

Consumer Product Safety Improvement Act of 2008 (H.R. 4040)

The “**Consumer Product Safety Improvement Act of 2008**” (H.R. 4040) was signed into law by President George Bush on **August 14, 2008 (Public Law 110-314)**. This law promises to provide better enforcement tools and expands the role of the Consumer Product Safety Commission (CPSC) in ensuring the safety of consumer products, particularly those designed for children.

The full text of the law as well as newly crafted CPSC guidance documents and answers to frequently asked questions can be accessed at the following designated site located within the CPSC website: <http://www.cpsc.gov/about/cpsia/cpsia.html> The CPSC promises to add new content regarding this law on an ongoing basis. Therefore, interested parties should make frequent checks of the site for new information.



Please note also that as the necessary and complex rulemaking required under this law unfolds, the CPSC encourages the public to submit questions and comments regarding the law’s interpretation and implementation. Questions and comments can be submitted online at the following: <http://www.cpsc.gov/cgibin/newleg.aspx>

The law’s key safety measures, including the new requirements and schedule of implementation, are summarized in the following Table:

| Requirements | Implementation Schedule |
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| Sec. 101(a) Lead in Children’s Products (Materials & Substrates) | |
| <p>The total lead content (by weight) for any part of the product shall comply with the following limits:</p> <ol style="list-style-type: none"> 600 ppm – Effective 180 days after the date of enactment 300 ppm – Effective 1 year after the date of enactment 100 ppm (or a feasible limit lower than 300 ppm determined by the Commission) – Effective 3 years after the date of enactment <p>Exceptions:</p> <ul style="list-style-type: none"> Inaccessible parts or components (defined as those parts and components which are not accessible to a child through normal and reasonably foreseeable use and abuse of such product). Certain products or materials that the Commission determines will neither result in absorption of any lead into the human body nor will have any other adverse impact on public health or safety. Certain electronic devices. Paint, coatings or electroplating may not be considered to be a barrier that would render lead in the substrate inaccessible to a child. | <ol style="list-style-type: none"> Effective 180 days after enactment (February 10, 2009) Effective 1 year after enactment (August 14, 2009) Effective 3 years after enactment (August 14, 2011) |
| Sec. 101(f) Lead in Paint and Surface Coatings | |
| <p>Modifies the Code of Federal Regulations 16 CFR 1303.1 by lowering the total lead limit in paint and similar surface coating materials for consumer use from 600 ppm (0.06%) to 90 ppm (0.009%).</p> <p>Remark: The Commission may rely on the use of XRF or other alternative methods for measuring lead in paint or in surface coatings where the total weight is ≤ 10 mg or the surface area is ≤ 1 cm². Not later than one year after enactment, the Commission shall complete a study to evaluate the effectiveness, precision, and reliability of XRF and other alternative methods for measuring lead in paint or other surface coatings when used on children’s products or furniture articles.</p> | <p>Effective 1 year after enactment (August 14, 2009)</p> |

| Requirements (Cont'd) | Implementation Schedule |
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| Sec. 102 Mandatory Third Party Testing and Certification for Certain Children's Products | |
| <p>Manufacturers shall issue certificates¹ certifying their products have complied with the children's product safety rule based on the test results provided by a third party conformity assessment body accredited to conduct such tests.</p> <p>¹ Requirements for the Certificate</p> <ul style="list-style-type: none"> ▪ The manufacturer or private labeler who issued the certificate, and any third party conformity assessment body on whose testing the certificate depends, shall be identified. ▪ Include, at a minimum, the date and place of manufacture, the date and place where the product was tested, each party's name, full mailing address, telephone number, and contact information for individual responsible for maintaining records of test results. ▪ Be legible and in English. May also contain the same content in any other languages. ▪ Shall accompany the applicable product or shipment of products and a copy shall be furnished to each distributor or retailer of the product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a certificate copy to the Commission. ▪ The Commission may, by rule, provide for the electronic filing of certificates up to 24 hours before arrival of an imported product. | <p>Effective 90 days after enactment (November 12, 2008)</p> <p>Requirement applies to products manufactured 90 days after the CPSC publishes its requirements for accredited third party testing labs.</p> <p>The CPSC timeline for establishing laboratory accreditation requirements is available at the following: http://www.cpsc.gov/library/foia/foia08/brief/thirdp.pdf</p> |
| Sec. 103 Tracking Labels for Children's Products | |
| <ul style="list-style-type: none"> ▪ Manufacturer of a children's product shall place permanent, distinguishing marks on the product and its packaging, to the extent practicable, that will enable the manufacturer to ascertain the location and date of production of the product, cohort information (including the batch, run number, or other identifying characteristic) and that will enable the ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including the batch, run number, or other identifying characteristic). ▪ No advertisement or label or packaging of a consumer product may contain a reference to a consumer product safety rule or a voluntary consumer product safety standard unless the product conforms with the safety requirements of that rule or standard. | <p>Effective 1 year after enactment (August 14, 2009)</p> <p>Requirement applies to products manufactured after August 14, 2009.</p> |
| Sec. 104 Standards and Consumer Registration of Durable Nursery Products | |
| <ul style="list-style-type: none"> ▪ The Commission shall commence the rulemaking for durable nursery products and shall promulgate standards for no fewer than 2 categories of durable infant or toddler products² every 6 months thereafter, until standards are promulgated for all such product categories. ▪ Each manufacturer of a durable infant or toddler product shall provide consumers with a postage-paid consumer registration form with each such product. ▪ Each manufacturer shall maintain the consumer registration records (e.g., name, address, telephone number and e-mail address of the registered consumer) for not less than 6 years after the date of manufacture of the product, in order to improve the effectiveness of recalls. ▪ Each manufacturer shall permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product. | <p>Not later than 1 year after enactment (August 14, 2009)</p> |
| <p>² "Durable infant or toddler products" means a durable product intended for use, or that may be reasonably expected to be used, by children under 5 years of age, including: full-size cribs and nonfull-size cribs; toddler beds; high chairs, booster chairs and 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.</p> | |

| Requirements (Cont'd) | Implementation Schedule |
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| Sec. 105 Labeling Requirement for Advertising Toys and Games | |
| <p>Any advertisement that provides a direct means for the purchase or order of a product for which a cautionary statement³ is required under Section 24 of the Federal Hazardous Substance Act (15 U.S.C. 1278), shall display the cautionary statement on or immediately adjacent to that advertisement.</p> <p>a) Cautionary statement with respect to advertisements on Internet websites – Effective 120 days after the date of enactment.</p> <p>b) Cautionary statement with respect to catalogues and other printed materials – Effective 180 days after the date of enactment. The Commission may provide a grace period of more than 180 days for catalogues and other printed material printed prior to the effective date.</p> <p>³ Cautionary statement shall be prominently displayed:</p> <ul style="list-style-type: none"> ▪ In the primary language used in the advertisement; ▪ In conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in such advertisement; and ▪ In a manner consistent with part 1500 of title 16, Code of Federal Regulations. | <p>a) Effective 120 days after enactment (December 12, 2008)</p> <p>b) Effective 180 days after enactment (February 10, 2009). Requirement applies to materials published or distributed after February 10, 2009.</p> <p>NOTE: The Commission staff invites comments on Section 105, for which a final rule is required by November 12, 2008. Comments must be received by October 15, 2008. http://www.cpsc.gov/businfo/advert/rule.pdf</p> |
| Sec. 106 Mandatory Toy Safety Standards | |
| <p>a) ASTM F963-07 (except for Section 4.2 & Annex 4 regarding flammability) shall be considered a mandatory toy safety standard.</p> <p>b) The Commission, in consultation with industry and other experts, shall evaluate the effectiveness of ASTM F963-07 or its successor standard (except for section 4.2 and Annex 4), as it relates to safety requirements, safety labeling requirements and test methods related to: magnets in children's products; toxic substances; toys with spherical ends; hemispheric-shaped objects; cords, straps, and elastics; and battery-operated toys.</p> | <p>a) Beginning 180 days after enactment (February 10, 2009). Requirement applies only to consumer products manufactured after the effective date.</p> <p>b) Not later than 1 year after enactment (August 14, 2009)</p> |
| Sec. 108 Prohibition on the Sale of Certain Products Containing Specified Phthalates | |
| <p>Permanent ban – Children's toys⁴ or child care articles⁵ that contain concentrations of more than 0.1% of the following phthalates are prohibited:</p> <ul style="list-style-type: none"> ▪ Di-(2-ethylhexyl) phthalate (DEHP), ▪ Dibutyl phthalate (DBP), or ▪ Benzyl butyl phthalate (BBP) <p>Interim ban – Children's toys that can be placed in a child's mouth⁶ or child care articles that contain concentrations of more than 0.1% of the following phthalates are prohibited:</p> <ul style="list-style-type: none"> ▪ Diisononyl phthalate (DINP), ▪ Diisodecyl phthalate (DIDP), or ▪ Di-n-octyl phthalate (DnOP) <p>A panel appointed to study the effects on children's health of phthalates and phthalate alternatives as used in children's toys and child care articles shall report its findings to the Commission. Not later than 180 days after receiving the panel's report, the Commission shall promulgate a final rule with respect to the possible permanency of the interim prohibition.</p> <p>⁴ "Children's toy" means a consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays.</p> <p>NOTE: Under these phthalate regulations, the following products are not considered toys (unless they are toy versions of these products): hobby and craft items; art supplies; sporting equipment; camping equipment; and musical instruments.</p> <p>⁵ "Child care article" means a consumer product designed or intended to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething.</p> <p>⁶ "Toy that can be placed in a child's mouth" is one in which any part of the toy can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the children's product can only be licked, it is not regarded as able to be placed in the mouth. If a toy or part of a toy in one dimension is smaller than 5 cm, it can be placed in the mouth.</p> | <p>Effective 180 days after enactment (February 10, 2009), regardless of date of manufacture.</p> |

| Requirements (Cont'd) | Implementation Schedule |
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| Sec. 212 Establishment of a Public Consumer Product Safety Database | |
| The Commission shall provide a detailed plan for establishing and maintaining the database, including plans for the operation, content, maintenance, and functionality of the database. | Not later than 180 days after enactment (February 10, 2009) |
| Sec. 214 Enhanced Recall Authority and Corrective Action Plans | |
| The Commission shall, by rule, establish guidelines for a recall notice, and the minimum requirements for the content to be included in the recall notice. | Not later than 180 days after enactment (February 10, 2009) |
| Sec. 216 Prohibited Acts | |
| It is unlawful for any person to sell, distribute in commerce, or import into the United States any recalled products. | September 13, 2008 |
| Sec. 217 Penalties | |
| <ul style="list-style-type: none"> ▪ Increase the maximum civil penalties from \$5,000 to \$100,000 for each individual violation of the prohibited acts section of the Consumer Product Safety Act, and from \$1.25 million \$15 million for any related series of such violations. ▪ Increase the criminal penalties to an imprisonment for not more than 5 years for anyone who knowingly and willfully violates the Consumer Product Safety Act. | |
| Sec. 232 All-Terrain Vehicle Standard | |
| <p>a) The Commission shall publish in the Federal Register ANSI/SVIA-1-2007 as the mandatory safety standard for Four Wheel All-Terrain Vehicles.</p> <p>b) Until a mandatory consumer product safety standard applicable to 3-wheeled all-terrain vehicles promulgated pursuant to this Act is in effect, new 3-wheeled all-terrain vehicles may not be imported into or distributed in commerce in the United States.</p> | <p>a) Publication within 90 days after enactment (November 12, 2008).</p> <p>The standard shall take effect 150 days after publication in the Federal Register.</p> <p>Requirement applies only to Four Wheel ATVs manufactured after the effective date.</p> <p>(b) Ban of 3-wheeled ATVs effective September 13, 2008, pending promulgation of applicable safety standard.</p> |
| Sec. 234 Study on the Use of Formaldehyde in the Manufacturing of Textile and Apparel Articles | |
| The Comptroller General, in consultation with the Commission, shall conduct a study on the use of formaldehyde in the manufacture of textile and apparel articles , or in any component of such articles , to identify any risks to consumers caused by the use of formaldehyde in the manufacturing of such articles, or components of such articles. | Not later than 2 years after enactment (August 14, 2010) |