act (15 U.S.C. 2076(j)) is
21 amended—

22 (1) in the matter preceding paragraph (1), by
23 inserting after “and the Congress” the following: “,
24 and shall make publicly available on its website,”;

1 (2) in paragraph (12)(F), by striking “and” at
2 the end;

3 (3) by redesignating paragraph (13) as para-
4 graph (14); and

5 (4) by inserting after paragraph (12) the fol-
6 lowing new paragraph:

7 “(13) for each recall initiated or ongoing during
8 the reporting period that is pursuant to an order
9 under section 15(d), a settlement agreement, or a
10 voluntary corrective action taken in consultation
11 with the Commission—

12 “(A) the number of products subject to the
13 recall sold;

14 “(B) the number of such products for
15 which a consumer has been remedied;

16 “(C) the number of consumers to whom a
17 notification has been made directly; and

18 “(D) the number of incidences of injuries
19 resulting from a product subject to the recall
20 occurring after the initiation of the recall that
21 are reported to the Commission; and”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply on the first day of the first fiscal

1 year which begins after the date of the enactment of this
2 Act.

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