

Calendar No. 523110TH CONGRESS
1ST SESSION**S. 2045**

To reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2007

Mr. PRYOR (for himself, Mr. INOUE, Ms. KLOBUCHAR, Mr. DURBIN, Mr. NELSON of Florida, Mr. BROWN, Mr. SCHUMER, Mr. MENENDEZ, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 5, 2007

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs, 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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “CPSC Reform Act of 2007”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 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. Repeated importation offenses.
- Sec. 16. Prohibited acts.
- Sec. 17. Penalties.
- Sec. 18. Preemption.
- Sec. 19. Sharing of information with Federal, State, local, and foreign agencies.
- Sec. 20. Bonding.
- Sec. 21. Enforcement by State attorneys general.
- Sec. 22. Whistleblower protection for manufacturers’ employees.
- Sec. 23. Ban on children’s products containing lead; lead paint rule.
- Sec. 24. Cost-benefit analysis under the Poison Prevention Packaging Act of
1970.
- Sec. 25. Completion of upholstered furniture rulemaking.

6 **SEC. 2. AMENDMENT OF CONSUMER PRODUCT SAFETY**

7 **ACT.**

8 Except as otherwise expressly provided, whenever in
9 this Act an amendment or repeal is expressed in terms
10 of an amendment to, or repeal of, a section or other provi-
11 sion, the reference shall be considered to be made to a
12 section or other provision of the Consumer Product Safety
13 Act (15 U.S.C. 2051 et seq.).

1 **SEC. 3. REAUTHORIZATION.**

2 (a) ~~IN GENERAL.~~—Section 32 (15 U.S.C. 2081) is
3 amended—

4 (1) by redesignating subsection (e) as sub-
5 section (d); and

6 (2) by striking subsections (a) and (b) and in-
7 serting the following:

8 “(a) There are authorized to be appropriated to the
9 Commission for the purpose of carrying out the provisions
10 of this Act and any other provision of law the Commission
11 is authorized or directed to carry out—

12 “(1) \$80,000,000 for fiscal year 2009;

13 “(2) \$88,500,000 for fiscal year 2010;

14 “(3) \$96,800,000 for fiscal year 2011;

15 “(4) \$106,480,000 for fiscal year 2012;

16 “(5) \$117,128,000 for fiscal year 2013;

17 “(6) \$128,841,000 for fiscal year 2014; and

18 “(7) \$141,725,000 for fiscal year 2015.

19 “(b) There are authorized to be appropriated to the
20 Commission for the purpose of renovation, repair, recon-
21 struction, re-equipping, and making other necessary cap-
22 ital improvements to the Commission’s research, develop-
23 ment, and testing facility (including bringing the facility
24 into compliance with applicable environmental, safety, and
25 accessibility standards), \$20,000,000 for fiscal years 2009
26 and 2010.

1 “(e) There are authorized to be appropriated to the
 2 Commission for research, in cooperation with the National
 3 Institute of Science and Technology, the Food and Drug
 4 Administration, and other relevant Federal agencies into
 5 safety issues related to the use of nanotechnology in con-
 6 sumer products, \$1,000,000 for fiscal years 2009 and
 7 2010.”.

8 **SEC. 4. PERSONNEL.**

9 (a) **PROFESSIONAL STAFF.**—The Consumer Product
 10 Safety Commission shall increase the number of fulltime
 11 personnel employed by the Commission to at least 500 by
 12 October 1, 2013.

13 (b) **PROFESSIONAL CAREER PATH.**—The Commis-
 14 sion shall develop and implement a professional career de-
 15 velopment program for professional staff to encourage re-
 16 tention of career personnel and provide professional devel-
 17 opment opportunities for Commission employees.

18 (c) **CHANGE OF EMPLOYMENT STATUS BY POLITICAL**
 19 **APPOINTEES.**—An individual who is employed by the
 20 Commission as a political appointee (as defined in section
 21 9803 of title 5, United States Code) may not be appointed
 22 to a position in the competitive service under chapter 51
 23 of title 5, United States Code, or the Senior Executive
 24 Service under subchapter II of chapter 31 of such title,
 25 by the Commission less than 1 year after termination of

1 the individual's employment by the Commission as a polit-
 2 ical appointee unless the appointment is authorized by
 3 unanimous vote of the Commission.

4 (d) PERSONNEL IN IMMEDIATE OFFICE OF COMMIS-
 5 SIONERS.—The Commission may not reduce the number
 6 of fulltime employees in the immediate office of a commis-
 7 sioner unless the reduction is authorized by unanimous
 8 vote of the Commission.

9 **SEC. 5. FULL COMMISSION REQUIREMENT; INTERIM**
 10 **QUORUM.**

11 (a) NUMBER OF COMMISSIONERS.—

12 (1) IN GENERAL.—The Congress finds that it is
 13 necessary, in order for the Consumer Product Safety
 14 Commission to function effectively and carry out the
 15 purposes for which the Consumer Product Safety
 16 Act was enacted, for the full complement of 5 mem-
 17 bers of the Commission to serve and participate in
 18 the business of the Commission and urges the Presi-
 19 dent to nominate members to fill any vacancy in the
 20 membership of the Commission as expeditiously as
 21 practicable.

22 (2) REPEAL OF LIMITATION.—Title III of Pub-
 23 lie Law 102-389 is amended by striking the first
 24 proviso in the item captioned "CONSUMER PRODUCT

1 SAFETY COMMISSION, SALARIES AND EXPENSES”
2 (15 U.S.C. 2053 note).

3 (b) TEMPORARY QUORUM.—Notwithstanding section
4 4(d) of the Consumer Product Safety Act (15 U.S.C.
5 2053(d)), 2 members of the Consumer Product Safety
6 Commission, if they are not affiliated with the same polit-
7 ical party, shall constitute a quorum for the transaction
8 of business for the 9-month period beginning on the date
9 of enactment of this Act.

10 **SEC. 6. SUBMISSION OF COPY OF CERTAIN DOCUMENTS TO**
11 **CONGRESS.**

12 (a) IN GENERAL.—Notwithstanding any rule, regula-
13 tion, or order to the contrary, the Commission shall com-
14 ply with the requirements of section 27(k) of the Con-
15 sumer Product Safety Act (15 U.S.C. 2076) with respect
16 to budget recommendations, legislative recommendations,
17 testimony, and comments on legislation submitted by the
18 Commission to the President or the Office of Management
19 and Budget after the date of enactment of this Act.

20 (b) REINSTATEMENT OF REQUIREMENT.—Section
21 3003(d) of Public Law 104-66 (31 U.S.C. 1113 note) is
22 amended—

23 (1) by striking “or” after the semicolon in
24 paragraph (31);

1 (2) by redesignating paragraph (32) as (33);

2 and

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

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

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

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

9 (1) by inserting “A manufacturer or private la-
10 beler shall submit any such mark within 15 calendar
11 days after the date on which it receives the Commis-
12 sion’s offer.” after “paragraph (2).” in subsection
13 (a)(3); and

14 (2) by striking subsection (b) and inserting the
15 following:

16 “(b)(1) Except as provided by paragraph (3) of this
17 subsection, prior to its public disclosure of any information
18 obtained under this Act, or to be disclosed to the public
19 in connection therewith (unless the Commission finds that
20 the public health and safety requires otherwise), the Com-
21 mission shall, to the extent practicable, notify and provide
22 a summary of the information to, each manufacturer or
23 private labeler of any consumer product to which such in-
24 formation pertains, if the manner in which such consumer
25 product is to be designated or described in such informa-

1 tion will permit the public to ascertain readily the identity
 2 of such manufacturer or private labeler, and shall provide
 3 such manufacturer or private labeler not less than 15 days
 4 to submit comments to the Commission as to the veracity
 5 of such information.

6 “(2) In disclosing any information under this sub-
 7 section, the Commission may, and upon the request of the
 8 manufacturer or private labeler shall, include with the dis-
 9 closure any comments or other information or a summary
 10 thereof submitted under paragraph (1) by such manufac-
 11 turer or private labeler as an addendum.

12 “(3) Paragraphs (1) and (2) of this subsection do not
 13 apply to the public disclosure of information about any
 14 consumer product—

15 “(i) with respect to which the Commission
 16 has filed an action under section 12;

17 “(ii) with respect to which the Commission
 18 has issued a complaint under section 15(e) or
 19 (d) alleging that such product presents a sub-
 20 stantial product hazard; or

21 “(iii) which the Commission has reasonable
 22 cause to believe is in violation of section 19 (re-
 23 lating to prohibited acts).

1 “~~(4) The Commission may not disclose the names or~~
2 addresses of consumers pursuant to its authority under
3 this section.”.

4 **SEC. 8. RULEMAKING.**

5 (a) ANPR REQUIREMENT.—

6 (1) IN GENERAL.—Section 9 (15 U.S.C. 2058)
7 is amended—

8 (A) by striking “shall be commenced” in
9 subsection (a) and inserting “may be com-
10 menced”;

11 (B) by striking “in the notice” in sub-
12 section (b) and inserting “in a notice”;

13 (C) by striking “unless, not less than 60
14 days after publication of the notice required in
15 subsection (a); the” in subsection (e) and in-
16 serting “unless the”;

17 (D) by inserting “ or notice of proposed
18 rulemaking” after “advance notice of proposed
19 rulemaking” in subsection (e); and

20 (E) by striking “an advance notice of pro-
21 posed rulemaking under subsection (a) relating
22 to the product involved,” in the third sentence
23 of subsection (e) and inserting “the notice”.

1 (2) CONFORMING AMENDMENT.—Section
2 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by strik-
3 ing “an advance notice of proposed rulemaking or”.

4 (b) RULEMAKING UNDER FEDERAL HAZARDOUS
5 SUBSTANCES ACT.—

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

9 “(a) IN GENERAL.—Whenever in the judgment of the
10 Commission such action will promote the objectives of this
11 Act by avoiding or resolving uncertainty as to its applica-
12 tion, the Commission may by regulation declare to be a
13 hazardous substance, for the purposes of this Act, any
14 substance or mixture of substances, which it finds meets
15 the requirements section 2(f)(1)(A).”.

16 (2) PROCEDURE.—

17 (A) Section 2(q)(2) of the Federal Haz-
18 ardous Substances Act (15 U.S.C. 1261(q)(2))
19 is amended by striking “Proceedings for the
20 issuance, amendment, or repeal of regulations
21 pursuant to clause (B) of subparagraph (1) of
22 this paragraph shall be governed by the provi-
23 sions of sections 701(e), (f), and (g) of the Fed-
24 eral Food, Drug, and Cosmetic Act. Provided,
25 That if” and inserting “Proceedings for the

1 issuance, amendment, or repeal of regulations
2 pursuant to clause (B) of subparagraph (1) of
3 this paragraph shall be governed by the provi-
4 sions of subsections (f) through (i) of section 3
5 of this Act, except that if”.

6 (B) Section 3(a)2 of the Federal Haz-
7 arduous Substances Act (15 U.S.C. 1262(a)2) is
8 amended to read as follows:

9 “(2) Proceedings for the issuance, amendment, or re-
10 peal of regulations under this subsection and the admissi-
11 bility of the record of such proceedings in other pro-
12 ceedings, shall be governed by the provisions of sub-
13 sections (f) through (i) of this section.”.

14 (3) ANPR REQUIREMENT.—Section 3 of the
15 Federal Hazardous Substances Act (15 U.S.C.
16 1262) is amended—

17 (A) by striking “shall be commenced” in
18 subsection (f) and inserting “may be com-
19 menced”;

20 (B) by striking “in the notice” in sub-
21 section (g)(1) and inserting “in a notice”; and

22 (C) by striking “unless, not less than 60
23 days after publication of the notice required in
24 subsection (f), the” in subsection (h) and in-
25 serting “unless the”.

1 (4) OTHER CONFORMING AMENDMENTS.—The
2 Federal Hazardous Substances Act (15 U.S.C. 1261
3 et seq.) is amended—

4 (A) by striking paragraph (d) of section 2
5 and inserting the following:

6 “(d) The term ‘Commission’ means the Con-
7 sumer Product Safety Commission.”;

8 (B) by striking “Secretary” each place it
9 appears and inserting “Commission” except—

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

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

12 and

13 (iii) in section 21(a) (15 U.S.C.
14 1276(a));

15 (C) by striking “Department” each place it
16 appears, except in section 14(b), and inserting
17 “Commission”;

18 (D) by striking “he” and “his” each place
19 they appear in reference to the Secretary and
20 inserting “it” and “its”, respectively;

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

1 (1) by redesignating paragraph (2) as para-
2 graph (5) and indenting the margin of such para-
3 graph, as so redesignated, 2 ems from the left mar-
4 gin;

5 (2) by resetting paragraph (1) as a new para-
6 graph indented 2 ems from the left margin;

7 (3) by striking “Every manufacturer” in para-
8 graph (1) and inserting “Except as provided in
9 paragraph (2), every manufacturer”;

10 (4) by designating the second and third sen-
11 tences of subsection (a) as paragraphs (3) and (4),
12 respectively, and indenting the margin of such para-
13 graphs, as so designated, 2 ems from the left mar-
14 gin;

15 (5) by inserting after paragraph (1) the fol-
16 lowing:

17 “(2) Every manufacturer of a children’s prod-
18 uct (and the private labeler of such product if it
19 bears a private label) which is subject to a consumer
20 product safety standard under this Act, or a rule
21 under this or any other Act enforced by the Commis-
22 sion declaring a consumer product a banned haz-
23 ardous product, shall—

1 “(A) have the product tested by a non-
2 governmental independent third party qualified
3 to perform such tests or testing programs; and

4 “(B) issue a certification which shall—

5 “(i) certify that such product con-
6 forms to such consumer product safety
7 standard or is not a banned hazardous
8 product under such rule; and

9 “(ii) specify the consumer product
10 safety standard or such rule.”;

11 (6) by striking “Such certificate shall” in para-
12 graph (3) as redesignated by paragraph (1) and in-
13 serting “A certificate required under this subsection
14 shall”; and

15 (7) in paragraph (5), as redesignated by para-
16 graph (1)—

17 (A) by striking “required by paragraph (1)
18 of this subsection” and inserting “required by
19 paragraph (1) or (2) (as the case may be)”;
20 and

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

24 (b) Section 14(b) (15 U.S.C. 2063(b)) is amended—

1 (1) by resetting paragraph (1) an indented
2 paragraph 2 ems from the left margin;

3 (2) by designating the second sentence as para-
4 graph (2) and indenting the margin of such para-
5 graph, as so designated, 2 ems from the left margin;
6 and

7 (3) in paragraph (2), as so designated, by strik-
8 ing “Any test or” and inserting “Except as provided
9 in paragraph (3), any test or”.

10 (e) DEFINITION OF CHILDREN’S PRODUCTS AND
11 INDEPENDENT THIRD PARTY.—Section 14 (15 U.S.C.
12 2063) is amended by adding at the end the following:

13 “(d) APPLICATION TO OTHER CONSUMER PROD-
14 UCTS; CERTIFIER STANDARDS; AUDIT.—

15 “(1) In general.—The Commission—

16 “(A) as soon as practicable after the date
17 of enactment of the CPSC Reform Act of 2007
18 shall by rule—

19 “(i) establish protocols and stand-
20 ards—

21 “(I) for credentialing inde-
22 pendent third parties qualified to per-
23 form tests or testing programs under
24 this section; and

1 “(H) for verifying that products
2 tested by such independent third par-
3 ties comply with consumer product
4 safety standards and with applicable
5 product standards under other Acts
6 enforced by the Commission;

7 “(ii) prescribe eligibility, inspection,
8 and certification standards for independent
9 third party entities engaged in certifying
10 compliance under subsection (a)(2) for
11 children’s products or products to which
12 the Commission extends the certification
13 requirements of that subsection;

14 “(iii) establish requirements for test-
15 ing, no less frequently than biennially, of
16 random samples of products certified
17 under this section to determine whether
18 they meet the requirements for certifi-
19 cation;

20 “(iv) establish requirements for peri-
21 odic audits of such entities by the Govern-
22 mental Accountability Office or a non-
23 governmental auditing organization; and

24 “(v) establish a program by which
25 manufacturers may label products as com-

1 pliant with the certification requirements
2 of subsection (a)(2); and

3 “(B) may by rule extend the certification
4 requirements of subsection (a)(2) to other con-
5 sumer products or to classes or categories of
6 consumer products;

7 “~~(2) EFFECTIVE DATE OF REQUIREMENTS.—~~
8 The certification and testing requirements of sub-
9 section (a)(2) of this section, as amended by the
10 CPSC Reform Act of 2007, shall take effect 30 days
11 after the date of enactment of that Act and shall
12 apply without regard to whether the Commission has
13 issued guidance or a rule under paragraph (1)(A) of
14 this subsection.”.

15 “~~(e) DEFINITIONS.—~~In this section:

16 “~~(1) CHILDREN’S PRODUCT.—~~The term ‘child-
17 ren’s product’ means a product (other than a medi-
18 cation, drug, or food) designed or intended for use
19 by, or care of, a child under 7 years of age that is
20 introduced into the interstate stream of commerce.
21 In determining whether a product is intended for
22 use by a child under 7 years of age, the following
23 factors shall be considered:

24 “~~(A)~~ A statement by a manufacturer about
25 the intended use of such product, including a

1 label on such product, if such statement is rea-
2 sonable.

3 “(B) The context and manner of the ad-
4 vertising, promotion, and marketing associated
5 with the product.

6 “(C) Whether the product is commonly
7 recognized by consumers as being intended for
8 use by a child under 7 years of age.

9 “(D) The Age Determination Guideline
10 issued by the Consumer Product Safety Com-
11 mission in September 2002 and any subsequent
12 version of such Guideline.

13 “(2) INDEPENDENT THIRD PARTY.—The term
14 ‘independent third party’, with respect to a testing
15 entity, means an independent testing entity that is
16 physically separate from any manufacturer or pri-
17 vate labeler whose product will be tested by such en-
18 tity, and is not owned, managed, controlled, or di-
19 rected by such manufacturer or private labeler.”.

20 (d) LABEL AND CERTIFICATION.—Not later than 1
21 year after the date of the enactment of this Act, the Con-
22 sumer Product Safety Commission shall prescribe a rule
23 in accordance with section 14(a)(5) and (d) of the Con-
24 sumer Product Safety Act (15 U.S.C. 2063(a)(5) and (d))

1 for children’s products (as defined in subsection (e) of
2 such section).

3 (e) PROHIBITION ON IMPORTS OF CHILDREN’S
4 PRODUCTS WITHOUT THIRD PARTY TESTING CERTIFI-
5 CATION.—Section 17(a) (15 U.S.C. 2066(a)) is amend-
6 ed—

7 (1) by striking “or” at the end of paragraph
8 (4);

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

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

12 “(6) is a children’s product, as that term is de-
13 fined in section 14(e), (or a product for which the
14 Commission, under section 14(d)(1), has required
15 certification under section 14(a)(2)) that is not ac-
16 companied by a certificate from an independent
17 third party as required by section 14(a)(2).”.

18 **SEC. 11. TRACKING LABELS FOR PRODUCTS FOR CHIL-**
19 **DREN.**

20 Section 14(a) of the Consumer Product Safety Act
21 (15 U.S.C. 2063(a)), as amended by section 10(a), is fur-
22 ther amended by adding at the end thereof the following:

23 “(6) The manufacturer of a children’s product
24 or other consumer product (as may be required by
25 the Commission in its discretion after a rulemaking

1 proceeding) shall place distinguishing marks on the
 2 product or its packaging that will enable the ulti-
 3 mate purchaser to ascertain the source, date, and
 4 cohort (including the batch, run number, or other
 5 identifying characteristic) of production of the prod-
 6 uct by reference to those marks.”.

7 **SEC. 12. SUBSTANTIAL PRODUCT HAZARD REPORTING RE-**
 8 **QUIREMENT.**

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

10 (1) by striking “consumer product distributed
 11 in commerce,” and inserting “consumer product (or
 12 other product or substance over which the Commis-
 13 sion has jurisdiction under this or any other Act)
 14 distributed in commerce,”;

15 (2) by redesignating paragraphs (2) and (3) as
 16 paragraphs (3) and (4), respectively; and

17 (3) by inserting after paragraph (1) the fol-
 18 lowing:

19 “(2) fails to comply with any rule or standard
 20 promulgated by the Commission under this or any
 21 other Act;”.

22 **SEC. 13. CORRECTIVE ACTION PLANS.**

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

24 (1) by inserting “(1)” after “ACTION
 25 PLAN.—”;

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

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

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

7 (5) by striking “whichever of the following ac-
8 tions the person to whom the order is directed
9 elects:” and inserting “any one or more of the fol-
10 lowing actions it determines to be in the public in-
11 terest:”;

12 (6) by inserting “(2)” before “An order”;

13 (7) by striking “satisfactory to the Commis-
14 sion,” and inserting “for approval by the Commis-
15 sion,”; and

16 (8) by adding at the end the following:

17 “(3)(A) If the Commission approves an action plan,
18 it shall indicate its approval in writing:

19 “(B) If the Commission finds that an approved action
20 plan is not effective, or that the manufacturer, retailer,
21 or distributor is not executing an approved action plan ef-
22 fectively, the Commission may by order amend, or require
23 amendment of, the action plan:

24 “(C) If the Commission determines, after notice and
25 opportunity for comment, that a manufacturer, retailer,

1 or distributor has failed to comply substantially with its
 2 obligations under its action plan, the Commission may re-
 3 voke its approval of the action plan. Upon receipt of notice
 4 of a revocation of the action plan, the manufacturer, re-
 5 tailer, or distributor shall cease further distribution in
 6 commerce of the product to which the action plan ap-
 7 plies.”.

8 **SEC. 14. IDENTIFICATION OF MANUFACTURER BY IMPORT-**
 9 **ERS, RETAILERS, AND DISTRIBUTORS.**

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

12 “(e) Upon request by an officer or employee duly des-
 13 ignated by the Commission—

14 “(1) every importer, retailer, or distributor of a
 15 consumer product (or other product or substance
 16 over which the Commission has jurisdiction under
 17 this or any other Act) shall identify the manufac-
 18 turer of that product by name, address, or such
 19 other identifying information as the officer or em-
 20 ployee may request; and

21 “(2) every manufacturer shall identify by name,
 22 address, or such other identifying information as the
 23 officer or employee may request—

24 “(A) each retailer or distributor to which
 25 it supplied a given consumer product (or other

1 product or substance over which the Commis-
 2 sion has jurisdiction under this or any other
 3 Act);

4 “(B) each subcontractor involved in the
 5 production or fabrication of such product or
 6 substance; and

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

9 **SEC. 15. REPEATED IMPORTATION OFFENSES.**

10 Section 17 (15 U.S.C. 2066) is amended by adding
 11 at the end thereof the following:

12 “(i) The Commission may—

13 “(1) designate as a repeat offender, after notice
 14 and an opportunity for a hearing, any person found
 15 by the Commission to have committed multiple viola-
 16 tions of subsection (a); and

17 “(2) refer any such person to United States
 18 Customs and Border Protection with a recommenda-
 19 tion that the person’s import license be terminated
 20 in accordance with that agency’s procedures.”.

21 **SEC. 16. PROHIBITED ACTS.**

22 (a) **SALE OF RECALLED PRODUCTS.**—Section 19(a)
 23 (15 U.S.C. 2068(a)) is amended—

24 (1) by striking paragraph (1) and inserting the
 25 following:

1 “(1) sell, offer for sale, manufacture for sale,
2 distribute in commerce, or import into the United
3 States any consumer product, or other product or
4 substance that is regulated under any other Act en-
5 forced by the Commission, that is—

6 “(A) not in conformity with an applicable
7 consumer product safety standard under this
8 Act, or any similar rule under any such other
9 Act;

10 “(B) subject to voluntary corrective action
11 taken by the manufacturer, in consultation with
12 the Commission, of which action the Commis-
13 sion has notified the public; or

14 “(C) subject to an order issued under sec-
15 tion 12 or 15 of this Act, designated a banned
16 hazardous substance under the Federal Haz-
17 ardous Substances Act (15 U.S.C. 1261 et
18 seq.);”;

19 (2) by striking “or” after the semicolon in
20 paragraph (7);

21 (3) by striking “and” after the semicolon in
22 paragraph (8);

23 (4) by striking “insulation).” in paragraph (9)
24 and inserting “insulation);”; and

1 (5) by striking “18(b).” in paragraph (10) and
2 inserting “18(b); or”.

3 (b) EXPORT OF RECALLED PRODUCTS.—

4 (1) IN GENERAL.—Section 18 (15 U.S.C. 2067)
5 is amended by adding at the end thereof the fol-
6 lowing:

7 “(c) Notwithstanding any other provision of law, the
8 Commission may prohibit a person from exporting from
9 the United States for purpose of sale any consumer prod-
10 uct, or other product or substance that is regulated under
11 any other Act enforced by the Commission, that the Com-
12 mission determines, after notice to the manufacturer—

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

16 “(2) is subject to an order issued under section
17 12 or 15 of this Act or designated as a banned haz-
18 ardous substance under the Federal Hazardous Sub-
19 stances Act (15 U.S.C. 1261 et seq.); or

20 “(3) is subject to voluntary corrective action
21 taken by the manufacturer, in consultation with the
22 Commission, of which action the Commission has
23 notified the public and would have been subject to
24 mandatory corrective action under this or another
25 Act enforced by the Commission if voluntary correc-

1 tive action had not been taken by the manufac-
2 turer.”.

3 (2) PENALTY.—Section 19(a) (15 U.S.C.
4 2068(a)), as amended by subsection (a), is further
5 amended—

6 (A) by striking “or” after the semicolon in
7 paragraph (10);

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

10 (C) by adding at the end thereof the fol-
11 lowing:

12 “(12) violate an order of the Commission under
13 section 18(e).”.

14 (3) CONFORMING AMENDMENTS TO OTHER
15 ACTS.—

16 (A) FEDERAL HAZARDOUS SUBSTANCES
17 ACT.—Section 5(b)(3) of the Federal Haz-
18 ardous Substances Act (15 U.S.C. 1264(b)(3))
19 is amended by striking “substance presents an
20 unreasonable risk of injury to persons residing
21 in the United States,” and inserting “substance
22 is prohibited under section 18(e) of the Con-
23 sumer Product Safety Act,”.

24 (B) FLAMMABLE FABRICS ACT.—Section
25 15 of the Flammable Fabrics Act (15 U.S.C.

1 1202) is amended by adding at the end thereof
2 the following:

3 “(d) Notwithstanding any other provision of law, the
4 Consumer Product Safety Commission may prohibit a per-
5 son from exporting from the United States for purpose
6 of sale any fabric, related material, or product that the
7 Commission determines, after notice to the manufac-
8 turer—

9 “(1) is not in conformity with an applicable
10 consumer product safety standard under the Con-
11 sumer Product Safety Act or with a rule under this
12 Act;

13 “(2) is subject to an order issued under section
14 12 or 15 of that Act or designated as a banned haz-
15 ardous substance under the Federal Hazardous Sub-
16 stances Act (15 U.S.C. 1261 et seq.); or

17 “(3) is subject to voluntary corrective action
18 taken by the manufacturer, in consultation with the
19 Commission, of which action the Commission has
20 notified the public and would have been subject to
21 mandatory corrective action under this or another
22 Act enforced by the Commission if voluntary correc-
23 tive action had not been taken by the manufac-
24 turer.”.

1 (c) FALSE CERTIFICATION OF COMPLIANCE WITH
 2 TESTING LABORATORY STANDARD.—Section 19(a) (15
 3 U.S.C. 2068(a)), as amended by subsection (b)(2), is fur-
 4 ther amended—

5 (1) by striking “or” after the semicolon in
 6 paragraph (11);

7 (2) by striking “18(e).” in paragraph (12) and
 8 inserting “18(e); or”; and

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

10 “(13) sell, offer for sale, distribute in com-
 11 merce, or import into the United States any con-
 12 sumer product bearing a false certification mark of
 13 compliance with a standard established by a nation-
 14 ally recognized testing laboratory.”.

15 (d) MISREPRESENTATION OF INFORMATION IN IN-
 16 VESTIGATION.—Section 19(a) (15 U.S.C. 2068(a)), as
 17 amended by subsection (c), is further amended—

18 (1) by striking “or” after the semicolon in
 19 paragraph (12);

20 (2) by striking “laboratory.” in paragraph (13)
 21 and inserting “laboratory; or”; and

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

23 “(14) to misrepresent to any officer or em-
 24 ployee of the Commission the scope of consumer
 25 products subject to an action required under section

1 ~~12~~ or subsection (c) or (d) of section ~~15~~, or to make
 2 a material misrepresentation to such an officer or
 3 employee in the course of an investigation under this
 4 Act.”.

5 (e) CERTIFICATES OF COMPLIANCE WITH MANDA-
 6 TORY STANDARDS.—Section 19(a)(6) (~~15~~ U.S.C.
 7 2068(a)(6)) is amended to read as follows:

8 “(6) fail to furnish a certificate required by this
 9 Act or any other Act enforced by the Commission,
 10 or to issue a false certificate if such person in the
 11 exercise of due care has reason to know that the cer-
 12 tificate is false or misleading in any material re-
 13 spect; or to fail to comply with any rule under sec-
 14 tion 14(e);”.

15 **SEC. 17. PENALTIES.**

16 (a) CIVIL PENALTIES.—

17 (1) IN GENERAL.—Section 20(a) (~~15~~ U.S.C.
 18 2069(a)) is amended—

19 (A) by striking “\$5,000” and inserting
 20 “\$250,000”;

21 (B) by striking “\$1,250,000” each place it
 22 appears and inserting “\$100,000,000”; and

23 (3) by striking “December 31, 1994,” in para-
 24 graph (3)(B) and inserting “December 31, 2011.”.

1 (2) FEDERAL HAZARDOUS SUBSTANCES ACT.—
2 Section 15(e) of the Federal Hazardous Substances
3 Act (15 U.S.C. 1264(e)) is amended—

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

6 (B) by striking “\$1,250,000” each place it
7 appears in paragraph (1) and inserting
8 “\$100,000,000”; and

9 (3) by striking “December 31, 1994,” in para-
10 graph (6)(B) and inserting “December 31, 2011,”.

11 (3) FLAMMABLE FABRICS ACT.—Section 5(e) of
12 the Flammable Fabrics Act (15 U.S.C. 1194(e)) is
13 amended—

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

16 (B) by striking “\$1,250,000” in paragraph
17 (1) and inserting “\$100,000,000”; and

18 (3) by striking “December 31, 1994,” in para-
19 graph (5)(B) and inserting “December 31, 2011,”.

20 (b) CRIMINAL PENALTIES.—

21 (1) IN GENERAL.—Section 21(a) (15 U.S.C.
22 2070(a)) is amended to read as follows:

23 “(a) Violation of section 19 of this Act is punishable
24 by—

1 ~~“(1) imprisonment for not more than 1 year for~~
2 ~~a knowing violation of that section; or~~

3 ~~“(2) imprisonment for not more than 5 years~~
4 ~~for a knowing and willful violation of that section;~~
5 ~~and~~

6 ~~“(3) a fine determined under section 3571 of~~
7 ~~title 18, United States Code.”.~~

8 ~~(2) DIRECTORS, OFFICERS, AND AGENTS.—Sec-~~
9 ~~tion 21(b) (15 U.S.C. 2070(b)) is amended—~~

10 ~~(A) by striking “and willfully”; and~~

11 ~~(B) by striking “19, and who has knowl-~~
12 ~~edge of notice of noncompliance received by the~~
13 ~~corporation from the Commission,” and insert-~~
14 ~~ing “19”.~~

15 ~~(3) UNDER THE FEDERAL HAZARDOUS SUB-~~
16 ~~STANCES ACT.—Section 5(a) of the Federal Haz-~~
17 ~~ardous Substances Act (15 U.S.C. 1264(a)) is~~
18 ~~amended to read as follows:~~

19 ~~“(a) IN GENERAL.—Violation of section 4 of this Act~~
20 ~~is punishable by—~~

21 ~~“(1) imprisonment for not more than 1 year for~~
22 ~~a knowing violation of that section;~~

23 ~~“(2) imprisonment for not more than 5 years~~
24 ~~for a knowing and willful violation of that section;~~
25 ~~and~~

1 “~~(3)~~ a fine determined under section 3571 of
2 title 18, United States Code.”

3 ~~(c) CIVIL PENALTY CRITERIA.—~~Within a year after
4 the date of enactment of this Act, the Consumer Product
5 Safety Commission shall initiate a rulemaking to establish
6 criteria for the imposition of civil penalties under section
7 20 of the Consumer Product Safety Act (15 U.S.C. 2069)
8 authorized by that section, including factors to be consid-
9 ered in establishing the amount of such penalties, such
10 as repeat violations, degree of risk to the public, nature
11 of the hazard, the precedential value of prior adjudicated
12 penalties, and other circumstances.

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

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

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

1 **SEC. 18. PREEMPTION.**

2 (a) **IN GENERAL.**—Section 26 (15 U.S.C. 2075) is
3 amended—

4 (1) by striking “Whenever” in subsection (a)
5 and inserting “Except as provided in subsections (c)
6 and (d), whenever”; and

7 (2) by adding at the end thereof the following:

8 “(d) **RULE FOR POST-2007 CONSUMER PRODUCT**
9 **SAFETY STANDARDS.**—No consumer product safety
10 standard promulgated by the Commission after the date
11 of enactment of the CPSC Reform Act of 2007, or any
12 other action taken by the Commission after that date,
13 shall preempt any State or local law to an extent greater
14 than permitted under subsection (a), as limited by sub-
15 section (c)”.

16 (b) **MATTRESS FLAMMABILITY STANDARD PRE-**
17 **AMBLE NOT PREEMPTIVE.**—Notwithstanding section N of
18 the preamble to the Final Rule: Standard for the Flamma-
19 bility (Open Flame) of Mattress Sets promulgated by the
20 Consumer Product Safety Commission (71 Fed. Reg.
21 13496), part 1633 of title 16, Code of Federal Regula-
22 tions, does not limit the rights of a State or political sub-
23 division thereof under section 26 (b) or (c) of the Con-
24 sumer Product Safety Act (15 U.S.C. 2075 (b) or (c), re-
25 spectively).

1 **SEC. 19. SHARING OF INFORMATION WITH FEDERAL,**
2 **STATE, LOCAL, AND FOREIGN GOVERNMENT**
3 **AGENCIES.**

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

6 “(f)(1) The Commission may make information ob-
7 tained by the Commission under section 6 available to any
8 Federal, State, local, or foreign government agency upon
9 the prior certification of an appropriate official of any
10 such agency, either by a prior agreement or memorandum
11 of understanding with the Commission or by other written
12 certification, that such material will be maintained in con-
13 fidence and will be used only for official law enforcement
14 or consumer protection purposes, if—

15 “(A) the agency has set forth a bona fide legal
16 basis for its authority to maintain the material in
17 confidence;

18 “(B) the materials are to be used for purposes
19 of investigating, or engaging in enforcement pro-
20 ceedings related to, possible violations of—

21 “(i) laws regulating the manufacture, im-
22 portation, distribution, or sale of defective or
23 unsafe consumer products, or other practices
24 substantially similar to practices prohibited by
25 any law administered by the Commission;

1 “(ii) a law administered by the Commis-
2 sion, if disclosure of the material would further
3 a Commission investigation or enforcement pro-
4 ceeding; or

5 “(iii) with respect to a foreign law enforce-
6 ment agency, with the approval of the Attorney
7 General, other foreign criminal laws, if such
8 foreign criminal laws are offenses defined in or
9 covered by a criminal mutual legal assistance
10 treaty in force between the government of the
11 United States and the foreign law enforcement
12 agency’s government; and

13 “(C) the foreign government agency is not from
14 a foreign state that the Secretary of State has deter-
15 mined, in accordance with section 6(j) of the Export
16 Administration Act of 1979 (50 U.S.C. App.
17 2405(j)), has repeatedly provided support for acts of
18 international terrorism, unless and until such deter-
19 mination is rescinded pursuant to section 6(j)(4) of
20 that Act (50 U.S.C. App. 2405(j)(4)).

21 “(2)(A) Except as provided in subparagraph
22 (B) of this paragraph, the Commission shall not be
23 required to disclose under section 552 of title 5,
24 United States Code, or any other provision of law—

1 “(i) any material obtained from a foreign
2 government agency, if the foreign government
3 agency has requested confidential treatment, or
4 has precluded such disclosure under other use
5 limitations, as a condition of providing the ma-
6 terial;

7 “(ii) any material reflecting a consumer
8 complaint obtained from any other foreign
9 source, if that foreign source supplying the ma-
10 terial has requested confidential treatment as a
11 condition of providing the material; or

12 “(iii) any material reflecting a consumer
13 complaint submitted to a Commission reporting
14 mechanism sponsored in part by foreign govern-
15 ment agencies.

16 “(B) Nothing in this subsection shall authorize
17 the Commission to withhold information from the
18 Congress or prevent the Commission from complying
19 with an order of a court of the United States in an
20 action commenced by the United States or the Com-
21 mission.

22 “(3) In this subsection, the term ‘foreign government
23 agency’ means—

24 “(A) any agency or judicial authority of a for-
25 eign government, including a foreign state, a polit-

1 ical subdivision of a foreign state, or a multinational
2 organization constituted by and comprised of foreign
3 states, that is vested with law enforcement or inves-
4 tigative authority in civil, criminal, or administrative
5 matters; and

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

9 **SEC. 20. BONDING.**

10 The Act (15 U.S.C. 2051 et seq.) is amended by add-
11 ing at the end thereof the following:

12 “BOND AUTHORITY

13 “SEC. 39. The Commission, in a rulemaking pro-
14 ceeding, may require manufacturers or distributors of a
15 consumer product, a category or class of consumer prod-
16 ucts, or any product or substance regulated under any
17 other law enforced by the Commission, to post a bond (or
18 other security acceptable to the Commission) in an
19 amount sufficient to cover the costs of an effective recall
20 of the product or substance, or, in the case of an imported
21 product or substance, to cover the costs of holding the
22 product or substance at the port and destruction of the
23 product should such action be required by the Commission
24 under this Act.”.

1 **SEC. 21. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

2 The Act (15 U.S.C. 2051 et seq.) is amended by in-
3 serting after section 26 the following:

4 “ENFORCEMENT BY STATE ATTORNEYS GENERAL

5 “SEC. 26A. (a) Except as provided in subsection (f),
6 a State, as *parens patriae*, may bring a civil action on
7 behalf of its residents in an appropriate State or district
8 court of the United States to enforce the provisions of this
9 Act or any other Act enforced by the Commission, to ob-
10 tain damages, restitution, or other compensation on behalf
11 of such residents, or to obtain such further and other relief
12 as the court may deem appropriate, whenever the attorney
13 general of the State has reason to believe that the interests
14 of the residents of the State have been or are being threat-
15 ened or adversely affected by a manufacturer, distributor,
16 or retailer entity that violates this Act or a regulation
17 under this Act.

18 “(b) The State shall serve written notice to the Com-
19 mission of any civil action under subsection (a) at least
20 60 days prior to initiating such civil action. The notice
21 shall include a copy of the complaint to be filed to initiate
22 such civil action, except that if it is not feasible for the
23 State to provide such prior notice, the State shall provide
24 such notice immediately upon instituting such civil action.

1 “(e) Upon receiving the notice required by subsection
2 (b), the Commission may intervene in such civil action and
3 upon intervening—

4 “(1) be heard on all matters arising in such
5 civil action; and

6 “(2) file petitions for appeal of a decision in
7 such civil action.

8 “(d) For purposes of bringing any civil action under
9 subsection (a), nothing in this section shall prevent the
10 attorney general of a State from exercising the powers
11 conferred on the attorney general by the laws of such
12 State to conduct investigations or to administer oaths or
13 affirmations or to compel the attendance of witnesses or
14 the production of documentary and other evidence.

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

16 “(1) the venue shall be a judicial district in
17 which—

18 “(A) the manufacturer, distributor, or re-
19 tailer operates; or

20 “(B) the manufacturer, distributor, or re-
21 tailer was authorized to do business;

22 “(2) process may be served without regard to
23 the territorial limits of the district or of the State
24 in which the civil action is instituted; and

1 compensation, terms, conditions, or privileges of employ-
2 ment because the employee (or any person acting pursuant
3 to a request of the employee)—

4 “(1) provided, caused to be provided, or is
5 about to provide or cause to be provided to the em-
6 ployer, the Federal Government, or the attorney
7 general of a State information relating to any viola-
8 tion or alleged violation of any order, regulation, or
9 consumer product safety standard under this Act or
10 any other law enforceable by the Commission (or by
11 the attorney general of a State under section 21);

12 “(2) testified or is about to testify in such a
13 proceeding; or

14 “(3) assisted or participated or is about to as-
15 sist or participate in such a proceeding.

16 “(b)(1) If the Commission, or the attorney general
17 of a State, proceeds with an action against a manufac-
18 turer, private labeler, distributor, or retailer for a violation
19 of this Act or any other Act enforced by the Commission,
20 on the basis of information provided by such an employee,
21 the employee shall receive at least 15 percent but not more
22 than 25 percent of any civil penalty assessed and collected
23 by the Commission, or attorney general, for the violation,
24 depending upon the extent to which the information pro-

1 vided by the employee substantially contributed to the en-
2 forcement action, as determined by the Commission.

3 “(2) If the Commission’s action is based primarily
4 on disclosures of specific information (other than informa-
5 tion provided by the employee) relating to allegations or
6 transactions in a criminal, civil, or administrative hearing,
7 in a congressional, administrative, or Government Ac-
8 countability Office report, hearing, audit, or investigation,
9 or from the news media, the Commission may award such
10 sums as it considers appropriate to the employee, but in
11 no case more than 10 percent of the civil penalty assessed
12 and collected, taking into account the significance of the
13 information and the role of the employee.

14 “(3) In the case of an action brought by the attorney
15 general of a State under section 21, the amount of any
16 civil penalty to which such an employee may be entitled
17 shall be determined by the Commission, subject to the lim-
18 itations in paragraph (1) and (2), in consultation with the
19 attorney general that brought the action.

20 “(e)(1) A person who believes that he or she has been
21 discharged or otherwise discriminated against by any per-
22 son in violation of subsection (a) may, not later than 90
23 days after the date on which such violation occurs, file
24 (or have any person file on his or her behalf) a complaint
25 with the Commission alleging such discharge or discrimi-

1 nation and identifying the person responsible for such act.
2 Upon receipt of such a complaint, the Commission shall
3 notify, in writing, the person named in the complaint of
4 the filing of the complaint, of the allegations contained
5 in the complaint, of the substance of evidence supporting
6 the complaint, and of the opportunities that will be af-
7 forded to such person under paragraph (2).

8 “(2)(A) Not later than 60 days after the date of re-
9 ceipt of a complaint filed under paragraph (1) and after
10 affording the person named in the complaint an oppor-
11 tunity to submit to the Commission a written response to
12 the complaint and an opportunity to meet with a rep-
13 resentative of the Commission to present statements from
14 witnesses, the Commission shall conduct an investigation
15 and determine whether there is reasonable cause to believe
16 that the complaint has merit and notify, in writing, the
17 complainant and the person alleged to have committed a
18 violation of subsection (a) of the Commission’s findings.
19 If the Commission concludes that there is a reasonable
20 cause to believe that a violation of subsection (a) has oc-
21 curred, the Commission shall accompany the Commis-
22 sion’s findings with a preliminary order providing the re-
23 lief prescribed by paragraph (3)(B). Not later than 30
24 days after the date of notification of findings under this
25 paragraph, either the person alleged to have committed

1 the violation or the complainant may file objections to the
2 findings or preliminary order, or both, and request a hear-
3 ing on the record. The filing of such objections shall not
4 operate to stay any reinstatement remedy contained in the
5 preliminary order. Any such hearing shall be conducted
6 expeditiously. If a hearing is not requested in such 30-
7 day period, the preliminary order shall be deemed a final
8 order that is not subject to judicial review.

9 “(B)(i) The Commission shall dismiss a complaint
10 filed under this subsection and shall not conduct an inves-
11 tigation otherwise required under subparagraph (A) unless
12 the complainant makes a prima facie showing that any
13 behavior described in paragraphs (1) through (4) of sub-
14 section (a) was a contributing factor in the unfavorable
15 personnel action alleged in the complaint.

16 “(ii) Notwithstanding a finding by the Commission
17 that the complainant has made the showing required
18 under clause (i), no investigation otherwise required under
19 subparagraph (A) shall be conducted if the employer dem-
20 onstrates, by clear and convincing evidence, that the em-
21 ployer would have taken the same unfavorable personnel
22 action in the absence of that behavior.

23 “(iii) The Commission may determine that a violation
24 of subsection (a) has occurred only if the complainant
25 demonstrates that any behavior described in paragraphs

1 (1) through (4) of subsection (a) was a contributing factor
2 in the unfavorable personnel action alleged in the com-
3 plaint.

4 “(iv) Relief may not be ordered under subparagraph
5 (A) if the employer demonstrates by clear and convincing
6 evidence that the employer would have taken the same un-
7 favorable personnel action in the absence of that behavior.

8 “(3)(A) Not later than 120 days after the date of
9 conclusion of any hearing under paragraph (2), the Com-
10 mission shall issue a final order providing the relief pre-
11 scribed by this paragraph or denying the complaint. At
12 any time before issuance of a final order, a proceeding
13 under this subsection may be terminated on the basis of
14 a settlement agreement entered into by the Commission,
15 the complainant, and the person alleged to have committed
16 the violation.

17 “(B) If, in response to a complaint filed under para-
18 graph (1), the Commission determines that a violation of
19 subsection (a) has occurred, the Commission shall order
20 the person who committed such violation—

21 “(i) to take affirmative action to abate the vio-
22 lation;

23 “(ii) to reinstate the complainant to his or her
24 former position together with the compensation (in-
25 cluding back pay) and restore the terms, conditions,

1 and privileges associated with his or her employ-
2 ment; and

3 ~~“(iii) to provide compensatory damages to the~~
4 ~~complainant.~~

5 If such an order is issued under this paragraph, the Com-
6 mission, at the request of the complainant, shall assess
7 against the person against whom the order is issued a sum
8 equal to the aggregate amount of all costs and expenses
9 (including attorneys’ and expert witness fees) reasonably
10 incurred, as determined by the Commission, by the com-
11 plainant for, or in connection with, the bringing of the
12 complaint upon which the order was issued.

13 ~~“(C) If the Commission finds that a complaint under~~
14 ~~paragraph (1) is frivolous or has been brought in bad~~
15 ~~faith, the Commission may award to the prevailing em-~~
16 ~~ployer a reasonable attorney’s fee, not exceeding \$1,000,~~
17 ~~to be paid by the complainant.~~

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

1 of the Commission. Review shall conform to chapter 7 of
2 title 5, United States Code. The commencement of pro-
3 ceedings under this subparagraph shall not, unless ordered
4 by the court, operate as a stay of the order.

5 “(B) An order of the Commission with respect to
6 which review could have been obtained under subpara-
7 graph (A) shall not be subject to judicial review in any
8 criminal or other civil proceeding.

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

18 “(6)(A) A person on whose behalf an order was
19 issued under paragraph (3) may commence a civil action
20 against the person to whom such order was issued to re-
21 quire compliance with such order. The appropriate United
22 States district court shall have jurisdiction, without regard
23 to the amount in controversy or the citizenship of the par-
24 ties, to 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 attorney and expert witness fees) to any party
 4 whenever the court determines such award is appropriate.

5 “(d) Any nondiscretionary duty imposed by this sec-
 6 tion shall be enforceable in a mandamus proceeding
 7 brought under section 1361 of title 28, United States
 8 Code.

9 “(e) Subsection (a) shall not apply with respect to
 10 an employee of a manufacturer, private labeler, dis-
 11 tributor, or retailer who, acting without direction from
 12 such manufacturer, private labeler, distributor, or retailer
 13 (or such person’s agent), deliberately causes a violation
 14 of any requirement relating to any violation or alleged vio-
 15 lation of any order, regulation, or consumer product safety
 16 standard under this Act or any other law enforceable by
 17 the Commission.”.

18 **SEC. 23. BAN ON CHILDREN’S PRODUCTS CONTAINING**

19 **LEAD; LEAD PAINT RULE.**

20 (a) IN GENERAL.—Beginning on the date that is 180
 21 days after the date of the enactment of this Act—

22 (1) any children’s product (as defined in section
 23 14(e) of the Consumer Product Safety Act (15
 24 U.S.C. 2063(e))) that contains lead shall be treated
 25 as a banned hazardous substance under the Federal

1 Hazardous Substances Act (15 U.S.C. 1261 et seq.);
2 and

3 ~~(2) the prohibitions contained in section 4 of~~
4 ~~such Act shall apply without regard to whether the~~
5 ~~lead contained in such children's product is acces-~~
6 ~~sible to children.~~

7 (b) TRACE AMOUNTS OF LEAD.—For purposes of
8 subsection (a), a children's product shall be considered to
9 contain lead if—

10 (1) in the case of a children's product that is
11 jewelry, any part of the product contains lead or
12 lead compounds and the lead content of such part
13 (calculated as lead metal) is greater than 0.02 per-
14 cent by weight of the total weight of such part (or
15 such lesser amount as may be established by the
16 Commission by regulation); or

17 (2) in the case of a children's product that is
18 not jewelry, any part of the product contains lead or
19 lead compounds and the lead content of such part
20 (calculated as lead metal) is greater than 0.04 per-
21 cent by weight of the total weight of such part (or
22 such lesser amount as may be established by the
23 Commission by regulation).

24 (c) ELECTRONICS.—If the Commission determines
25 that it is not feasible for certain electronic devices, includ-

1 ing batteries, to comply with subsection (a) at the time
2 the regulations shall take effect, the Commission shall, by
3 regulation—

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

7 (B) establish a schedule by which such
8 electronic devices shall be in full compliance
9 with the regulations prescribed under sub-
10 section (a).

11 (d) REGULATIONS.—On the day after the date of en-
12 actment of this Act, the Commission shall initiate a rule-
13 making proceeding to determine whether thresholds lower
14 than those described in subsection (b) should be prescribed
15 for children’s products. If the Commission makes such a
16 determination, the Commission shall promulgate regula-
17 tions establishing lower thresholds in lieu of the thresholds
18 established in subsection (b).

19 (e) PAINT STANDARD FOR ALL PRODUCTS.—Within
20 30 days after the date of enactment of this Act, the Con-
21 sumer Product Safety Commission shall modify section
22 1303.1 of its regulations (16 C.F.R. 1303.1) by sub-
23 stituting “0.009 percent” for “0.06 percent” in subsection
24 (a) of that section.

1 **SEC. 24. COST-BENEFIT ANALYSIS UNDER THE POISON**
 2 **PREVENTION PACKAGING ACT OF 1970.**

3 Section 3 of the Poison Prevention Packaging Act of
 4 1970 (15 U.S.C. 1472) is amended by adding at the end
 5 thereof the following:

6 “(e) Nothing in this Act shall be construed to require
 7 the Secretary, in establishing a standard under this sec-
 8 tion, to prepare a comparison of the costs that would be
 9 incurred in complying with such standard with the bene-
 10 fits of such standard.”.

11 **SEC. 25. COMPLETION OF UPHOLSTERED FURNITURE**
 12 **RULEMAKING.**

13 The Consumer Product Safety Commission shall
 14 issue a final rule in its proceeding entitled “Ignition of
 15 Upholstered Furniture by Small Open Flames and/or
 16 Smoldering Cigarettes” for which the Commission issued
 17 an advance notice of proposed rulemaking on October 23,
 18 2003 (68 Fed. Reg. 60630), no later than June 1, 2008.

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

20 (a) *SHORT TITLE.*—*This Act may be cited as the*
 21 *“CPSC Reform Act of 2007”.*

22 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 23 *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. *Repeated importation offenses.*
 Sec. 16. *Prohibited acts.*
 Sec. 17. *Penalties.*
 Sec. 18. *Preemption.*
 Sec. 19. *Sharing of information with Federal, State, local, and foreign agencies.*
 Sec. 20. *Bonding.*
 Sec. 21. *Enforcement by State attorneys general.*
 Sec. 22. *Whistleblower protections.*
 Sec. 23. *Ban on children's products containing lead; lead paint rule.*
 Sec. 24. *Alternative measures of lead content.*
 Sec. 25. *Study of preventable injuries and deaths of minority children related to certain consumer products.*
 Sec. 26. *Cost-benefit analysis under the Poison Prevention Packaging Act of 1970.*
 Sec. 27. *Inspector General reports.*
 Sec. 28. *Public Internet website links.*
 Sec. 29. *Child-resistant portable gasoline containers.*
 Sec. 30. *Toy safety standard.*
 Sec. 31. *All-terrain vehicle safety standard.*
 Sec. 32. *Garage door opener standard.*
 Sec. 33. *Reducing deaths and injuries from carbon monoxide poisoning.*
 Sec. 34. *Completion of cigarette lighter rulemaking.*
 Sec. 35. *Consumer product registration forms.*

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—*

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

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

5 “(a) *There are authorized to be appropriated to the*
6 *Commission for the purpose of carrying out the provisions*
7 *of this Act and any other provision of law the Commission*
8 *is authorized or directed to carry out—*

9 “(1) *\$80,000,000 for fiscal year 2009;*

10 “(2) *\$88,500,000 for fiscal year 2010;*

11 “(3) *\$96,800,000 for fiscal year 2011;*

12 “(4) *\$106,480,000 for fiscal year 2012;*

13 “(5) *\$117,128,000 for fiscal year 2013;*

14 “(6) *\$128,841,000 for fiscal year 2014; and*

15 “(7) *\$141,725,000 for fiscal year 2015.*

16 “(b) *There are authorized to be appropriated to the*
17 *Commission for the Office of Inspector General—*

18 “(1) *\$1,600,000 for fiscal year 2009;*

19 “(2) *\$1,770,000 for fiscal year 2010;*

20 “(3) *\$1,936,000 for fiscal year 2011;*

21 “(4) *\$2,129,600 for fiscal year 2012;*

22 “(5) *\$2,342,560 for fiscal year 2013;*

23 “(6) *\$2,576,820 for fiscal year 2014; and*

24 “(7) *\$2,834,500 for fiscal year 2015.*

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

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

15 **SEC. 4. PERSONNEL.**

16 (a) *PROFESSIONAL STAFF.—*

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

22 (2) *PORTS OF ENTRY; OVERSEAS INSPECTORS.—*
23 *The Consumer Product Safety Commission shall hire*
24 *at least 50 additional personnel to be assigned to duty*
25 *stations at United states ports of entry, or to inspect*

1 *overseas production facilities, by October 1, 2010, sub-*
2 *ject to the availability of appropriations.*

3 *(b) PROFESSIONAL CAREER PATH.—The Commission*
4 *shall develop and implement a professional career develop-*
5 *ment program for professional staff to encourage retention*
6 *of career personnel and provide professional development*
7 *opportunities for Commission employees.*

8 *(c) CHANGE OF EMPLOYMENT STATUS BY POLITICAL*
9 *APPOINTEES.—An individual who is employed by the Com-*
10 *mission as a political appointee (as defined in section 9803*
11 *of title 5, United States Code) may not be appointed to*
12 *a position in the competitive service under chapter 51 of*
13 *title 5, United States Code, or the Senior Executive Service*
14 *under subchapter II of chapter 31 of such title, by the Com-*
15 *mission less than 1 year after termination of the individ-*
16 *ual's employment by the Commission as a political ap-*
17 *pointee unless the appointment is authorized by unanimous*
18 *vote of the Commission.*

19 *(d) PERSONNEL IN IMMEDIATE OFFICE OF COMMIS-*
20 *SIONERS.—The Commission may not reduce the number of*
21 *fulltime employees in the immediate office of a commis-*
22 *sioner unless the reduction is authorized by unanimous vote*
23 *of the Commission.*

1 **SEC. 5. FULL COMMISSION REQUIREMENT; INTERIM**
2 **QUORUM.**

3 (a) *NUMBER OF COMMISSIONERS.—*

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

14 (2) *REPEAL OF LIMITATION.—Title III of Public*
15 *Law 102–389 is amended by striking the first proviso*
16 *in the item captioned “CONSUMER PRODUCT SAFETY*
17 *COMMISSION, SALARIES AND EXPENSES” (15 U.S.C.*
18 *2053 note).*

19 (b) *TEMPORARY QUORUM.—Notwithstanding section*
20 *4(d) of the Consumer Product Safety Act (15 U.S.C.*
21 *2053(d)), 2 members of the Consumer Product Safety Com-*
22 *mission, if they are not affiliated with the same political*
23 *party, shall constitute a quorum for the transaction of busi-*
24 *ness for the 9-month period beginning on the date of enact-*
25 *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 subsection (a)(6) and inserting*
4 *the following:*

5 *“(6) If a manufacturer or private labeler receives a*
6 *notification from the Commission under paragraph (5) of*
7 *the Commission’s intent to disclose a document marked as*
8 *confidential by that manufacturer or private labeler, it may*
9 *appeal the determination of the Commission under para-*
10 *graph (5) with respect to that document. The appeal shall*
11 *be made in writing to the general counsel of the Commission*
12 *before the date set for release of the document and set forth*
13 *the reason the manufacturer or private labeler believes dis-*
14 *closure of the document is barred by paragraph (2). The*
15 *general counsel shall act on the appeal within 30 days after*
16 *receiving it. If the general counsel determines that disclo-*
17 *sure of the document is not barred by paragraph (2), the*
18 *manufacturer or private labeler may appeal the determina-*
19 *tion of the general counsel to the full Commission, which*
20 *shall decide within 15 days after receiving it whether the*
21 *determination of the general counsel is supported by the law*
22 *and the evidence. The document may not be disclosed during*
23 *the pendency of an appeal under this paragraph.”; and*

24 *(3) by striking subsection (b) and inserting the*
25 *following:*

1 “(b)(1) *Except as provided by paragraph (3) of this*
2 *subsection, prior to its public disclosure of any information*
3 *obtained under this Act, or to be disclosed to the public in*
4 *connection therewith (unless the Commission finds that the*
5 *public health and safety requires otherwise), the Commis-*
6 *sion shall, to the extent practicable, notify and provide a*
7 *summary of the information to each manufacturer or pri-*
8 *vate labeler of any consumer product to which such infor-*
9 *mation pertains, if the manner in which such consumer*
10 *product is to be designated or described in such information*
11 *will permit the public to ascertain readily the identity of*
12 *such manufacturer or private labeler, and shall provide*
13 *such manufacturer or private labeler not less than 15 days*
14 *to submit comments to the Commission as to the accuracy*
15 *of such information.*

16 “(2) *In disclosing any information under this sub-*
17 *section, the Commission may, and upon the request of the*
18 *manufacturer or private labeler shall, include with the dis-*
19 *closure any comments or other information or a summary*
20 *thereof submitted under paragraph (1) by such manufac-*
21 *turer or private labeler as an addendum.*

22 “(3) *Paragraphs (1) and (2) of this subsection do not*
23 *apply to the public disclosure of—*

24 “(A) *information about any consumer product—*

1 “(i) with respect to which the Commission
2 has filed an action under section 12;

3 “(ii) with respect to which the Commission
4 has issued a complaint under section 15(c) or (d)
5 alleging that such product presents a substantial
6 product hazard; or

7 “(iii) which the Commission has reasonable
8 cause to believe is in violation of any regulation
9 promulgated by the Commission or any Act en-
10 forced by the Commission, or where the Commis-
11 sion determines that the public health or safety
12 requires immediate disclosure or a substantial
13 product hazard exists;

14 “(B) information in the course of, or concerning,
15 a rulemaking proceeding (which shall commence upon
16 the publication of an advance notice of proposed rule-
17 making or a notice of proposed rulemaking), an adju-
18 dicatory proceeding (which shall commence upon the
19 issuance of a complaint), or other administrative or
20 judicial proceeding under this Act.

21 “(4) If, after the commencement of a rulemaking or
22 the initiation of an adjudicatory proceeding, the Commis-
23 sion decides to terminate the proceeding before taking final
24 action, the Commission shall, in a manner equivalent to
25 that in which such commencement or initiation was pub-

1 *licized, take reasonable steps to make known the decision*
2 *to terminate.*

3 “(5) *The Commission may not disclose the names or*
4 *addresses of consumers pursuant to its authority under this*
5 *section unless the consumer consents in writing to the dis-*
6 *closure.*”.

7 **SEC. 8. RULEMAKING.**

8 *(a) ANPR REQUIREMENT.—*

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

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

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

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

20 *(D) by striking “an advance notice of pro-*
21 *posed rulemaking under subsection (a) relating*
22 *to the product involved,” in the third sentence of*
23 *subsection (c) and inserting “the notice,”.*

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

4 (b) *RULEMAKING UNDER FEDERAL HAZARDOUS SUB-*
5 *STANCES ACT.*—

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

9 “(a) *RULEMAKING.*—

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

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

23 (2) *PROCEDURE.*—Section 2(q)(2) of the Federal
24 Hazardous Substances Act (15 U.S.C. 1261(q)(2)) is
25 amended by striking “Proceedings for the issuance,

1 *amendment, or repeal of regulations pursuant to*
2 *clause (B) of subparagraph (1) of this paragraph*
3 *shall be governed by the provisions of sections 701(e),*
4 *(f), and (g) of the Federal Food, Drug, and Cosmetic*
5 *Act: Provided, That if” and inserting “Proceedings*
6 *for the issuance, amendment, or repeal of regulations*
7 *pursuant to clause (B) of subparagraph (1) of this*
8 *paragraph shall be governed by the provisions of sub-*
9 *sections (f) through (i) of section 3 of this Act, except*
10 *that if”.*

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

14 *(A) by striking “shall be commenced” in*
15 *subsection (f) and inserting “may be com-*
16 *menced”;*

17 *(B) by striking “in the notice” in subsection*
18 *(g)(1) and inserting “in a notice”; and*

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

23 *(4) OTHER CONFORMING AMENDMENTS.—The*
24 *Federal Hazardous Substances Act (15 U.S.C. 1261 et*
25 *seq.) is amended—*

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

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

5 (B) by striking “Secretary” each place it
6 appears and inserting “Commission” except—

7 (i) in section 10(b) (15 U.S.C.
8 1269(b));

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

10 and

11 (iii) in section 21(a) (15 U.S.C.
12 1276(a));

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

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

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

24 (F) by striking “Secretary of Health, Edu-
25 cation, and Welfare” each place it appears in

1 *section 14 (15 U.S.C. 1273) and inserting “Com-*
2 *mission”;*

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

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

9 *(I) by striking “(hereinafter in this section*
10 *referred to as the ‘Commission’)” in section*
11 *14(d) (15 U.S.C. 1273(d)) and section 20(a)(1)*
12 *(15 U.S.C. 1275(a)(1)); and*

13 *(J) by striking paragraph (5) of section*
14 *18(b) (15 U.S.C. 1261 note).*

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

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

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

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

1 (2) *OTHER CONFORMING AMENDMENTS.—The*
2 *Flammable Fabrics Act (15 U.S.C. 1193) is amend-*
3 *ed—*

4 (A) *by striking paragraph (i) of section 2*
5 *(15 U.S.C. 1191(i)) and inserting the following:*

6 “(i) *The term ‘Commission’ means the Consumer*
7 *Product Safety Commission.’;*

8 (B) *by striking “Secretary of Commerce”*
9 *each place it appears and inserting “Commis-*
10 *sion”;*

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

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

17 (E) *by striking paragraph (5) of section*
18 *4(e) (15 U.S.C. 1193(e)) and redesignating para-*
19 *graph (6) as paragraph (5);*

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

24 (G) *by striking section 16(d) (15 U.S.C.*
25 *1203(d)) and inserting the following:*

1 “(d) In this section, a reference to a flammability
 2 standard or other regulation for a fabric, related material,
 3 or product in effect under this Act includes a standard of
 4 flammability continued in effect by section 11 of the Act
 5 of December 14, 1967 (Public Law 90–189).”; and

6 (H) by striking “Consumer Product Safety
 7 Commission” in section 17 (15 U.S.C. 1204) and
 8 inserting “Commission”.

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

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

12 (1) by inserting “or to which a rule under any
 13 other law enforced by the Commission applies,” after
 14 “applies,”; and

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

17 **SEC. 10. THIRD PARTY CERTIFICATION OF CHILDREN’S**
 18 **PRODUCTS.**

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

21 (1) by redesignating paragraph (2) as para-
 22 graph (5);

23 (2) by striking “Every manufacturer” in para-
 24 graph (1) and inserting “Except as provided in para-
 25 graph (2), every manufacturer”;

1 (3) by designating the second and third sentences
2 of subsection (a) as paragraphs (3) and (4), respec-
3 tively;

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

6 “(2) Every manufacturer of a children’s product (and
7 the private labeler of such product if it bears a private
8 label) which is subject to a consumer product safety stand-
9 ard under this Act, or a rule under this or any other Act
10 enforced by the Commission declaring a consumer product
11 a banned hazardous product, shall—

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

15 “(B) issue a certification which shall—

16 “(i) certify that such product conforms to
17 such consumer product safety standard or is not
18 a banned hazardous product under such rule;
19 and

20 “(ii) specify the applicable consumer prod-
21 uct safety standard or rule.”;

22 (6) by striking “Such certificate shall” in para-
23 graph (3) as redesignated by paragraph (1) and in-
24 serting “A certificate required under this subsection
25 shall”; and

1 (7) in paragraph (5), as redesignated by para-
2 graph (1)—

3 (A) by striking “required by paragraph (1)
4 of this subsection,” and inserting “required by
5 paragraph (1) or (2) (as the case may be),”; and

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

9 (b) Section 14(b) (15 U.S.C. 2063(b)) is amended—

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

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

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

16 (c) ADVERTISING, LABELING, AND PACKAGING REP-
17 RESENTATION.—Section 14(c) (15 U.S.C. 2063(c)) is
18 amended—

19 (1) by striking “(c) The” and inserting “(c)(1)
20 The”;

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

22 (3) by redesignating paragraphs (1), (2), and (3)
23 as subparagraphs (A), (B), and (C), respectively;

24 (4) by indenting the sentence beginning “Such
25 labels” and inserting “(2)” before “Such labels”; and

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

2 “(4) *If an advertisement, label, or package contains*
 3 *a reference to a consumer product safety standard, a state-*
 4 *ment with respect to whether the product meets all require-*
 5 *ments of that standard.”.*

6 (d) *CHILDREN’S PRODUCTS; TESTING BY INDE-*
 7 *PENDENT THIRD LABORATORIES; CERTIFICATION.—Section*
 8 *14 (15 U.S.C. 2063) is amended by adding at the end the*
 9 *following:*

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

12 “(1) *IN GENERAL.—The Commission—*

13 “(A) *within 1 year after the date of enact-*
 14 *ment of the CPSC Reform Act of 2007 shall by*
 15 *rule—*

16 “(i) *establish protocols and stand-*
 17 *ards—*

18 “(I) *for acceptance of certification*
 19 *or continuing guarantees of compliance*
 20 *by manufacturers under this section;*
 21 *and*

22 “(II) *for verifying that products*
 23 *tested by third party laboratories com-*
 24 *ply with applicable standards under*

1 *this Act and other Acts enforced by the*
2 *Commission;*

3 *“(ii) prescribe standards for accredita-*
4 *tion of third party laboratories, either by*
5 *the Commission or by 1 or more inde-*
6 *pendent standard-setting organizations to*
7 *which the Commission delegates authority,*
8 *to engage in certifying compliance under*
9 *subsection (a)(2) for children’s products or*
10 *products to which the Commission extends*
11 *the certification requirements of that sub-*
12 *section;*

13 *“(iii) establish requirements, or dele-*
14 *gate authority to 1 or more independent*
15 *standard-setting organizations, for third*
16 *party laboratory testing, as the Commission*
17 *determines to be necessary to ensure compli-*
18 *ance with any applicable rule or order, of*
19 *random samples of products certified under*
20 *this section to determine whether they meet*
21 *the requirements for certification;*

22 *“(iv) establish requirements for peri-*
23 *odic audits of third party laboratories by*
24 *an independent standard-setting organiza-*

1 *tion as a condition for accreditation of such*
2 *laboratories under this section; and*

3 *“(v) establish a program by which*
4 *manufacturers may label products as com-*
5 *pliant with the certification requirements of*
6 *subsection (a)(2); and*

7 *“(B) may by rule extend the certification*
8 *requirements of subsection (a)(2) to other con-*
9 *sumer products or to classes or categories of con-*
10 *sumer products.*

11 *“(2) INTERIM PROCEDURE.—Within 30 days*
12 *after the date of enactment of the CPSC Reform Act*
13 *of 2007, the Commission shall—*

14 *“(A) consider existing laboratory testing*
15 *certification procedures established by inde-*
16 *pendent standard-setting organizations; and*

17 *“(B) designate an existing procedure for*
18 *manufacturers of children’s products to follow*
19 *until the Commission issues a final rule under*
20 *paragraph (1)(A).*

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

22 *“(1) CHILDREN’S PRODUCT.—The term ‘chil-*
23 *dren’s product’ means a product (other than a medi-*
24 *cation, drug, or food) designed or intended for use by,*
25 *or care of, a child 7 years of age or younger that is*

1 *introduced into the interstate stream of commerce. In*
2 *determining whether a product is intended for use by*
3 *a child 7 years of age or younger, the following fac-*
4 *tors shall be considered:*

5 *“(A) A statement by a manufacturer about*
6 *the intended use of such product, including a*
7 *label on such product, if such statement is rea-*
8 *sonable.*

9 *“(B) The context and manner of the adver-*
10 *tising, promotion, and marketing associated with*
11 *the product.*

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

15 *“(D) The Age Determination Guideline*
16 *issued by the Consumer Product Safety Commis-*
17 *sion in September 2002 and any subsequent*
18 *version of such Guideline.*

19 *“(2) THIRD PARTY LABORATORY.—*

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

22 *“(i) is designated by the Commission,*
23 *or by an independent standard-setting orga-*
24 *nization to which the Commission delegates*
25 *the authority to make such a designation,*

1 *as a testing laboratory that is competent to*
2 *test products for compliance with applicable*
3 *safety standards under this Act and other*
4 *Acts enforced by the Commission; and*

5 “(ii) *except as provided in subpara-*
6 *graph (B), is a non-governmental entity*
7 *that is not owned, managed, controlled, or*
8 *directed by the manufacturer or private la-*
9 *beler.*

10 “(B) *EXCEPTION FOR PROPRIETARY LAB-*
11 *ORATORIES.—Upon request, the Commission*
12 *may certify a laboratory that is owned, man-*
13 *aged, controlled, or directed by the manufacturer*
14 *or private labeler as a third party laboratory if*
15 *the Commission—*

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

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

1 “(iii) establishes procedures for con-
2 fidential reporting of allegations of undue
3 influence to the Commission.

4 “(C) *DECERTIFICATION.*—*The Commission,*
5 *or an independent standard-setting organization*
6 *to which the Commission has delegated such au-*
7 *thority, may decertify a third party laboratory*
8 *if it finds, after notice and investigation, that a*
9 *manufacturer or private labeler has exerted*
10 *undue influence on the laboratory.”.*

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

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

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

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

23 (3) *by adding at the end the following:*

24 “(6) *is a children’s product, as that term is de-*
25 *finied in section 14(e), or a product for which the*

1 Commission, under section 14(d)(1), has required cer-
 2 tification under section 14(a)(2), that is not accom-
 3 panied by a certificate from a third party as required
 4 by section 14(a)(2).”.

5 **SEC. 11. TRACKING LABELS FOR PRODUCTS FOR CHIL-**
 6 **DREN.**

7 (a) *LABELING REQUIREMENT FOR INTERNET AND*
 8 *CATALOGUE ADVERTISING OF CERTAIN TOYS AND*
 9 *GAMES.*—Section 24 of the Federal Hazardous Substances
 10 Act (15 U.S.C. 1278) is amended—

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

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

15 “(c) *INTERNET, CATALOGUE, AND OTHER ADVER-*
 16 *TISING.*—

17 “(1) *REQUIREMENT.*—

18 “(A) *CAUTIONARY STATEMENT.*—Any ad-
 19 vertisement posted by a manufacturer, retailer,
 20 distributor, private labeler, or licensor for any
 21 toy, game, balloon, small ball, or marble that re-
 22 quires a cautionary statement under subsections
 23 (a) and (b), including any advertisement on
 24 Internet websites or in catalogues or other dis-
 25 tributed materials, shall include the appropriate

1 *cautionary statement required under such sub-*
2 *sections in its entirety displayed on or imme-*
3 *diately adjacent to such advertisement.*

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

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

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

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

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

20 “(i) *mean any individual who, by such*
21 *individual’s occupation holds himself or*
22 *herself out as having knowledge or skill pe-*
23 *culiar to consumer products, including any*
24 *person who is in the business of manufac-*
25 *turing, selling, distributing, labeling, licens-*

1 *ing, or otherwise placing in the stream of*
2 *commerce consumer products; but*

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

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

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

19 *“(6) The manufacturer of a children’s product or*
20 *other consumer product (as may be required by the*
21 *Commission in its discretion after a rulemaking pro-*
22 *ceeding) shall place distinguishing marks on the prod-*
23 *uct and its packaging, to the extent practicable, that*
24 *will enable the ultimate purchaser to ascertain the*
25 *source, date, and cohort (including the batch, run*

1 *number, or other identifying characteristic) of pro-*
2 *duction of the product by reference to those marks.”.*

3 **SEC. 12. SUBSTANTIAL PRODUCT HAZARD REPORTING RE-**
4 **QUIREMENT.**

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

6 *(1) by striking “consumer product distributed in*
7 *commerce,” and inserting “consumer product (or*
8 *other product or substance over which the Commission*
9 *has jurisdiction under this or any other Act) distrib-*
10 *uted in commerce,”;*

11 *(2) by redesignating paragraphs (2) and (3) as*
12 *paragraphs (3) and (4), respectively; and*

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

15 *“(2) fails to comply with any rule or standard*
16 *promulgated by the Commission under this or any*
17 *other Act;”.*

18 **SEC. 13. CORRECTIVE ACTION PLANS.**

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

20 *(1) by inserting “(1)” after “(d)”;*

21 *(2) by redesignating paragraphs (1), (2), and (3)*
22 *as subparagraphs (A), (B), and (C);*

23 *(3) by striking “more (A)” in subparagraph (C),*
24 *as redesignated, and inserting “more (i)”;*

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

3 (5) by striking “whichever of the following ac-
4 tions the person to whom the order is directed elects:”
5 and inserting “any one or more of the following ac-
6 tions it determines to be in the public interest.”;

7 (6) by indenting the sentence beginning “An
8 order” and inserting “(2)” before “An order”;

9 (7) by striking “satisfactory to the Commission,”
10 and inserting “for approval by the Commission,”;

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

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

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

16 “(B) If the Commission finds that an approved action
17 plan is not effective, or that the manufacturer, retailer, or
18 distributor is not executing an approved action plan effec-
19 tively, the Commission may by order amend, or require
20 amendment of, the action plan.

21 “(C) If the Commission determines, after notice and
22 opportunity for comment, that a manufacturer, retailer, or
23 distributor has failed to comply substantially with its obli-
24 gations under its action plan, the Commission may revoke
25 its approval of the action plan. The manufacturer, retailer,

1 *or distributor to which the action plan applies may not*
2 *distribute the product to which the action plan relates in*
3 *commerce after receipt of notice of a revocation of the action*
4 *plan.”.*

5 **SEC. 14. IDENTIFICATION OF MANUFACTURER BY IMPORT-**
6 **ERS, RETAILERS, AND DISTRIBUTORS.**

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

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

11 *“(1) every importer, retailer, or distributor of a*
12 *consumer product (or other product or substance over*
13 *which the Commission has jurisdiction under this or*
14 *any other Act) shall identify the manufacturer of that*
15 *product by name, address, or such other identifying*
16 *information as the officer or employee may request;*
17 *and*

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

21 *“(A) each retailer or distributor to which it*
22 *supplied a given consumer product (or other*
23 *product or substance over which the Commission*
24 *has jurisdiction under this or any other Act);*

1 “(B) each subcontractor involved in the pro-
 2 duction or fabrication or such product or sub-
 3 stance; and

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

6 **SEC. 15. REPEATED IMPORTATION OFFENSES.**

7 Section 17 (15 U.S.C. 2066) is amended by adding
 8 at the end thereof the following:

9 “(i)(1) The Commission may—

10 “(A) designate as a repeat offender, after notice
 11 and an opportunity for a hearing, any customs
 12 broker found by the Commission to have aided and
 13 abetted the importation of a consumer product in vio-
 14 lation of subsection (a) on multiple occasions (dis-
 15 regarding de minimus violations thereof); and

16 “(B) refer any such customs broker to United
 17 States Customs and Border Protection with a rec-
 18 ommendation that its customs broker license be re-
 19 voked in accordance with that agency’s procedures.

20 “(2) The United States Customs and Border Protection
 21 shall revoke the customs broker license of any customs broker
 22 referred to it under paragraph (1)(B).”.

23 **SEC. 16. PROHIBITED ACTS.**

24 (a) **SALE OF RECALLED PRODUCTS.**—Section 19(a)
 25 (15 U.S.C. 2068(a)) is amended—

1 (1) *by striking paragraph (1) and inserting the*
2 *following:*

3 “(1) *sell, offer for sale, manufacture for sale, dis-*
4 *tribute in commerce, or import into the United States*
5 *any consumer product, or other product or substance*
6 *that is regulated under this Act or any other Act en-*
7 *forced by the Commission, that is—*

8 “(A) *not in conformity with an applicable*
9 *consumer product safety standard under this*
10 *Act, or any similar rule under any such other*
11 *Act;*

12 “(B) *subject to voluntary corrective action*
13 *taken by the manufacturer, in consultation with*
14 *the Commission, of which action the Commission*
15 *has notified the public, but only if the seller, dis-*
16 *tributor, or manufacturer knew or should have*
17 *known of such voluntary corrective action; or*

18 “(C) *subject to an order issued under sec-*
19 *tion 12 or 15 of this Act, designated a banned*
20 *hazardous substance under the Federal Haz-*
21 *ardous Substances Act (15 U.S.C. 1261 et seq.);”;*

22 (2) *by striking “or” after the semicolon in para-*
23 *graph (7);*

24 (3) *by striking “and” after the semicolon in*
25 *paragraph (8);*

1 (4) *by striking “insulation).” in paragraph (9)*
2 *and inserting “insulation);”;* and

3 (5) *by striking “18(b).” in paragraph (10) and*
4 *inserting “18(b); or”.*

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

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

8 *“(c) Notwithstanding any other provision of law, the*
9 *Commission may prohibit a person from exporting from the*
10 *United States for purpose of sale any consumer product,*
11 *or other product or substance that is regulated under this*
12 *Act of any other Act enforced by the Commission, that the*
13 *Commission determines, after notice to the manufacturer—*

14 *“(1) is not in conformity with an applicable*
15 *consumer product safety standard under this Act or*
16 *with a similar rule under any such other Act and*
17 *does not violate applicable safety standards estab-*
18 *lished by the importing country;*

19 *“(2) is subject to an order issued under section*
20 *12 or 15 of this Act or designated as a banned haz-*
21 *ardous substance under the Federal Hazardous Sub-*
22 *stances Act (15 U.S.C. 1261 et seq.); or*

23 *“(3) is subject to voluntary corrective action*
24 *taken by the manufacturer, in consultation with the*
25 *Commission, of which action the Commission has no-*

1 *tified the public and that would have been subject to*
 2 *mandatory corrective action under this Act or any*
 3 *other Act enforced by the Commission if voluntary*
 4 *corrective action had not been taken by the manufac-*
 5 *turer, except that the Commission may permit such a*
 6 *product to be exported if it meets applicable safety*
 7 *standards established by the importing country.”.*

8 (2) *PENALTY.—Section 19(a) (15 U.S.C.*
 9 *2068(a)), as amended by subsection (a) of this section,*
 10 *is further amended—*

11 (A) *by striking “or” after the semicolon in*
 12 *paragraph (10);*

13 (B) *by striking “37.” in paragraph (11)*
 14 *and inserting “37; or”; and*

15 (C) *by adding at the end thereof the fol-*
 16 *lowing:*

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

19 (3) *CONFORMING AMENDMENTS TO OTHER*
 20 *ACTS.—*

21 (A) *FEDERAL HAZARDOUS SUBSTANCES*
 22 *ACT.—Section 5(b)(3) of the Federal Hazardous*
 23 *Substances Act (15 U.S.C. 1264(b)(3)) is amend-*
 24 *ed by striking “substance presents an unreason-*
 25 *able risk of injury to persons residing in the*

1 *United States,” and inserting “substance is pro-*
2 *hibited under section 18(c) of the Consumer*
3 *Product Safety Act,”.*

4 *(B) FLAMMABLE FABRICS ACT.—Section 15*
5 *of the Flammable Fabrics Act (15 U.S.C. 1202)*
6 *is amended by adding at the end thereof the fol-*
7 *lowing:*

8 *“(d) Notwithstanding any other provision of law, the*
9 *Consumer Product Safety Commission may prohibit a per-*
10 *son from exporting from the United States for purpose of*
11 *sale any fabric, related material, or product that the Com-*
12 *mission determines, after notice to the manufacturer—*

13 *“(1) is not in conformity with an applicable*
14 *consumer product safety standard under the Con-*
15 *sumer Product Safety Act or with a rule under this*
16 *Act;*

17 *“(2) is subject to an order issued under section*
18 *12 or 15 of the Consumer Product Safety Act or des-*
19 *ignated as a banned hazardous substance under the*
20 *Federal Hazardous Substances Act (15 U.S.C. 1261 et*
21 *seq.); or*

22 *“(3) is subject to voluntary corrective action*
23 *taken by the manufacturer, in consultation with the*
24 *Commission, of which action the Commission has no-*
25 *tified the public and that would have been subject to*

1 *mandatory corrective action under this or another Act*
2 *enforced by the Commission if voluntary corrective*
3 *action had not been taken by the manufacturer.”.*

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

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

10 *(2) by striking “18(c).” in paragraph (12) and*
11 *inserting “18(c); or”; and*

12 *(3) by adding at the end thereof the following:*

13 *“(13) sell, offer for sale, distribute in commerce,*
14 *or import into the United States any consumer prod-*
15 *uct bearing a false certification mark of compliance*
16 *with a safety standard established by a nationally*
17 *recognized testing laboratory if such person knew or*
18 *should have known that the certification mark was*
19 *false.”.*

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

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

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

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

4 “(14) misrepresent to any officer or employee of
5 the Commission the scope of consumer products sub-
6 ject to an action required under section 12 or 15, or
7 to make a material misrepresentation to such an offi-
8 cer or employee in the course of an investigation
9 under this Act or any other Act enforced by the Com-
10 mission.”.

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

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

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

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

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

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

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

10 **SEC. 17. PENALTIES.**

11 (a) *CIVIL PENALTIES.*—

12 (1) *IN GENERAL.*—Section 20(a) (15 U.S.C.
13 2069(a)) is amended—

14 (A) by striking “\$5,000” and inserting
15 “\$250,000”;

16 (B) by striking “\$1,250,000” each place it
17 appears and inserting “\$100,000,000”; and

18 (C) by striking “December 1, 1994,” in
19 paragraph (3)(B) and inserting “December 1,
20 2011,”.

21 (2) *FEDERAL HAZARDOUS SUBSTANCES ACT.*—
22 Section 15(c) of the Federal Hazardous Substances
23 Act (15 U.S.C. 1264(c)) is amended—

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

1 (B) by striking “\$1,250,000” each place it
2 appears in paragraph (1) and inserting
3 “\$100,000,000”; and

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

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

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

12 (B) by striking “\$1,250,000” in paragraph
13 (1) and inserting “\$100,000,000”; and

14 (C) by striking “December 1, 1994,” in
15 paragraph (5)(B) and inserting “December 1,
16 2011,”.

17 (b) *CRIMINAL PENALTIES*.—

18 (1) *IN GENERAL*.—Section 21(a) (15 U.S.C.
19 2070(a)) is amended to read as follows:

20 “(a) Violation of section 19 of this Act is punishable
21 by—

22 “(1) imprisonment for not more than—

23 “(A) 1 year for a knowing violation of that
24 section; or

1 “(B) 5 years for a knowing and willful vio-
2 lation of that section; and

3 “(2) a fine determined under section 3571 of title
4 18, United States Code.”.

5 (2) DIRECTORS, OFFICERS, AND AGENTS.—Sec-
6 tion 21(b) (15 U.S.C. 2070(b)) is amended—

7 (A) by striking “and willfully”; and

8 (B) by striking “19, and who has knowledge
9 of notice of noncompliance received by the cor-
10 poration from the Commission,” and inserting
11 “19”.

12 (3) UNDER THE FEDERAL HAZARDOUS SUB-
13 STANCES ACT.—Section 5(a) of the Federal Haz-
14 ardous Substances Act (15 U.S.C. 1264(a)) is amend-
15 ed to read as follows:

16 “(a) IN GENERAL.—Violation of section 4 of this Act
17 is punishable by—

18 “(1) imprisonment for not more than—

19 “(A) 1 year for a knowing violation of that
20 section; or

21 “(B) 5 years for a knowing and willful vio-
22 lation of that section; and

23 “(2) a fine determined under section 3571 of title
24 18, United States Code.”.

1 (4) *UNDER THE FLAMMABLE FABRICS ACT.*—
 2 *Section 7 of the Flammable Fabrics Act (15 U.S.C.*
 3 *1196) is amended to read as follows:*

4 “PENALTIES

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

8 “(1) *imprisonment for not more than—*

9 “(A) *1 year for a knowing violation of that*
 10 *section; or*

11 “(B) *5 years for a knowing and willful vio-*
 12 *lation of that section; and*

13 “(2) *a fine determined under section 3571 of title*
 14 *18, United States Code.”.*

15 (c) *CIVIL PENALTY CRITERIA.*—*Within 1 year after*
 16 *the date of enactment of this Act, the Consumer Product*
 17 *Safety Commission shall initiate a rulemaking in accord-*
 18 *ance with section 553 of title 5, United States Code, to es-*
 19 *tablish criteria for the imposition of civil penalties under*
 20 *section 20 of the Consumer Product Safety Act (15 U.S.C.*
 21 *2069) and any other Act enforced by the Commission, in-*
 22 *cluding factors to be considered in establishing the amount*
 23 *of such penalties, such as repeat violations, the precedential*
 24 *value of prior adjudicated penalties, the factors described*
 25 *in section 20(b) of the Consumer Product Safety Act (15*
 26 *U.S.C. 2069(b)), and other circumstances.*

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

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

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

12 **SEC. 18. PREEMPTION.**

13 (a) *EFFECT OF RULES AND POLICY STATEMENTS ON*
14 *PREEMPTION.*—The provisions of sections 25 and 26 of the
15 *Consumer Product Safety Act (15 U.S.C. 2074 and 2075,*
16 *respectively), section 18 of the Federal Hazardous Sub-*
17 *stances Act (15 U.S.C. 1261 note), section 16 of the Flam-*
18 *mable Fabrics Act (15 U.S.C. 1203), and section 7 of the*
19 *Poison Packaging Prevention Act of 1970 (15 U.S.C. 1476)*
20 *establishing the extent to which those Acts preempt, limit,*
21 *or otherwise affect any other Federal, State, or local law,*
22 *any rule, procedure, or regulation, or any cause of action*
23 *under State or local law may not be expanded or contracted*
24 *in scope, or limited, modified or extended in application,*
25 *by any rule or regulation thereunder, or by reference in any*

1 *preamble, statement of policy, executive branch statements,*
 2 *or other matter associated with the publication of any such*
 3 *rule or regulation.*

4 **(b) CLARIFICATION OF PREEMPTION.**—*The provisions*
 5 *of sections 25 and 26 of the Consumer Product Safety Act*
 6 *(15 U.S.C. 2074 and 2075, respectively), section 18 of the*
 7 *Federal Hazardous Substances Act (15 U.S.C. 1261 note),*
 8 *section 7 of the Poison Packaging Prevention Act or 1970*
 9 *(15 U.S.C. 1476), and section 16 of the Flammable Fabrics*
 10 *Act (15 U.S.C. 1203) shall be preemptive of any State or*
 11 *local law, or any cause of action under State or local law,*
 12 *only to the extent provided in those Acts unless compliance*
 13 *with duties imposed by State law would make compliance*
 14 *with the Federal rule or regulations promulgated under*
 15 *those Acts impossible.*

16 **SEC. 19. 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-*

1 *derstanding with the Commission or by other written cer-*
2 *tification, that such material will be maintained in con-*
3 *fidence and will be used only for official law enforcement*
4 *or consumer protection purposes, if—*

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

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

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

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

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

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 “*BOND AUTHORITY*

8 “*SEC. 39. (a) The Commission, in a rulemaking pro-*
9 *ceeding, may require the posting of a bond (or other security*
10 *acceptable to the Commission) by—*

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

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

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

19 “(b) *AMOUNT.*—*The bond or other security required by*
20 *the Commission under subsection (a) shall be in an amount*
21 *sufficient—*

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

24 “(2) *in the case of an imported product or sub-*
25 *stance, to cover the costs of holding the product or*
26 *substance at the port and the destruction of the prod-*

1 *uct should such action be required by the Commission*
 2 *under this Act or any other Act enforced by the Com-*
 3 *mission.”.*

4 *(b) CONFORMING AMENDMENTS.—*

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

“Sec. 10. [Repealed].”.

8 *(2) The table of contents is amended by inserting*
 9 *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. Bonding authority.”.

10 **SEC. 21. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

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

13 *“ENFORCEMENT BY STATE ATTORNEYS GENERAL*

14 *“SEC. 26A. (a) Except as provided in subsection (f),*
 15 *a State, as parens patriae, may bring a civil action on*
 16 *behalf of its residents in an appropriate State or district*
 17 *court of the United States to enforce the provisions of this*
 18 *Act or any other Act enforced by the Commission to obtain*
 19 *penalties and relief provided under such Acts whenever the*
 20 *attorney general of the State has reason to believe that the*
 21 *interests of the residents of the State have been or are being*
 22 *threatened or adversely affected by a manufacturer, dis-*

1 *tributor, or retailer entity that violates this Act or a regula-*
2 *tion under this Act.*

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

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

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

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

17 “(d) *Nothing in this section shall prevent the attorney*
18 *general of a State from exercising the powers conferred on*
19 *the attorney general by the laws of such State to conduct*
20 *investigations or to administer oaths or affirmations or to*
21 *compel the attendance of witnesses or the production of doc-*
22 *umentary and other evidence.*

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

24 “(1) *the venue shall be a judicial district in*
25 *which—*

1 “(A) the manufacturer, distributor, or re-
2 tailer operates; or

3 “(B) the manufacturer, distributor, or re-
4 tailer is authorized to do business;

5 “(2) process may be served without regard to the
6 territorial limits of the district or of the State in
7 which the civil action is instituted; and

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

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

21 “(g) If the attorney general of the State prevails in
22 any civil action under subsection (a), it can recover reason-
23 able costs and attorney fees from the manufacturer, dis-
24 tributor, or retailer.”.

1 **(b) CONFORMING AMENDMENT.**—*The table of contents*
 2 *is amended by inserting after the item relating to section*
 3 *26 the following:*

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

4 **SEC. 22. WHISTLEBLOWER PROTECTIONS.**

5 **(a) IN GENERAL.**—*The Act (15 U.S.C. 2051 et seq.),*
 6 *as amended by section 20, is further amended by adding*
 7 *at the end the following:*

8 **“WHISTLEBLOWER PROTECTION**

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

17 **“(1)** *provided, caused to be provided, or is about*
 18 *to provide or cause to be provided to the employer, the*
 19 *Federal Government, or the attorney general of a*
 20 *State information relating to any violation or alleged*
 21 *violation of any order, regulation, or consumer prod-*
 22 *uct safety standard under this Act or any other law*
 23 *enforced by the Commission (or by the attorney gen-*
 24 *eral of a State under section 21);*

1 “(2) testified or is about to testify in such a pro-
2 ceeding;

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

5 “(4) objected to, or refused to participate in, any
6 activity, policy, practice, or assigned task that the
7 employee (or other such person) reasonably believed to
8 be in violation of an applicable law or to be a sub-
9 stantial and specific danger to public health or safety.

10 “(b)(1) If the Commission, or the attorney general of
11 a State, proceeds with an action against a manufacturer,
12 private labeler, distributor, or retailer for a violation of this
13 Act or any other Act enforced by the Commission, on the
14 basis of information provided by such an employee, the em-
15 ployee shall receive at least 15 percent but not more than
16 25 percent of any civil penalty assessed and collected by
17 the Commission, or attorney general, for the violation, de-
18 pending upon the extent to which the information provided
19 by the employee substantially contributed to the enforcement
20 action, as determined by the Commission.

21 “(2) If the Commission’s action is based primarily on
22 disclosures of specific information (other than information
23 provided by the employee) relating to allegations or trans-
24 actions in a criminal, civil, or administrative hearing, in
25 a congressional, administrative, or Government Account-

1 ability Office report, hearing, audit, or investigation, or
2 from the news media, the Commission may award such
3 sums as it considers appropriate to the employee, but in
4 no case more than 10 percent of the civil penalty assessed
5 and collected, taking into account the significance of the in-
6 formation and the role of the employee.

7 “(3) In the case of an action brought by the attorney
8 general of a State under section 21, the amount of any civil
9 penalty to which such an employee may be entitled shall
10 be determined by the Commission, subject to the limitations
11 in paragraph (1) and (2), in consultation with the attorney
12 general that brought the action.

13 “(c)(1) A person who believes that he or she has been
14 discharged or otherwise discriminated against by any per-
15 son in violation of subsection (a) may, not later than 1
16 year after the date on which such violation occurs, file (or
17 have any person file on his or her behalf) a complaint with
18 the Secretary of Labor alleging such discharge or discrimi-
19 nation and identifying the person responsible for such act.
20 Upon receipt of such a complaint, the Secretary shall no-
21 tify, in writing, the person named in the complaint of the
22 filing of the complaint, of the allegations contained in the
23 complaint, of the substance of evidence supporting the com-
24 plaint, and of the opportunities that will be afforded to such
25 person under paragraph (2).

1 “(2)(A) Not later than 60 days after the date of receipt
2 of a complaint filed under paragraph (1) and after afford-
3 ing the complainant and the person named in the com-
4 plaint an opportunity to submit to the Secretary a written
5 response to the complaint and an opportunity to meet with
6 a representative of the Secretary to present statements from
7 witnesses, the Secretary shall initiate an investigation and
8 determine whether there is reasonable cause to believe that
9 the complaint has merit and notify, in writing, the com-
10 plainant and the person alleged to have committed a viola-
11 tion of subsection (a) of the Secretary’s findings. If the Sec-
12 retary concludes that there is reasonable cause to believe
13 that a violation of subsection (a) has occurred, the Secretary
14 shall accompany the Secretary’s findings with a prelimi-
15 nary order providing the relief prescribed by paragraph
16 (3)(B). Not later than 30 days after the date of notification
17 of findings under this paragraph, either the person alleged
18 to have committed the violation or the complainant may
19 file objections to the findings or preliminary order, or both,
20 and request a hearing on the record. The filing of such objec-
21 tions shall not operate to stay any reinstatement remedy
22 contained in the preliminary order. Any such hearing shall
23 be conducted expeditiously. If a hearing is not requested in
24 such 30-day period, the preliminary order shall be deemed
25 a final order that is not subject to judicial review.

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

8 “(ii) *Notwithstanding a finding by the Secretary that*
9 *the complainant has made the showing required under*
10 *clause (i), no investigation otherwise required under sub-*
11 *paragraph (A) shall be conducted if the employer dem-*
12 *onstrates, by clear and convincing evidence, that the em-*
13 *ployer would have taken the same unfavorable personnel ac-*
14 *tion in the absence of that behavior.*

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

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

24 “(3)(A) *Not later than 120 days after the date of con-*
25 *clusion of any hearing under paragraph (2), the Secretary*

1 *shall issue a final order providing the relief prescribed by*
2 *this paragraph or denying the complaint. At any time be-*
3 *fore issuance of a final order, a proceeding under this sub-*
4 *section may be terminated on the basis of a settlement*
5 *agreement entered into by the Secretary, the complainant,*
6 *and the person alleged to have committed the violation.*

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

11 “(i) *to take affirmative action to abate the viola-*
12 *tion;*

13 “(ii) *to reinstate the complainant to his or her*
14 *former position together with compensation (includ-*
15 *ing back pay) and restore the terms, conditions, and*
16 *privileges associated with his or her employment; and*

17 “(iii) *to provide compensatory damages to the*
18 *complainant.*

19 *If such an order is issued under this paragraph, the Sec-*
20 *retary, at the request of the complainant, shall assess*
21 *against the person against whom the order is issued a sum*
22 *equal to the aggregate amount of all costs and expenses (in-*
23 *cluding attorneys’ and expert witness fees) reasonably in-*
24 *curred, as determined by the Secretary, by the complainant*

1 *for, or in connection with, the bringing of the complaint*
2 *upon which the order was issued.*

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

8 “(4) *If the Secretary has not issued a final decision*
9 *within 180 days after the filing of the complaint, or within*
10 *90 days after receiving a written determination, the com-*
11 *plainant may bring an action at law or equity for de novo*
12 *review in the appropriate district court of the United States*
13 *with jurisdiction, which shall have jurisdiction over such*
14 *an action without regard to the amount in controversy, and*
15 *which action shall, at the request of either party to such*
16 *action, be tried by the court with a jury. The proceedings*
17 *shall be governed by the same legal burdens of proof speci-*
18 *fied in paragraph (2)(B). The court shall have jurisdiction*
19 *to grant all appropriate relief to the employee available by*
20 *law or equity, including injunctive relief, compensatory*
21 *and consequential damages, reasonable attorneys and expert*
22 *witness fees, court costs, and punitive damages up to*
23 *\$250,000.*

24 “(5)(A) *Any person adversely affected or aggrieved by*
25 *a final order issued under paragraph (3) may obtain review*

1 *of the order in the United States Court of Appeals for the*
2 *circuit in which the violation, with respect to which the*
3 *order was issued, allegedly occurred or the circuit in which*
4 *the complainant resided on the date of such violation. The*
5 *petition for review must be filed not later than 60 days*
6 *after the date of the issuance of the final order of the Sec-*
7 *retary. Review shall conform to chapter 7 of title 5, United*
8 *States Code. The commencement of proceedings under this*
9 *subparagraph shall not, unless ordered by the court, operate*
10 *as a stay of the order.*

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

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

24 “(7)(A) *A person on whose behalf an order was issued*
25 *under paragraph (3) may commence a civil action against*

1 *the person to whom such order was issued to require compli-*
2 *ance with such order. The appropriate United States dis-*
3 *trict court shall have jurisdiction, without regard to the*
4 *amount in controversy or the citizenship of the parties, to*
5 *enforce such order.*

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

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

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

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

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

1 **SEC. 23. BAN ON CHILDREN'S PRODUCTS CONTAINING**
2 **LEAD; LEAD PAINT RULE.**

3 (a) *IN GENERAL.*—Beginning on the date that is 180
4 days after the date of enactment of this Act—

5 (1) any children's product (as defined in section
6 14(e) of the Consumer Product Safety Act (15 U.S.C.
7 2063(e))) that contains lead shall be treated as a
8 banned hazardous substance under the Federal Haz-
9 ardous Substances Act (15 U.S.C. 1261 et seq.); and

10 (2) the prohibitions contained in section 4 of
11 such Act (15 U.S.C. 1263) shall apply without regard
12 to whether the lead contained in such children's prod-
13 uct is accessible to children.

14 (b) *TRACE AMOUNTS OF LEAD.*—For purposes of sub-
15 section (a), a children's product shall be considered to con-
16 tain lead if—

17 (1) in the case of a children's product that is
18 jewelry, any part of the product contains lead or lead
19 compounds and the lead content of such part (cal-
20 culated as lead metal) is greater than 0.02 percent by
21 weight of the total weight of such part (or such lesser
22 amount as may be established by the Commission by
23 regulation); or

24 (2) in the case of a children's product that is not
25 jewelry, any part of the product contains lead or lead
26 compounds and the lead content of such part (cal-

1 culated as lead metal) is greater than 0.04 percent by
2 weight of the total weight of such part (or such lesser
3 amount as may be established by the Commission by
4 regulation).

5 (c) *ELECTRONICS*.—If the Commission determines that
6 it is not feasible for certain electronic devices, including
7 batteries, to comply with subsection (a) at the time the regu-
8 lations take effect, the Commission shall, by regulation—

9 (A) issue standards to reduce the exposure
10 of and accessibility to lead in such electronic de-
11 vices; and

12 (B) establish a schedule by which such elec-
13 tronic devices shall be in full compliance with
14 the regulations prescribed under subsection (a).

15 (d) *REGULATIONS*.—On the day after the date of enact-
16 ment of this Act, the Commission shall initiate a rule-
17 making proceeding to determine whether thresholds lower
18 than those described in subsection (b) should be prescribed
19 for children’s products. If the Commission makes such a de-
20 termination, the Commission shall promulgate regulations
21 establishing lower thresholds in lieu of the thresholds estab-
22 lished in subsection (b).

23 (e) *PAINT STANDARD FOR ALL PRODUCTS*.—Within
24 30 days after the date of enactment of this Act, the Con-
25 sumer Product Safety Commission shall modify section

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

4 **SEC. 24. ALTERNATIVE MEASURES OF LEAD CONTENT.**

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

16 **SEC. 25. STUDY OF PREVENTABLE INJURIES AND DEATHS**
17 **OF MINORITY CHILDREN RELATED TO CER-**
18 **TAIN CONSUMER PRODUCTS.**

19 *(a) IN GENERAL.—Within 90 days after the date of*
20 *enactment of this Act, the Consumer Product Safety Com-*
21 *mission shall initiate a study to assess disparities in the*
22 *risks and incidence of preventable injuries and deaths*
23 *among children of minority populations, including Black,*
24 *Hispanic, American Indian, Alaskan Native, and Asian/*
25 *Pacific Islander children in the United States.*

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

7 (c) *REPORT.*—*Not later than 1 year after the date of*
8 *enactment of this Act, the Commission shall report its find-*
9 *ings to the chairmen and ranking members of the Senate*
10 *Commerce, Science, and Transportation Committee and the*
11 *House of Representatives Energy and Commerce Com-*
12 *mittee. The report shall include—*

13 (1) *the Commission’s findings on the incidence of*
14 *preventable risks of injury and death among children*
15 *of minority populations and recommendations for*
16 *minimizing such increased risks;*

17 (2) *recommendations for public outreach, aware-*
18 *ness, and prevention campaigns specifically aimed at*
19 *racial minority populations; and*

20 (3) *recommendations for education initiatives*
21 *that may reduce current statistical disparities.*

22 (d) *AUTHORIZATION.*—*There are authorized to be ap-*
23 *propriated to the Commission \$500,000 for purposes of car-*
24 *rying out this section for fiscal year 2008.*

1 **SEC. 26. COST-BENEFIT ANALYSIS UNDER THE POISON**
2 **PREVENTION PACKAGING ACT OF 1970.**

3 *Section 3 of the Poison Prevention Packaging Act of*
4 *1970 (15 U.S.C. 1472) is amended by adding at the end*
5 *thereof the following:*

6 *“(e) Nothing in this Act shall be construed to require*
7 *the Secretary, in establishing a standard under this section,*
8 *to prepare a comparison of the costs that would be incurred*
9 *in complying with such standard with the benefits of such*
10 *standard.”.*

11 **SEC. 27. INSPECTOR GENERAL REPORTS.**

12 *(a) IMPLEMENTATION BY THE COMMISSION.—*

13 *(1) IN GENERAL.—The Inspector General of the*
14 *Consumer Product Safety Commission shall conduct*
15 *reviews and audits of implementation of the Con-*
16 *sumer Product Safety Act by the Commission, includ-*
17 *ing—*

18 *(A) an assessment of the ability of the Com-*
19 *mission to enforce subsections (a)(2) and (d) of*
20 *section 14 of the Act (15 U.S.C. 2063), as*
21 *amended by section 10 of this Act, including the*
22 *ability of the Commission to enforce the prohibi-*
23 *tion on imports of children’s products without*
24 *third party testing certification under section*
25 *17(a)(6) of the Act (15 U.S.C. 2066)(a)(6), as*
26 *added by section 10 of this Act;*

1 (B) an assessment of the ability of the Com-
2 mission to enforce section 14(a)(6) of the Act (15
3 U.S.C. 2063(a)(6)), as added by section 11 of
4 this Act, and section 16(c) of the Act, as added
5 by section 14 of this Act; and

6 (C) an audit of the Commission's capital
7 improvement efforts, including construction of a
8 new testing facility.

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

18 (b) EMPLOYEE COMPLAINTS.—

19 (1) IN GENERAL.—Within 1 year after the date
20 of enactment of this Act, the Inspector General shall
21 conduct a review of—

22 (A) complaints received by the Inspector
23 General from employees of the Commission about
24 violations of rules or regulations of the Consumer

1 *Product Safety Act or any other Act enforced by*
2 *the Commission; and*

3 *(B) the process by which corrective action*
4 *plans are negotiated with such employees by the*
5 *Commission, including an assessment of the*
6 *length of time for these negotiations and the ef-*
7 *fectiveness of the plans.*

8 *(2) REPORT.—The Inspector General shall sub-*
9 *mit a report, setting forth the Inspector General’s*
10 *findings, conclusions, and recommendations, to the*
11 *Commission, the Senate Committee on Commerce,*
12 *Science, and Transportation, and the House of Rep-*
13 *resentatives Committee on Energy and Commerce.*

14 *(c) LEAKS.—*

15 *(1) IN GENERAL.—Within 1 year after the date*
16 *of enactment of this Act, the Inspector General*
17 *shall—*

18 *(A) conduct a review of whether, and to*
19 *what extent, there have been unauthorized and*
20 *unlawful disclosures of information by Members,*
21 *officers, or employees of the Commission to per-*
22 *sons not authorized to receive such information;*
23 *and*

1 (B) to the extent that such unauthorized
2 and unlawful disclosures have occurred, deter-
3 mine—

4 (i) what class or kind of information
5 was most frequently involved in such disclo-
6 sures; and

7 (ii) how frequently such disclosures
8 have occurred.

9 (2) *REPORT.*—The Inspector General shall sub-
10 mit a report, setting forth the Inspector General’s
11 findings, conclusions, and recommendations, to the
12 Commission, the Senate Committee on Commerce,
13 Science, and Transportation, and the House of Rep-
14 resentatives Committee on Energy and Commerce.

15 **SEC. 28. PUBLIC INTERNET WEBSITE LINKS.**

16 Not later than 30 days after the date of enactment of
17 this Act, the Consumer Product Safety Commission shall
18 establish and maintain—

19 (1) a direct link on the homepage of its Internet
20 website to the Internet website of the Commission’s
21 Office of Inspector General; and

22 (2) a mechanism on the homepage of the Office
23 of Inspector General’s Internet website by which indi-
24 viduals may anonymously report cases of waste,
25 fraud, or abuse with respect to the Commission.

1 **SEC. 29. CHILD-RESISTANT PORTABLE GASOLINE CON-**
2 **TAINERS.**

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

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

13 (b) *REVISION OF RULE.—*

14 (1) *IN GENERAL.—Except as provided in para-*
15 *graph (2), if, after the date of the enactment of this*
16 *Act, ASTM International proposes to revise the child*
17 *resistance requirements of ASTM F2517–05—*

18 (A) *ASTM International shall notify the*
19 *Commission of the proposed revision; and*

20 (B) *the proposed revision shall be incor-*
21 *porated in the consumer product safety rule es-*
22 *tablished by subsection (a).*

23 (2) *EXCEPTION.—If, not later than 60 days after*
24 *the date of the notice described in paragraph (1)(A),*
25 *the Commission notifies ASTM International that the*
26 *Commission has determined that such revision is in-*

1 *consistent with subsection (a), the requirement of*
2 *paragraph (1)(B) shall not apply.*

3 *(c) IMPLEMENTING REGULATIONS.—With respect to*
4 *the promulgation of any regulations by the Commission to*
5 *implement the requirements of this section—*

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

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

11 *(d) REPORT.—Not later than 2 years after the date*
12 *of enactment of this Act, the Commission shall submit to*
13 *the Senate Committee on Commerce, Science, and Trans-*
14 *portation and the House of Representatives Committee on*
15 *Energy and Commerce a report on—*

16 *(1) the degree of industry compliance with the*
17 *consumer product safety rule established by subsection*
18 *(a);*

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

21 *(3) incidents involving children interacting with*
22 *portable gasoline containers (including both those that*
23 *are and are not in compliance with the rule estab-*
24 *lished by subsection (a)).*

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

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

3 (2) *PORTABLE GASOLINE CONTAINER.*—*The term*
4 *“portable gasoline container” means any portable*
5 *gasoline container intended for use by consumers.*

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

10 **SEC. 30. TOY SAFETY STANDARD.**

11 (a) *IN GENERAL.*—*Beginning 60 days after the date*
12 *of enactment of this Act, ASTM-International Standard*
13 *F963–07, Consumer Safety Specifications for Toy Safety,*
14 *as it exists on the date of enactment of this Act shall be*
15 *considered to be a consumer product safety rule issued by*
16 *the Consumer Product Safety Commission under section 9*
17 *of the Consumer Product Safety Act (15 U.S.C. 2058).*

18 (b) *REVISIONS.*—*If more than 60 days after the date*
19 *of enactment of this Act, ASTM-International proposes to*
20 *revise Standard F963–07, Consumer Safety Specifications*
21 *for Toy Safety, or a successor standard, it shall notify the*
22 *Commission of the proposed revision and the proposed revi-*
23 *sion shall be incorporated in the consumer product safety*
24 *rule. The revised standard shall be considered to be a con-*
25 *sumer product safety rule issued by the Consumer Product*

1 *Safety Commission under section 9 of the Consumer Prod-*
2 *uct Safety Act (15 U.S.C. 2058), effective 30 days after the*
3 *date on which ASTM-International notifies the Commission*
4 *of the revision unless, within 30 days after receiving that*
5 *notice, the Commission notifies ASTM-International that*
6 *it has determined that the proposed revision does not im-*
7 *prove the safety of the consumer product covered by the*
8 *standard. If the Commission so notifies ASTM-Inter-*
9 *national with respect to a proposed revision of the standard,*
10 *the existing standard shall continue to be considered to be*
11 *a consumer product safety rule without regard to the pro-*
12 *posed revision.*

13 **SEC. 31. ALL-TERRAIN VEHICLE SAFETY STANDARD.**

14 (a) *IN GENERAL.*—*The Act (15 U.S.C. 2051 et seq.),*
15 *as amended by section 22 of this Act, is further amended*
16 *by adding at the end thereof the following:*

17 “*ALL-TERRAIN VEHICLE SAFETY STANDARD*

18 “*SEC. 41. (a) IN GENERAL.*—

19 “*(1) MANDATORY STANDARD.*—*Notwithstanding*
20 *any other provision of law, within 90 days after the*
21 *date of enactment of the CPSC Reform Act of 2007*
22 *the Commission shall publish in the Federal Register*
23 *as a mandatory consumer product safety standard the*
24 *American National Standard for Four Wheel All-Ter-*
25 *rain Vehicles Equipment Configuration, and Perform-*
26 *ance Requirements developed by the Specialty Vehicle*

1 *Institute of America (American National Standard*
2 *ANSI/SVIA-1-2007). The standard shall take effect*
3 *150 days after it is published.*

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

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

11 “(B) *the vehicle is subject to an ATV action*
12 *plan filed with the Commission before January*
13 *1, 2008, or subsequently filed with and approved*
14 *by the Commission, and bears a label certifying*
15 *such compliance and identifying the manufac-*
16 *turer, importer or private labeler and the ATV*
17 *action plan to which it is subject; and*

18 “(C) *the manufacturer or distributor is in*
19 *compliance with all provisions of the applicable*
20 *ATV action plan.*

21 “(3) *VIOLATION.—The failure to comply with*
22 *any requirement of paragraph (2) shall be deemed to*
23 *be a failure to comply with a consumer product safety*
24 *rule under this Act and subject to all of the penalties*
25 *and remedies available under this Act.*

1 “(4) *COMPLIANT MODELS WITH ADDITIONAL FEAT-*
2 *TURES.—Paragraph (2) shall not be construed to pro-*
3 *hibit the distribution in interstate commerce of new*
4 *all-terrain vehicles that comply with the requirements*
5 *of that paragraph but also incorporate characteristics*
6 *or components that are not covered by those require-*
7 *ments. Any such characteristics or components shall*
8 *be subject to the requirements of section 15 of this Act.*

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

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

18 “(2) *COMMISSION ACTION.—Within 120 days*
19 *after it receives notice of such a revision by the Amer-*
20 *ican National Standards Institute, the Commission*
21 *shall issue a notice of proposed rulemaking in accord-*
22 *ance with section 553 of title 5, United States Code,*
23 *to amend the product safety standard for all-terrain*
24 *vehicles to include any such revision that the Com-*
25 *mission determines is reasonably related to the safe*

1 *performance of all-terrain vehicles, and notify the In-*
2 *stitute of any provision it has determined not to be*
3 *so related. The Commission shall promulgate an*
4 *amendment to the standard for all-terrain vehicles*
5 *within 180 days after the date on which the notice of*
6 *proposed rulemaking for the amendment is published*
7 *in the Federal Register.*

8 *“(3) UNREASONABLE RISK OF INJURY.—Notwith-*
9 *standing any other provision of this Act, the Commis-*
10 *sion may, pursuant to sections 7 and 9 of this Act,*
11 *amend the product safety standard for all-terrain ve-*
12 *hicles to include any additional provision that the*
13 *Commission determines is reasonably necessary to re-*
14 *duce an unreasonable risk of injury associated with*
15 *the performance of all-terrain vehicles.*

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

23 *“(c) REQUIREMENTS FOR 3-WHEELED ALL-TERRAIN*
24 *VEHICLES.—Until a mandatory consumer product safety*
25 *rule applicable to 3-wheeled all-terrain vehicles promul-*

1 *gated pursuant to this Act is in effect, new 3-wheeled all-*
2 *terrain vehicles may not be imported into or distributed*
3 *in commerce in the United States. Any violation of this*
4 *subsection shall be considered to be a violation of section*
5 *19(a)(1) of this Act and may also be enforced under section*
6 *17 of this Act.*

7 “(d) *FURTHER PROCEEDINGS.*—

8 “(1) *DEADLINE.*—*The Commission shall issue a*
9 *final rule in its proceeding entitled ‘Standards for All*
10 *Terrain Vehicles and Ban of Three-wheeled All Ter-*
11 *rain Vehicles’.*

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

16 “(A) *the weight of the vehicle;*

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

18 “(C) *the velocity at which a vehicle of a*
19 *given weight is travelling at the maximum speed*
20 *of the vehicle;*

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

24 “(E) *the average weight of children for*
25 *whose operation the vehicle is designed or who*

1 *may reasonably be expected to operate the vehi-*
2 *cle.*

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

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

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

10 “(B) *does not include a prototype of a mo-*
11 *torized, off-highway, all-terrain vehicle or other*
12 *motorized, off-highway, all-terrain vehicle that is*
13 *intended exclusively for research and develop-*
14 *ment purposes unless the vehicle is offered for*
15 *sale.*

16 “(2) *ATV ACTION PLAN.—The term ‘ATV action*
17 *plan’ means a written plan or letter of undertaking*
18 *that describes actions the manufacturer or distributor*
19 *agrees to take to promote ATV safety, including rider*
20 *training, dissemination of safety information, age*
21 *recommendations, other policies governing marketing*
22 *and sale of the vehicles, the monitoring of such sales,*
23 *and other safety related measures, and that is sub-*
24 *stantially similar to the plans described under the*
25 *heading The Undertakings of the Companies in the*

1 *Commission Notice published in the Federal Register*
2 *on September 9, 1998 (63 FR 48199–48204).”.*

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

9 (c) *CONFORMING AMENDMENT.*—*The table of contents,*
10 *as amended by section 22 of this Act, is further amended*
11 *by inserting after the item relating to section 40 the fol-*
12 *lowing:*

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

13 (d) *EFFECTIVE DATE.*—*The amendment made by sub-*
14 *section (a) shall take effect 90 days after the date enactment*
15 *of enactment of this Act.*

16 **SEC. 32. GARAGE DOOR OPENER STANDARD.**

17 *Notwithstanding section 203(b) of the Consumer Prod-*
18 *uct Safety Improvement Act of 1990 (15 U.S.C. 2056 note)*
19 *or any amendment by the American National Standards*
20 *Institute Underwriters Laboratories, Inc. of its Standards*
21 *for Safety—UL 325, all automatic garage door openers that*
22 *directly drive the door in the closing direction that are*
23 *manufactured more than 6 months after the date of enact-*
24 *ment of this Act shall include an external secondary entrap-*

1 *ment protection device that does not require contact with*
2 *a person or object for the garage door to reverse.*

3 **SEC. 33. REDUCING DEATHS AND INJURIES FROM CARBON**
4 **MONOXIDE POISONING.**

5 *(a) IN GENERAL.—The Consumer Product Safety*
6 *Commission shall issue a final rule in its proceeding enti-*
7 *tled “Portable Generators” for which the Commission issued*
8 *an advance notice of proposed rulemaking on December 12,*
9 *2006 (71 Fed. Reg. 74472), no later than 18 months after*
10 *the date of enactment of this Act.*

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

15 *(1) reviews the effectiveness of its labeling re-*
16 *quirements for charcoal briquettes (16 C.F.R.*
17 *1500.14(b)(6)) during the windstorm that struck the*
18 *Pacific Northwest beginning on December 14, 2006;*

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

22 *(3) contains recommendations for improving the*
23 *labels on charcoal briquettes.*

1 **SEC. 34. COMPLETION OF CIGARETTE LIGHTER RULE-**
2 **MAKING.**

3 *The Consumer Product Safety Commission shall issue*
4 *a final rule mandating general safety standards for ciga-*
5 *rette lighters in its proceedings entitled “Safety Standard*
6 *for cigarette Lighters” for which the Commission issued an*
7 *advance notice of proposed rulemaking on April 11, 2005*
8 *(68 Fed. Reg. 11339) no later than 24 months after the date*
9 *of enactment of this Act.*

10 **SEC. 35. CONSUMER PRODUCT REGISTRATION FORMS.**

11 *(a) FINDINGS.—Congress finds the following:*

12 *(1) Unintentional injuries are the leading cause*
13 *of death among children, and for every such injury*
14 *that is fatal, approximately 18 children are hospital-*
15 *ized and 1,250 are treated by emergency departments*
16 *for such injuries that are nonfatal.*

17 *(2) According to the Consumer Product Safety*
18 *Commission, an average of 50 children under the age*
19 *of 5 die each year in incidents associated with nurs-*
20 *ery products, and about 16 of these deaths each year*
21 *are associated with cribs.*

22 *(3) In 2003, an estimated 60,700 children under*
23 *the age of 5 were treated in United States hospital*
24 *emergency rooms for injuries associated with nursery*
25 *products, and there were 10,700 injuries to children*

1 *under the age of 5 years associated with strollers*
2 *alone.*

3 *(4) Of the 397 recalls issued by the Consumer*
4 *Product Safety Commission in fiscal year 2005, 109*
5 *(or 27 percent) were children’s products. Children’s*
6 *products were recalled, on average, more than 2 times*
7 *per week, and accounted for 19,635,627 individual*
8 *units.*

9 *(b) DEFINITIONS.—In this section:*

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

12 *(2) DURABLE INFANT OR TODDLER PRODUCT.—*
13 *The term “durable infant or toddler product” means*
14 *a durable product intended for use by, or that may*
15 *be reasonably expected to be used by, children younger*
16 *than the age of 5 years, including the following:*

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

18 *(B) Toddler beds.*

19 *(C) High chairs, booster chairs, and hook-on*
20 *chairs.*

21 *(D) Bath seats.*

22 *(E) Gates and other enclosures for confining*
23 *a child.*

24 *(F) Play yards.*

25 *(G) Stationary activity centers.*

1 (H) *Infant carriers.*

2 (I) *Strollers.*

3 (J) *Walkers.*

4 (K) *Swings.*

5 (L) *Bassinets and cradles.*

6 (c) *CONSUMER PRODUCT REGISTRATION FORMS.—*

7 (1) *IN GENERAL.—Not later than 1 year after*
8 *the date of enactment of this Act, the Commission*
9 *shall, pursuant to its authority under section 16(b) of*
10 *the Consumer Product Safety Act (15 U.S.C.*
11 *2065(b)), promulgate final consumer product safety*
12 *rules that require manufacturers of durable infant or*
13 *toddler products—*

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

17 (B) *in accordance with paragraph (5), to*
18 *maintain a record of the names, addresses, e-*
19 *mail addresses, and other contact information of*
20 *consumers who register their ownership of such*
21 *products with the manufacturer in order to im-*
22 *prove the effectiveness of manufacturer cam-*
23 *paigns to recall such products; and*

24 (C) *to place permanently the manufacturer*
25 *name and contact information, model name and*

1 *number, and the date of manufacture on each*
2 *durable infant or toddler product.*

3 (2) *REQUIREMENTS FOR REGISTRATION*
4 *FORMS.—*

5 (A) *IN GENERAL.—The registration forms*
6 *required by paragraph (1)(A) shall provide space*
7 *sufficiently large to permit easy, legible record-*
8 *ing of the information specified in subparagraph*
9 *(B)(i).*

10 (B) *ELEMENTS.—Such forms shall include*
11 *the following:*

12 (i) *Spaces for a consumer to provide*
13 *the following:*

14 (I) *The consumer's name.*

15 (II) *The consumer's postal ad-*
16 *dress.*

17 (III) *The consumer's telephone*
18 *number.*

19 (IV) *The consumer's e-mail ad-*
20 *dress.*

21 (ii) *The manufacturer's name.*

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

24 (iv) *The date of manufacture of the*
25 *product.*

1 (v) A message that—

2 (I) explains the purpose of the
3 registration; and

4 (II) is designed to encourage con-
5 sumers to complete the registration.

6 (vi) A statement that information pro-
7 vided by the consumer shall not be used for
8 any purpose other than to facilitate a recall
9 of or safety alert regarding that product.

10 (vii) A message that explains the op-
11 tion to register via the Internet, as required
12 by paragraph (4).

13 (C) *PLACEMENT.*—Such form shall be at-
14 tached to the surface of each durable infant or
15 toddler product so that, as a practical matter,
16 the consumer will notice and handle the form
17 after purchasing the product.

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

22 (4) *INTERNET REGISTRATION.*—In promulgating
23 regulations under paragraph (1), the Commission
24 shall require manufacturers of durable infant or tod-
25 dler products to provide a mechanism for consumers

1 to submit to the manufacturer via the Internet elec-
2 tronic versions of the registration forms required by
3 paragraph (1)(A).

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

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

9 (i) *to maintain a record of consumers*
10 *who register for such product that includes*
11 *all of the information provided by such con-*
12 *sumers; and*

13 (ii) *to use such information to notify*
14 *such consumers in the event of a voluntary*
15 *or involuntary recall of, or safety alert re-*
16 *garding, such product.*

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

23 (C) *LIMITATION ON USE OF INFORMATION*
24 *COLLECTED.*—*The rules promulgated under*
25 *paragraph (1) shall prohibit manufacturers from*

1 *using or disseminating to any other party the*
2 *information collected by the manufacturer under*
3 *this subsection for any purpose other than notifi-*
4 *cation to the consumer concerned in the event of*
5 *a product recall or safety alert regarding the*
6 *product concerned.*

7 *(D) RESERVATION.—Nothing in this section*
8 *requires a manufacturer to collect, retain, or use*
9 *any information unless it is provided by the con-*
10 *sumer.*

11 *(d) REPORT AND STUDY.—Not later than 4 years after*
12 *the date of enactment of this Act, the Commission shall—*

13 *(1) conduct a study on the effectiveness of the*
14 *rules promulgated under subsection (c) in facilitating*
15 *product recalls; and*

16 *(2) submit to Congress a report on the findings*
17 *of the Commission with respect to the study required*
18 *by paragraph (1).*

Calendar No. 523

110TH CONGRESS
1ST Session

S. 2045

A BILL

To reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs, and for other purposes.

DECEMBER 5, 2007

Reported with an amendment