

DANNY KEYSAR CHILD PRODUCT SAFETY NOTIFICATION
ACT

OCTOBER 9, 2007.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 1699]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1699) to direct the Consumer Product Safety Commission to require certain manufacturers to provide consumer product registration forms to facilitate recalls of durable infant and toddler products, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Danny Keysar Child Product Safety Notification Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Unintentional injuries are the leading cause of death among children, and for every such injury that is fatal, approximately 18 children are hospitalized and 1,250 are treated by emergency departments for such injuries that are nonfatal.

(2) According to the Consumer Product Safety Commission, an average of 50 children under the age of 5 die each year in incidents associated with nursery products, and about 16 of these deaths each year are associated with cribs.

(3) In 2003, an estimated 60,700 children under the age of 5 were treated in United States hospital emergency rooms for injuries associated with nursery products, and there were 10,700 injuries to children under the age of 5 years associated with strollers alone.

(4) Of the 397 recalls issued by the Consumer Product Safety Commission in fiscal year 2005, 109 (or 27 percent) were children’s products. Children’s products were recalled, on average, over 2 times per week, and accounted for 19,635,627 individual units.

SEC. 3. DEFINITIONS.

In this Act:

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

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

(A) means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(B) shall include—

- (i) full-size cribs and nonfull-size cribs;
- (ii) toddler beds;
- (iii) high chairs, booster chairs, and hook-on chairs;
- (iv) bath seats;
- (v) gates and other enclosures for confining a child;
- (vi) play yards;
- (vii) stationary activity centers;
- (viii) infant carriers;
- (ix) strollers;
- (x) walkers;
- (xi) swings; and
- (xii) bassinets and cradles.

SEC. 4. CONSUMER PRODUCT REGISTRATION FORMS.

(a) **RULEMAKING.**—Not later than 1 year after the date of enactment of this Act, the Commission shall, pursuant to its authority under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)), promulgate a final consumer product safety rule to require manufacturers of durable infant or toddler products—

(1) to provide consumers with a postage-paid consumer registration form with each such product;

(2) to maintain a record of the names, addresses, email addresses, and other contact information of consumers who register their ownership of such products with the manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and

(3) to permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.

(b) **REQUIREMENTS FOR REGISTRATION FORM.**—The registration form required to be provided to consumers under subsection (a) shall—

(1) include spaces for a consumer to provide their name, address, telephone number, and email address;

(2) include space sufficiently large to permit easy, legible recording of all desired information;

(3) be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

- (4) include the manufacturer's name, model name and number for the product, and the date of manufacture;
- (5) include a message explaining the purpose of the registration and designed to encourage consumers to complete the registration;
- (6) include an option for consumers to register through the Internet; and
- (7) include a statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

In issuing regulations under this section, the Commission may prescribe the exact text and format of the required registration form.

(c) RECORD KEEPING AND NOTIFICATION REQUIREMENTS.—The standard required under this section shall require each manufacturer of a durable infant or toddler product to maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered, and to use such information to notify such consumers in the event of a voluntary or involuntary recall of or safety alert regarding such product. Each manufacturer shall maintain such a record for a period of not less than 6 years after the date of manufacture of the product. Consumer information collected by a manufacturer under this Act may not be used by the manufacturer, nor disseminated by such manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

(d) STUDY.—The Commission shall conduct a study at such time as it considers appropriate on the effectiveness of the consumer registration forms in facilitating product recalls. Not later than 4 years after the date of enactment of this Act, the Commission shall report its findings to Congress.

PURPOSE AND SUMMARY

The purpose of H.R. 1699, the Danny Keysar Child Product Safety Notification Act, is to improve the effectiveness of certain unsafe-product recall actions, which currently rely heavily on the media and do not provide direct notice to consumers. H.R. 1699 requires the Consumer Product Safety Commission (CPSC) to promulgate a rule requiring manufacturers of a defined list of 12 durable infant and toddler products (including cribs, high chairs, bath seats, play yards, strollers, walkers, and swings) to: (1) provide postage-paid, privacy-protected registration cards with each product for consumer registration by mail or via the internet; (2) maintain a database of consumer-provided contact information; and (3) permanently place manufacturer contact and model information on each product sold. H.R. 1699 also requires the CPSC to conduct a study and report to Congress within four years on the effectiveness of the registration forms in facilitating recalls.

BACKGROUND AND NEED FOR LEGISLATION

Accidental injury or death of babies and toddlers may result from the use of unsafe nursery products. According to the CPSC, 48 children died in the United States in Fiscal Year 2001 in incidents associated with nursery products. Incidents involving these products are especially tragic because parents employ products such as cribs, playpens, and high chairs for the express purpose of restricting a child's movement to keep them safe.

When manufacturers, retailers, or regulators learn of a dangerous defect, it is critical to disseminate this information as quickly as possible. Parents need to know about defects and product recalls so they can stop using the product immediately and pursue the appropriate corrective action, including repair, return, or destruction of the defective product. Children have died when parents unknowingly continued to use a nursery product had been identified as unsafe. One tragic case involved Danny Keyser, a 16-month-old child who died from strangulation when the portable

crib in which he was napping collapsed. The crib had been recalled five years earlier for the very defect that led to the collapse, but Danny's parents and caregiver were unaware of the recall.

This legislation is intended to increase the effectiveness of recalls of durable nursery products. Current recall efforts rely heavily on the media to convey the information provided in CPSC press releases to consumers who own defective products. Although it is difficult to measure recall effectiveness, the most recent CPSC statistics (for Fiscal Year 1997) on recall return rates were 16 percent, down from 18 percent the previous year. The Committee notes that measuring recall effectiveness using only recall return rates does not yield a complete picture.

To the extent consumers register the products purchased, this legislation adds a layer of direct consumer notification to the current recall notification process. Manufacturers must provide parents with registration cards to complete with name, address, telephone, and e-mail information. In the event of a voluntary or involuntary recall, manufacturers must contact consumers directly using the consumer-provided information. This proposed notification system is modeled after the National Highway Transportation Safety Administration recall system used since 1993 for the recall of children's car seats, another durable product used for keeping small children safe. Since use of registration cards began, the repair rate for recalled car seats has increased from 14 percent to 22 percent, a 56 percent increase. The system required by this legislation permits Internet registration, in addition to or as an alternative to mail registration, in an effort to encourage consumer registration further.

HEARINGS

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on Tuesday, May 15, 2007, entitled "Protecting Our Children: Current Issues in Consumer Product Safety," which examined the performance of the CPSC in safeguarding children from hazardous products. The Subcommittee received testimony from the Honorable Nancy A. Nord, Acting CPSC Chairman; Mr. Alan Korn, Public Policy Director and General Counsel, Safe Kids Worldwide; Ms. Rachel Weintraub, Director of Product Safety and Senior Counsel, Consumer Federation of America; Mr. Frederick Locker, General Counsel, Toy Industry Association; Dr. Marla Felcher, Adjunct Lecturer, Kennedy School of Government, Harvard University; Mr. James A. Thomas, President, ASTM International; and Ms. Nancy A. Cowles, Executive Director, Kids in Danger.

The Subcommittee held a legislative hearing on Wednesday, June 6, 2007, entitled "Legislation to Improve Consumer Product Safety for Children: H.R. 2474, H.R. 1699, H.R. 814, and H.R. 1721." The Subcommittee received testimony from Mr. Edmund Mierzwinski, Consumer Program Director, United States Public Interest Research Group and Ms. Sally Greenberg, Senior Product Safety Counsel, Consumers Union.

COMMITTEE CONSIDERATION

On Tuesday, July 31, 2007, the Subcommittee on Commerce, Trade and Consumer Protection met in open markup session and

favorably forwarded H.R. 1699, amended, to the full Committee for consideration, by a voice vote. On Tuesday, September 25, 2007, the full Committee met in open markup session and ordered H.R. 1699 favorably reported to the House, as amended, by a voice vote, a quorum being present. No amendments were offered during full Committee consideration.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken during consideration of H.R. 1699 or in ordering the bill reported. A motion by Mr. Dingell to order H.R. 1699 favorably reported to the House, as amended, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the oversight findings of the Committee are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The purpose of the legislation is to enhance the protection of consumers, particularly children, by improving recalls of unsafe durable infant and toddler products.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Regarding compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1699 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARKS AND TAX AND TARIFF BENEFITS

Regarding compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1699 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE COST ESTIMATE

The Committee will adopt as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Regarding clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate on H.R. 1699 by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available as of the time of the filing of this report by the Committee.

FEDERAL MANDATES STATEMENT

The Committee will adopt as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 establishes the short title of the bill as the “Danny Keysar Child Product Safety Notification Act.”

Section 2. Findings

Section 2 sets forth findings and statistics related to childhood accidents, including accidents and deaths involving nursery products. It also provides statistics on recalls of nursery products.

Section 3. Definitions

Section 3 defines terms used in this legislation. The “Commission” means the Consumer Product Safety Commission. “Durable infant or toddler product” means a durable product intended for use by, or reasonably expected to be used by, children under the age of 5 years. The definition specifically includes 12 enumerated products:

- full-size or non-full-size cribs
- toddler beds
- high chairs, booster chairs, or hook-on chairs
- bath seats
- gates and other enclosures for confining a child
- play yards
- stationary activity centers
- infant carriers
- strollers
- walkers
- swings
- bassinets and cradles.

Section 4. Consumer product registration forms

Section 4(a) mandates that the CPSC promulgate a final product safety rule pursuant to section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)) on recordkeeping requirements to enhance the effectiveness of recalls. The rule promulgated by the CPSC must require manufacturers of durable infant or toddler products to:

- Provide a postage-paid registration form with each product;
- Maintain a record of the names, addresses, email addresses, and other contact information for the consumers who register their ownership of the products; and
- Place permanently on each product the manufacturer name and contact information, model name and number, and the date of manufacture.

Section 4(b) specifies the requirements for the registration cards. The card must include the manufacturer's name, the model name and number of the product, and space for the consumer to provide name, mailing address, telephone number, and email address. The space provided for recording this information must be sufficiently large to permit easy, legible writing. The card also must provide an option for consumers to register through the Internet. The cards must be attached to the product in an obvious place and include a statement of the purpose—to aid in recalls—to encourage consumers to complete the registration process. Finally, the cards must include a statement that the information that the consumer provides will not be used for any other purpose except to facilitate a recall or safety alert involving the specific product.

Section 4(c) requires manufacturers to maintain, for a period of 6 years after the date of manufacture of a product, a record of all information provided by registrants of that product, and to use the information to notify registrants in the event of a voluntary or involuntary recall or a safety alert. Maintaining an on-going business relationship with consumers through marketing and other uses of information has shown to be an effective way to keep up-to-date contact information. Manufacturers may not, however, use the information provided on registration cards—nor disseminate it to any other party—for any other purpose than to alert consumers to recalls and product alerts.

Section 4(d) requires the CPSC, no later than 4 years after the date of enactment of this legislation, to conduct a study on the effectiveness of the registration cards and to report its findings to Congress.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.