

the date of the enactment of such authority, unless a construction permit has been issued. To date, no construction permit has been issued. Due to unforeseen lawsuits, all work, including the fund raising for the memorial was put on hold for approximately 3 years. The lawsuits have been settled and work is ready to re-commence regarding the memorial. However, due to the delay and the 7-year requirement of the Commemorative Works Act, time is about to run out. In fact, the authority will expire on December 2 of this year unless Congress passes a time extension.

With considerable work already accomplished and the lawsuits settled the memorial needs to be completed. Thus, this bill would extend authority to the Air Force Memorial Foundation to complete the well-deserved memorial. The authority would extend until 2005 giving the Foundation the time to fulfill the final construction and dedication of the Air Force Memorial.

CONSUMER PRODUCT SAFETY
COMMISSION ENHANCED EN-
FORCEMENT ACT OF 2000

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 6, 2000

Mr. MARKEY. Mr. Speaker, I rise today to introduce the "Consumer Product Safety Commission Enhanced Enforcement Act of 2000", a bill intended to improve consumer safety by increasing compliance with existing requirements to report hazards when they are known. The legislation would increase the civil and criminal penalties that the CPSC can impose upon firms that do not inform the Commission when they have sold a product that could pose a substantial hazard to consumers. The legislation would also help make some product recalls more effective.

The CPSC is the government agency that makes sure cribs, toys, and other products in your home are safe, and recalls them when they're not. The CPSC oversees the safety of 15,000 different kinds of consumer products. Each year there are more than 29 million injuries and about 22,000 deaths related to consumer products.

Current law provides that if companies have information that one of their products could have a serious safety defect, they are required to report that to the government. Unfortunately, some companies are not obeying the law. The CPSC estimates that in half of the most serious cases they deal with, the company has failed to report injuries. Instead, the information comes to the attention of the agency from its own investigators, from consumers, or tragically, from hospital emergency room reports or death certificates.

When companies don't report, dangerous products that could have been recalled or modified remain on store shelves. They continue to be sold and they stay in consumers' homes where they can cause serious injury.

Some consumers pay a very high price for a company's failure to report.

For example, a 3-year-old girl died while playing on her swing. Her grandfather was

cutting weeds in the yard using a weed trimmer with a replacement head that was made with a metal chain. The end link broke off the chain and it flew through the air as if it were a piece of deadly shrapnel—travelling 240 miles an hour. It hit his granddaughter in the temple, penetrated her skull and killed her.

The company didn't tell the CPSC about this death, nor did they tell the CPSC about the 40 other serious injuries from chains breaking. The CPSC was forced to do its own investigation and recalled the product nationwide in May.

Such failures to report result in tragic losses of life and limb that are avoidable and preventable if compliance with reporting were higher.

Under current law, the CPSC can fine companies for violating the law, but the amount of the fine is limited by statute to a level that does not sufficiently deter violations. Under current law, companies can face criminal penalties for violating consumer product safety laws, but they are only misdemeanors. Under current law, in any recall, companies provide a repair, replacement or refund for defective products. In most cases, the CPSC can find a good solution to the problem for consumers. But in rare cases where the product is older and has been on the market for many years, the company sometimes elects a refund that is much too small to even catch consumers' attention, so the dangerous product stays on the market.

To remedy these deficiencies, the legislation would: Eliminate the cap on civil penalties for violations of product safety laws.

Under current law, the CPSC cannot assess more than \$1,650,000 for a related series of violations against a company that knowingly violates consumer product safety laws. The legislation would eliminate this maximum civil penalty. Many of the cases in which the Commission seeks civil penalties involve very large corporations that can easily absorb a \$1.65 million fine. More substantial civil penalties would provide a needed incentive for those companies to notify CPSC of defective products so that the agency can take timely action to protect consumers. Other agencies have civil penalty authority with no "cap" on the amount of the penalty for a related series of violations, including the Federal Trade Commission.

Increase the penalty for a "knowing and willful" criminal violation of product safety laws from a misdemeanor to a felony and eliminate the requirement that the agency give notice to the company that is criminally violating the law.

The legislation would increase the potential criminal penalties for a "knowing and willful" violation of consumer product safety laws from a misdemeanor (up to one year in prison) to a felony (up to three years in prison). It would also increase the maximum monetary criminal penalty in accordance with existing criminal laws. These heightened penalties are commensurate with the seriousness of product safety violations, which can result in death or serious injury to children and families. Other agencies have authority to seek substantial (felony) criminal penalties for knowing and willful violations of safety requirements, including the Food and Drug Administration for prescription drug marketing violations and the Depart-

ment of Transportation for the transportation of hazardous materials.

The legislation would also eliminate the requirement that the Commission give notice of noncompliance before seeking a criminal penalty for a violation of the Consumer Product Safety Act. The notice requirement makes it all but impossible to pursue a criminal penalty for violations of the Act, even in the most serious cases. The threat of a criminal felony prosecution would create an additional strong incentive for companies to report product defects to the Commission.

Give CPSC the authority to overrule the remedy chosen by a manufacturer for fixing a defective product in a product recall when the Commission determines that an alternative would be in the public interest.

Under current law, a company with a defective product that is being recalled has the right to select the remedy to be offered to the public. The company can choose repair, replacement, or refund "less a reasonable allowance for use."

The legislation would continue to permit the company to select the remedy in a product recall. However, the legislation would allow the Commission to determine (after an opportunity for a hearing) that the remedy selected by the company is not in the public interest. The Commission may then order the company to carry out an alternative program that is in the public interest.

Sometimes companies choose a remedy in a recall that does not further public safety. For example, if a manufacturer chooses to refund "less a reasonable allowance for use" the purchase price of a product that has been on the market for a long time, the amount due consumers may be so small that there is no incentive for the consumer to take advantage of the recall. This is especially true where the hazardous product is still useful to the consumer and the cost of replacement is substantial. Companies may choose an insubstantial refund even though people have been at risk for a number of years, thousands of products are still in use, and injuries are continuing to occur. In this example, a refund would do little, if anything, to stop consumers from using the dangerous product and the public interest would not be served.

HONORING THE LATE ERNESTO
ANTONIO PUENTE, JR.

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday June 6, 2000

Mr. ROMERO-BARCELÓ. Mr. Speaker, on this occasion I express our sadness over the death of Ernesto Antonio Puente, Jr., June 2, 2000, the man everyone around the world knew as Tito Puente, the King of Mambo. His achievements in pursuit of a higher musical ground and his legendary flamboyant style have left an indelible mark on our nation's musical heritage.

To his fellow Puerto Rican-Americans, Tito Puente was more than a legend, more than just the Mambo King. He was a trailblazer in the world of music, fusing Afro-Caribbean