

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Consumer Product Safety Improvement Act of 2008”.

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. References.
- Sec. 3. Authority to issue implementing regulations.

**TITLE I—CHILDREN’S PRODUCT SAFETY**

- Sec. 101. Children’s products containing lead; lead paint rule.
- Sec. 102. Mandatory third party testing for certain children’s products.
- Sec. 103. Tracking labels for children’s products.
- Sec. 104. Standards and consumer registration of durable nursery products.
- Sec. 105. Labeling requirement for advertising toys and games.
- Sec. 106. Mandatory toy safety standards.
- Sec. 107. Study of preventable injuries and deaths in minority children related to consumer products.
- Sec. 108. Prohibition on sale of certain products containing specified phthalates.

**TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM**

**Subtitle A—Administrative Improvements**

- Sec. 201. Reauthorization of the Commission.
- Sec. 202. Full Commission requirement; interim quorum; personnel.
- Sec. 203. Submission of copy of certain documents to Congress.
- Sec. 204. Expedited rulemaking.
- Sec. 205. Inspector general audits and reports.
- Sec. 206. Industry-sponsored travel ban.
- Sec. 207. Sharing of information with Federal, State, local, and foreign government agencies.
- Sec. 208. Employee training exchanges.
- Sec. 209. Annual reporting requirement.

**Subtitle B—Enhanced Enforcement Authority**

- Sec. 211. Public disclosure of information.
- Sec. 212. Establishment of a public consumer product safety database.
- Sec. 213. Prohibition on stockpiling under other Commission-enforced statutes.
- Sec. 214. Enhanced recall authority and corrective action plans.
- Sec. 215. Inspection of firewalled conformity assessment bodies; identification of supply chain.
- Sec. 216. Prohibited acts.
- Sec. 217. Penalties.

- Sec. 218. Enforcement by State attorneys general.  
Sec. 219. Whistleblower protections.

Subtitle C—Specific Import-Export Provisions

- Sec. 221. Export of recalled and non-conforming products.  
Sec. 222. Import safety management and interagency cooperation.  
Sec. 223. Substantial product hazard list and destruction of noncompliant imported products.  
Sec. 224. Financial responsibility.  
Sec. 225. Study and report on effectiveness of authorities relating to safety of imported consumer products.

Subtitle D—Miscellaneous Provisions and Conforming Amendments

- Sec. 231. Preemption.  
Sec. 232. All-terrain vehicle standard.  
Sec. 233. Cost-benefit analysis under the Poison Prevention Packaging Act of 1970.  
Sec. 234. Study on use of formaldehyde in manufacturing of textile and apparel articles.  
Sec. 235. Technical and conforming changes.  
Sec. 236. Expedited judicial review.  
Sec. 237. Repeal.  
Sec. 238. Pool and Spa Safety Act technical amendments.  
Sec. 239. Effective dates and Severability.

1 **SEC. 2. REFERENCES.**

2 (a) **DEFINED TERMS.**—As used in this Act—

3 (1) the term “appropriate Congressional com-  
4 mittees” means the Committee on Energy and Com-  
5 merce of the House of Representatives and the Com-  
6 mittee on Commerce, Science, and Transportation of  
7 the Senate; and

8 (2) the term “Commission” means the Con-  
9 sumer Product Safety Commission.

10 (b) **CONSUMER PRODUCT SAFETY ACT.**—Except as  
11 otherwise expressly provided, whenever in this Act an  
12 amendment is expressed as an amendment to a section  
13 or other provision, the reference shall be considered to be

1 made to a section or other provision of the Consumer  
2 Product Safety Act (15 U.S.C. 2051 et seq.).

3 **SEC. 3. AUTHORITY TO ISSUE IMPLEMENTING REGULA-**  
4 **TIONS.**

5 The Commission may issue regulations, as necessary,  
6 to implement this Act and the amendments made by this  
7 Act.

8 **TITLE I—CHILDREN’S PRODUCT**  
9 **SAFETY**

10 **SEC. 101. CHILDREN’S PRODUCTS CONTAINING LEAD; LEAD**  
11 **PAINT RULE.**

12 (a) GENERAL LEAD BAN.—

13 (1) TREATMENT AS A BANNED HAZARDOUS  
14 SUBSTANCE.—Except as expressly provided in sub-  
15 section (b) beginning on the dates provided in para-  
16 graph (2), any children’s product (as defined in sec-  
17 tion 3(a)(16) of the Consumer Product Safety Act  
18 (15 U.S.C. 2052(a)(16))) that contains more lead  
19 than the limit established by paragraph (2) shall be  
20 treated as a banned hazardous substance under the  
21 Federal Hazardous Substances Act (15 U.S.C. 1261  
22 et seq.).

23 (2) LEAD LIMIT.—

24 (A) 600 PARTS PER MILLION.—Except as  
25 provided in subparagraphs (B), (C), (D), and

1 (E), beginning 180 days after the date of enact-  
2 ment of this Act, the lead limit referred to in  
3 paragraph (1) is 600 parts per million total  
4 lead content by weight for any part of the prod-  
5 uct.

6 (B) 300 PARTS PER MILLION.—Except as  
7 provided by subparagraphs (C), (D), and (E),  
8 beginning on the date that is 1 year after the  
9 date of enactment of this Act, the lead limit re-  
10ferred to in paragraph (1) is 300 parts per mil-  
11lion total lead content by weight for any part of  
12the product.

13 (C) 100 PARTS PER MILLION.—Except as  
14provided in subparagraphs (D) and (E), begin-  
15ning on the date that is 3 years after the date  
16of enactment of this Act, subparagraph (B)  
17shall be applied by substituting “100 parts per  
18million” for “300 parts per million” unless the  
19Commission determines that a limit of 100  
20parts per million is not technologically feasible  
21for a product or product category. The Commis-  
22sion may make such a determination only after  
23notice and a hearing and after analyzing the  
24public health protections associated with sub-  
25stantially reducing lead in children’s products.

1 (D) ALTERNATE REDUCTION OF LIMIT.—

2 If the Commission determines under subpara-  
3 graph (C) that the 100 parts per million limit  
4 is not technologically feasible for a product or  
5 product category, the Commission shall, by reg-  
6 ulation, establish an amount that is the lowest  
7 amount of lead, lower than 300 parts per mil-  
8 lion, the Commission determines to be techno-  
9 logically feasible to achieve for that product or  
10 product category. The amount of lead estab-  
11 lished by the Commission under the preceding  
12 sentence shall be substituted for the 300 parts  
13 per million limit under subparagraph (B) begin-  
14 ning on the date that is 3 years after the date  
15 of enactment of this Act.

16 (E) PERIODIC REVIEW AND FURTHER RE-  
17 Ductions.—The Commission shall, based on  
18 the best available scientific and technical infor-  
19 mation, periodically review and revise downward  
20 the limit set forth in this subsection, no less  
21 frequently than every 5 years after promulga-  
22 tion of the limit under subparagraph (C) or (D)  
23 to require the lowest amount of lead that the  
24 Commission determines is technologically fea-  
25 sible to achieve. The amount of lead established

1           by the Commission under the preceding sen-  
2           tence shall be substituted for the lead limit in  
3           effect immediately before such revision.

4           (b) EXCLUSION OF CERTAIN MATERIALS OR PROD-  
5           UCTS AND INACCESSIBLE COMPONENT PARTS.—

6           (1) CERTAIN PRODUCTS OR MATERIALS.—The  
7           Commission may, by regulation, exclude a specific  
8           product or material from the prohibition in sub-  
9           section (a) if the Commission, after notice and a  
10          hearing, determines on the basis of the best-avail-  
11          able, objective, peer-reviewed, scientific evidence that  
12          lead in such product or material will neither—

13                 (A) result in the absorption of any lead  
14                 into the human body, taking into account nor-  
15                 mal and reasonably foreseeable use and abuse  
16                 of such product by a child, including swal-  
17                 lowing, mouthing, breaking, or other children's  
18                 activities, and the aging of the product; nor

19                 (B) have any other adverse impact on pub-  
20                 lic health or safety.

21           (2) EXCEPTION FOR INACCESSIBLE COMPO-  
22           NENT PARTS.—

23                 (A) IN GENERAL.—The limits established  
24                 under subsection (a) shall not apply to any  
25                 component part of a children's product that is

1 not accessible to a child through normal and  
2 reasonably foreseeable use and abuse of such  
3 product, as determined by the Commission. A  
4 component part is not accessible under this sub-  
5 paragraph if such component part is not phys-  
6 ically exposed by reason of a sealed covering or  
7 casing and does not become physically exposed  
8 through reasonably foreseeable use and abuse of  
9 the product. Reasonably foreseeable use and  
10 abuse shall include to, swallowing, mouthing,  
11 breaking, or other children's activities, and the  
12 aging of the product.

13 (B) INACCESSIBILITY PROCEEDING.—  
14 Within 1 year after the date of enactment of  
15 this Act, the Commission shall promulgate a  
16 rule providing guidance with respect to what  
17 product components, or classes of components,  
18 will be considered to be inaccessible for pur-  
19 poses of subparagraph (A).

20 (C) APPLICATION PENDING CPSC GUID-  
21 ANCE.—Until the Commission promulgates a  
22 rule pursuant to subparagraph (B), the deter-  
23 mination of whether a product component is in-  
24 accessible to a child shall be made in accord-  
25 ance with the requirements laid out in subpara-

1 graph (A) for considering a component to be in-  
2 accessible to a child.

3 (3) CERTAIN BARRIERS DISQUALIFIED.—For  
4 purposes of this subsection, paint, coatings, or elec-  
5 troplating may not be considered to be a barrier that  
6 would render lead in the substrate inaccessible to a  
7 child, or to prevent absorption of any lead into the  
8 human body, through normal and reasonably fore-  
9 seeable use and abuse of the product.

10 (4) CERTAIN ELECTRONIC DEVICES.—If the  
11 Commission determines that it is not technologically  
12 feasible for certain electronic devices, including de-  
13 vices containing batteries, to comply with subsection  
14 (a), the Commission, by regulation, shall—

15 (A) issue requirements to eliminate or min-  
16 imize the potential for exposure to and accessi-  
17 bility of lead in such electronic devices, which  
18 may include requirements that such electronic  
19 devices be equipped with a child-resistant cover  
20 or casing that prevents exposure to and accessi-  
21 bility of the parts of the product containing  
22 lead; and

23 (B) establish a schedule by which such  
24 electronic devices shall be in full compliance  
25 with the limits in subsection (a), unless the



1 Commission determines that full compliance will  
2 not be technologically feasible for such devices  
3 within a schedule set by the Commission.

4 (5) PERIODIC REVIEW.—The Commission shall,  
5 based on the best available scientific and technical  
6 information, periodically review and revise the regu-  
7 lations promulgated pursuant to this subsection no  
8 less frequently than every 5 years after the first pro-  
9 mulgation of a regulation under this subsection to  
10 make them more stringent and to require the lowest  
11 amount of lead the Commission determines is tech-  
12 nologically feasible to achieve.

13 (c) APPLICATION WITH ASTM F963.—To the extent  
14 that any regulation promulgated by the Commission under  
15 this section (or any section of the Consumer Product Safe-  
16 ty Act or any other Act enforced by the Commission, as  
17 such Acts are affected by this section) is inconsistent with  
18 the ASTM F963 standard, such promulgated regulation  
19 shall supersede the ASTM F963 standard to the extent  
20 of the inconsistency.

21 (d) TECHNOLOGICAL FEASIBILITY DEFINED.—For  
22 purposes of this section, a limit shall be deemed techno-  
23 logically feasible with regard to a product or product cat-  
24 egory if—

1           (1) a product that complies with the limit is  
2           commercially available in the product category;

3           (2) technology to comply with the limit is com-  
4           mercially available to manufacturers or is otherwise  
5           available within the common meaning of the term;

6           (3) industrial strategies or devices have been  
7           developed that are capable or will be capable of  
8           achieving such a limit by the effective date of the  
9           limit and that companies, acting in good faith, are  
10          generally capable of adopting; or

11          (4) alternative practices, best practices, or other  
12          operational changes would allow the manufacturer to  
13          comply with the limit.

14          (e) PENDING RULEMAKING PROCEEDINGS TO HAVE  
15          NO EFFECT.—The pendency of a rulemaking proceeding  
16          to consider—

17                (1) a delay in the effective date of a limit or an  
18                alternate limit under this section related to techno-  
19                logical feasibility,

20                (2) an exception for certain products or mate-  
21                rials or inaccessibility guidance under subsection (b)  
22                of this section, or

23                (3) any other request for modification of or ex-  
24                emption from any regulation, rule, standard, or ban

1 under this Act or any other Act enforced by the  
2 Commission,  
3 shall not delay the effect of any provision or limit under  
4 this section nor shall it stay general enforcement of the  
5 requirements of this section.

6 (f) MORE STRINGENT LEAD PAINT BAN.—

7 (1) IN GENERAL.—Effective on the date that is  
8 1 year after the date of enactment of this Act, the  
9 Commission shall modify section 1303.1 of its regu-  
10 lations (16 C.F.R. 1301.1) by substituting “0.009  
11 percent” for “0.06 percent” in subsection (a) of that  
12 section.

13 (2) PERIODIC REVIEW AND REDUCTION.—The  
14 Commission shall, no less frequently than every 5  
15 years after the date on which the Commission modi-  
16 fies the regulations pursuant to paragraph (1), re-  
17 view the limit for lead in paint set forth in section  
18 1303.1 of title 16, Code of Federal Regulations (as  
19 revised by paragraph (1)), and shall by regulation  
20 revise downward the limit to require the lowest  
21 amount of lead that the Commission determines is  
22 technologically feasible to achieve.

23 (3) METHODS FOR SCREENING LEAD IN SMALL  
24 PAINTED AREAS.—In order to provide for effective  
25 and efficient enforcement of the limit set forth in

1 section 1303.1 of title 16, Code of Federal Regula-  
2 tions, the Commission may rely on x-ray fluores-  
3 cence technology or other alternative methods for  
4 measuring lead in paint or other surface coatings on  
5 products subject to such section where the total  
6 weight of such paint or surface coating is no greater  
7 than 10 milligrams or where such paint or surface  
8 coating covers no more than 1 square centimeter of  
9 the surface area of such products. Such alternative  
10 methods for measurement shall not permit more  
11 than 2 micrograms of lead in a total weight of 10  
12 milligrams or less of paint or other surface coating  
13 or in a surface area of 1 square centimeter or less.

14 (4) ALTERNATIVE METHODS OF MEASURING  
15 LEAD IN PAINT GENERALLY.—

16 (A) STUDY.—Not later than 1 year after  
17 the date of enactment of this Act, the Commis-  
18 sion shall complete a study to evaluate the ef-  
19 fectiveness, precision, and reliability of x-ray  
20 fluorescence technology and other alternative  
21 methods for measuring lead in paint or other  
22 surface coatings when used on a children's  
23 product or furniture article in order to deter-  
24 mine compliance with part 1303 of title 16,

1 Code of Federal Regulations, as modified pur-  
2 suant to this subsection.

3 (B) RULEMAKING.—If the Commission de-  
4 termines, based on the study in subparagraph  
5 (A), that x-ray fluorescence technology or other  
6 alternative methods for measuring lead in paint  
7 are as effective, precise, and reliable as the  
8 methodology used by the Commission for com-  
9 pliance determinations prior to the date of en-  
10 actment of this Act, the Commission may pro-  
11 mulgate regulations governing the use of such  
12 methods in determining the compliance of prod-  
13 ucts with part 1303 of title 16, Code of Federal  
14 Regulations, as modified pursuant to this sub-  
15 section. Any regulations promulgated by the  
16 Commission shall ensure that such alternative  
17 methods are no less effective, precise, and reli-  
18 able than the methodology used by the Commis-  
19 sion prior to the date of enactment of this Act.

20 (5) PERIODIC REVIEW.—The Commission shall,  
21 no less frequently than every 5 years after the Com-  
22 mission completes the study required by paragraph  
23 (4)(A), review and revise any methods for measure-  
24 ment utilized by the Commission pursuant to para-  
25 graph (3) or pursuant to any regulations promul-

1 gated under paragraph (4) to ensure that such  
2 methods are the most effective methods available to  
3 protect children's health. The Commission shall con-  
4 duct an ongoing effort to study and encourage the  
5 further development of alternative methods for  
6 measuring lead in paint and other surface coating  
7 that can effectively, precisely, and reliably detect  
8 lead levels at or below the level set forth in part  
9 1303 of title 16, Code of Federal Regulations, or  
10 any lower level established by regulation.

11 (6) NO EFFECT ON LEGAL LIMIT.—Nothing in  
12 paragraph (3), nor reliance by the Commission on  
13 any alternative method of measurement pursuant to  
14 such paragraph, nor any rule prescribed pursuant to  
15 paragraph (4), nor any method established pursuant  
16 to paragraph (5) shall be construed to alter the limit  
17 set forth in section 1303 of title 16, Code of Federal  
18 Regulations, as modified pursuant to this subsection,  
19 or provide any exemption from such limit.

20 (7) CONSTRUCTION.—Nothing in this sub-  
21 section shall be construed to affect the authority of  
22 the Commission or any other person to use alter-  
23 native methods for detecting lead as a screening  
24 method to determine whether further testing or ac-  
25 tion is needed.

1 (g) TREATMENT AS A REGULATION UNDER THE  
2 FHSA.—Any ban imposed by subsection (a) or rule pro-  
3 mulgated under subsection (a) or (b) of this section, and  
4 section 1303.1 of title 16, Code of Federal Regulations  
5 (as modified pursuant to subsection (f)(1) or (2)), or any  
6 successor regulation, shall be considered a regulation of  
7 the Commission promulgated under or for the enforcement  
8 of section 2(q) of the Federal Hazardous Substances Act  
9 (15 U.S.C. 1261(q)). .

10 **SEC. 102. MANDATORY THIRD PARTY TESTING FOR CER-**  
11 **TAIN CHILDREN'S PRODUCTS.**

12 (a) MANDATORY AND THIRD PARTY TESTING.—

13 (1) GENERAL CONFORMITY CERTIFICATION.—

14 (A) AMENDMENT.—Paragraph (1) of sec-  
15 tion 14(a) (15 U.S.C. 2063(a)) is amended to  
16 read as follows:

17 “(1) GENERAL CONFORMITY CERTIFICATION.—

18 Except as provided in paragraphs (2) and (3), every  
19 manufacturer of a product which is subject to a con-  
20 sumer product safety rule under this Act or similar  
21 rule, ban, standard, or regulation under any other  
22 Act enforced by the Commission and which is im-  
23 ported for consumption or warehousing or distrib-  
24 uted in commerce (and the private labeler of such

1 product if such product bears a private label) shall  
2 issue a certificate which—

3 “(A) shall certify, based on a test of each  
4 product or upon a reasonable testing program,  
5 that such product complies with all rules, bans,  
6 standards, or regulations applicable to the prod-  
7 uct under this Act or any other Act enforced by  
8 the Commission; and

9 “(B) shall specify each such rule, ban,  
10 standard, or regulation applicable to the prod-  
11 uct.”.

12 (B) EFFECTIVE DATE.—The amendment  
13 made by subparagraph (A) shall take effect 90  
14 days after the date of enactment of this Act.

15 (2) THIRD PARTY TESTING REQUIREMENT.—  
16 Section 14(2) (15 U.S.C. 2063(2)) is further amend-  
17 ed by redesignating paragraph (2) as paragraph (4)  
18 and inserting after paragraph (1) the following:

19 “(2) THIRD PARTY TESTING REQUIREMENT.—  
20 Effective on the dates provided in paragraph (3), be-  
21 fore importing for consumption or warehousing or  
22 distributing in commerce any children’s product that  
23 is subject to a children’s product safety rule, every  
24 manufacturer of such children’s product (and the



1 private labeler of such children's product if such  
2 children's product bears a private label) shall—

3 “(A) submit sufficient samples of the chil-  
4 dren's product, or samples that are identical in  
5 all material respects to the product, to a third  
6 party conformity assessment body accredited  
7 under paragraph (3) to be tested for compliance  
8 with such children's product safety rule; and

9 “(B) based on such testing, issue a certifi-  
10 cate that certifies that such children's product  
11 complies with the children's product safety rule  
12 based on the assessment of a third party con-  
13 formity assessment body accredited to conduct  
14 such tests.

15 A manufacturer or private labeler shall issue either  
16 a separate certificate for each children's product  
17 safety rule applicable to a product or a combined  
18 certificate that certifies compliance with all applica-  
19 ble children's product safety rules, in which case  
20 each such rule shall be specified.

21 “(3) SCHEDULE FOR IMPLEMENTATION OF  
22 THIRD PARTY TESTING.—

23 “(A) GENERAL APPLICATION.—Except as  
24 provided under subparagraph (F), the require-  
25 ments of paragraph (2) shall apply to any chil-

1           dren’s product manufactured more than 90  
2           days after the Commission has established and  
3           published notice of the requirements for accred-  
4           itation of third party conformity assessment  
5           bodies to assess conformity with a children’s  
6           product safety rule to which such children’s  
7           product is subject.

8                   “(B) TIME LINE FOR ACCREDITATION.—

9                           “(i) LEAD PAINT.—Not later than 30  
10                           days after the date of enactment of the  
11                           Consumer Product Safety Improvement  
12                           Act of 2008, the Commission shall publish  
13                           notice of the requirements for accreditation  
14                           of third party conformity assessment bod-  
15                           ies to assess conformity with part 1303 of  
16                           title 16, Code of Federal Regulations.

17                           “(ii) FULL-SIZE CRIBS; NON FULL-  
18                           SIZE CRIBS; PACIFIERS.—Not later than  
19                           60 days after the date of enactment of the  
20                           Consumer Product Safety Improvement  
21                           Act of 2008, the Commission shall publish  
22                           notice of the requirements for accreditation  
23                           of third party conformity assessment bod-  
24                           ies to assess conformity with parts 1508,  
25                           1509, and 1511 of such title.

1           “(iii) SMALL PARTS.—Not later than  
2           90 days after the date of enactment of the  
3           Consumer Product Safety Improvement  
4           Act of 2008, the Commission shall publish  
5           notice of the requirements for accreditation  
6           of third party conformity assessment bod-  
7           ies to assess conformity with part 1501 of  
8           such title.

9           “(iv) CHILDREN’S METAL JEWELRY.—  
10          Not later than 120 days after the date of  
11          enactment of the Consumer Product Safety  
12          Improvement Act of 2008, the Commission  
13          shall publish notice of the requirements for  
14          accreditation of third party conformity as-  
15          sessment bodies to assess conformity with  
16          the requirements of section 101(a)(2) of  
17          such Act with respect to children’s metal  
18          jewelry.

19          “(v) BABY BOUNCERS, WALKERS, AND  
20          JUMPERS.—Not later than 210 days after  
21          the date of enactment of the Consumer  
22          Product Safety Improvement Act of 2008,  
23          the Commission shall publish notice of the  
24          requirements for accreditation of third  
25          party conformity assessment bodies to as-

1           sess conformity with parts 1500.18(a)(6)  
2           and 1500.86(a) of such title.

3                   “(vi) ALL OTHER CHILDREN’S PROD-  
4           UCT SAFETY RULES.—The Commission  
5           shall publish notice of the requirements for  
6           accreditation of third party conformity as-  
7           sessment bodies to assess conformity with  
8           other children’s product safety rules at the  
9           earliest practicable date, but in no case  
10          later than 10 months after the date of en-  
11          actment of the Consumer Product Safety  
12          Improvement Act of 2008, or, in the case  
13          of children’s product safety rules estab-  
14          lished or revised 1 year or more after such  
15          date of enactment, not later than 90 days  
16          before such rules or revisions take effect.

17                   “(C) ACCREDITATION.—Accreditation of  
18          third party conformity assessment bodies pursu-  
19          ant to the requirements established under sub-  
20          paragraph (B) may be conducted either by the  
21          Commission or by an independent accreditation  
22          organization designated by the Commission.

23                   “(D) PERIODIC REVIEW.—The Commission  
24          shall periodically review and revise the accredi-  
25          tation requirements established under subpara-

1 graph (B) to ensure that the requirements as-  
2 sure the highest conformity assessment body  
3 quality that is feasible.

4 “(E) PUBLICATION OF ACCREDITED ENTI-  
5 TIES.—The Commission shall maintain on its  
6 Internet website an up-to-date list of entities  
7 that have been accredited to assess conformity  
8 with children’s product safety rules in accord-  
9 ance with the requirements published by the  
10 Commission under this paragraph.

11 “(F) EXTENSION.—If the Commission de-  
12 termines that an insufficient number of third  
13 party conformity assessment bodies have been  
14 accredited to permit certification for a chil-  
15 dren’s product safety rule under the accelerated  
16 schedule required by this paragraph, the Com-  
17 mission may extend the deadline for certifi-  
18 cation to such rule by not more than 60 days.

19 “(G) RULEMAKING.—Until the date that is  
20 3 years after the Consumer Product Safety Im-  
21 provement Act of 2008, Commission pro-  
22 ceedings under this paragraph shall be exempt  
23 from the requirements of sections 553 and 601  
24 through 612 of title 5, United States Code.”.

1           (3) CONFORMING AMENDMENTS.—Section  
2           14(a)(4) (15 U.S.C. 2063(a)(4)), as redesignated by  
3           paragraph (2) of this subsection, is amended—

4                   (A) by striking “required by paragraph (1)  
5                   of this subsection” and inserting “required  
6                   under paragraph (1), (2), or (3)”; and

7                   (B) by striking “requirement under para-  
8                   graph (1)” and inserting “requirement under  
9                   paragraph (1), (2), or (3)”.

10          (b) ADDITIONAL REQUIREMENTS; DEFINITIONS.—  
11          Section 14 (15 U.S.C. 2063) is further amended by adding  
12          at the end the following:

13               “(d) ADDITIONAL REGULATIONS FOR THIRD PARTY  
14          TESTING.—

15                   “(1) AUDIT.—Not later than 10 months after  
16                   the date of enactment of the Consumer Product  
17                   Safety Improvement Act of 2008, the Commission  
18                   shall by regulation establish requirements for the  
19                   periodic audit of third party conformity assessment  
20                   bodies as a condition for the continuing accredita-  
21                   tion of such conformity assessment bodies under  
22                   subsection (a)(3)(C).

23                   “(2) COMPLIANCE; CONTINUING TESTING.—Not  
24                   later than 15 months after the date of enactment of

1 the Consumer Product Safety Improvement Act of  
2 2008, the Commission shall by regulation—

3 “(A) initiate a program by which a manu-  
4 facturer or private labeler may label a consumer  
5 product as complying with the certification re-  
6 quirements of subsection (a); and

7 “(B) establish protocols and standards—

8 “(i) for ensuring that a children’s  
9 product tested for compliance with an ap-  
10 plicable children’s product safety rule is  
11 subject to testing periodically and when  
12 there has been a material change in the  
13 product’s design or manufacturing process,  
14 including the sourcing of component parts;

15 “(ii) for the testing of random sam-  
16 ples to ensure continued compliance;

17 “(iii) for verifying that a children’s  
18 product tested by a conformity assessment  
19 body complies with applicable children’s  
20 product safety rules; and

21 “(iv) for safeguarding against the ex-  
22 ercise of undue influence on a third party  
23 conformity assessment body by a manufac-  
24 turer or private labeler.

25 “(e) WITHDRAWAL OF ACCREDITATION.—

1           “(1) IN GENERAL.—The Commission may with-  
2 draw its accreditation or its acceptance of the ac-  
3 creditation of a third party conformity assessment  
4 body accredited under this section if the Commission  
5 finds, after notice and investigation, that—

6           “(A) a manufacturer, private labeler, or  
7 governmental entity has exerted undue influ-  
8 ence on such conformity assessment body or  
9 otherwise interfered with or compromised the  
10 integrity of the testing process with respect to  
11 the certification of a children’s product under  
12 this section; or

13           “(B) such conformity assessment body  
14 failed to comply with an applicable protocol,  
15 standard, or requirement established by the  
16 Commission under subsection (d).

17           “(2) PROCEDURE.—In any proceeding to with-  
18 draw the accreditation of a conformity assessment  
19 body, the Commission—

20           “(A) shall consider the gravity of the con-  
21 formity assessment body’s action or failure to  
22 act, including—

23           “(i) whether the action or failure to  
24 act resulted in injury, death, or the risk of  
25 injury or death;



1                   “(ii) whether the action or failure to  
2                   act constitutes an isolated incident or rep-  
3                   resents a pattern or practice; and

4                   “(iii) whether and when the con-  
5                   formity assessment body initiated remedial  
6                   action; and

7                   “(B) may—

8                   “(i) withdraw its acceptance of the ac-  
9                   creditation of the conformity assessment  
10                  body on a permanent or temporary basis;  
11                  and

12                  “(ii) establish requirements for re-  
13                  accreditation of the conformity assessment  
14                  body.

15                  “(3) FAILURE TO COOPERATE.—The Commis-  
16                  sion may suspend the accreditation of a conformity  
17                  assessment body if it fails to cooperate with the  
18                  Commission in an investigation under this section.

19                  “(f) DEFINITIONS.—In this section:

20                  “(1) CHILDREN’S PRODUCT SAFETY RULE.—  
21                  The term ‘children’s product safety rule’ means a  
22                  consumer product safety rule under this Act or simi-  
23                  lar rule, regulation, standard, or ban under any  
24                  other Act enforced by the Commission, including a

1 rule declaring a consumer product to be a banned  
2 hazardous product or substance.

3 “(2) THIRD PARTY CONFORMITY ASSESSMENT  
4 BODY.—

5 “(A) IN GENERAL.—The term ‘third party  
6 conformity assessment body’ means a con-  
7 formity assessment body that, except as pro-  
8 vided in subparagraph (D), is not owned, man-  
9 aged, or controlled by the manufacturer or pri-  
10 vate labeler of a product assessed by such con-  
11 formity assessment body.

12 “(B) GOVERNMENTAL PARTICIPATION.—  
13 Such term may include an entity that is owned  
14 or controlled in whole or in part by a govern-  
15 ment if—

16 “(i) to the extent practicable, manu-  
17 facturers or private labelers located in any  
18 nation are permitted to choose conformity  
19 assessment bodies that are not owned or  
20 controlled by the government of that na-  
21 tion;

22 “(ii) the entity’s testing results are  
23 not subject to undue influence by any  
24 other person, including another govern-  
25 mental entity;

1           “(iii) the entity is not accorded more  
2 favorable treatment than other third party  
3 conformity assessment bodies in the same  
4 nation who have been accredited under this  
5 section;

6           “(iv) the entity’s testing results are  
7 accorded no greater weight by other gov-  
8 ernmental authorities than those of other  
9 third party conformity assessment bodies  
10 accredited under this section; and

11           “(v) the entity does not exercise  
12 undue influence over other governmental  
13 authorities on matters affecting its oper-  
14 ations or on decisions by other govern-  
15 mental authorities controlling distribution  
16 of products based on outcomes of the enti-  
17 ty’s conformity assessments.

18           “(C) TESTING AND CERTIFICATION OF ART  
19 MATERIALS AND PRODUCTS.—A certifying orga-  
20 nization (as defined in appendix A to section  
21 1500.14(b)(8) of title 16, Code of Federal Reg-  
22 ulations (or any successor regulation or ruling))  
23 meets the requirements of subparagraph (A)  
24 with respect to the certification of art material  
25 and art products required under this section or

1 by regulations prescribed under the Federal  
2 Hazardous Substances Act (15 U.S.C. 1261 et  
3 seq.).

4 “(D) FIREWALLED CONFORMITY ASSESS-  
5 MENT BODIES.—Upon request, the Commission  
6 may accredit a conformity assessment body that  
7 is owned, managed, or controlled by a manufac-  
8 turer or private labeler as a third party con-  
9 formity assessment body if the Commission by  
10 order finds that—

11 “(i) accreditation of the conformity  
12 assessment body would provide equal or  
13 greater consumer safety protection than  
14 the manufacturer’s or private labeler’s use  
15 of an independent third party conformity  
16 assessment body; and

17 “(ii) the conformity assessment body  
18 has established procedures to ensure  
19 that—

20 “(I) its test results are protected  
21 from undue influence by the manufac-  
22 turer, private labeler or other inter-  
23 ested party;

24 “(II) the Commission is notified  
25 immediately of any attempt by the

1 manufacturer, private labeler or other  
2 interested party to hide or exert  
3 undue influence over test results; and  
4 “(III) allegations of undue influ-  
5 ence may be reported confidentially to  
6 the Commission.

7 “(g) REQUIREMENTS FOR CERTIFICATES.—

8 “(1) IDENTIFICATION OF ISSUER AND CON-  
9 FORMITY ASSESSMENT BODY.—Every certificate re-  
10 quired under this section shall identify the manufac-  
11 turer or private labeler issuing the certificate and  
12 any third party conformity assessment body on  
13 whose testing the certificate depends. The certificate  
14 shall include, at a minimum, the date and place of  
15 manufacture, the date and place where the product  
16 was tested, each party’s name, full mailing address,  
17 telephone number, and contact information for the  
18 individual responsible for maintaining records of test  
19 results.

20 “(2) ENGLISH LANGUAGE.—Every certificate  
21 required under this section shall be legible and all  
22 content required by this section shall be in the  
23 English language. A certificate may also contain the  
24 same content in any other language.

1           “(3) AVAILABILITY OF CERTIFICATES.—Every  
2           certificate required under this section shall accom-  
3           pany the applicable product or shipment of products  
4           covered by the same certificate and a copy of the  
5           certificate shall be furnished to each distributor or  
6           retailer of the product. Upon request, the manufac-  
7           turer or private labeler issuing the certificate shall  
8           furnish a copy of the certificate to the Commission.

9           “(4) ELECTRONIC FILING OF CERTIFICATES  
10          FOR IMPORTED PRODUCTS.—In consultation with  
11          the Commissioner of Customs, the Commission may,  
12          by rule, provide for the electronic filing of certifi-  
13          cates under this section up to 24 hours before ar-  
14          rival of an imported product. Upon request, the  
15          manufacturer or private labeler issuing the certifi-  
16          cate shall furnish a copy to the Commission and to  
17          the Commissioner of Customs.

18          “(h) RULE OF CONSTRUCTION.—Compliance of any  
19          children’s product with third party testing and certifi-  
20          cation or general conformity certification requirements  
21          under this section shall not be construed to exempt such  
22          children’s product from any requirement that such prod-  
23          uct actually be in conformity with all applicable rules, reg-  
24          ulation, standards, or ban under any Act enforced by the  
25          Commission.”.

1 (c) CPSC CONSIDERATION OF EXISTING REQUIRE-  
2 MENTS.—In establishing standards for accreditation of a  
3 third party conformity assessment body under section  
4 14(a)(3) of the Consumer Product Safety Act, as added  
5 by subsection (a), the Commission may consider standards  
6 and protocols for accreditation of such conformity assess-  
7 ment bodies by independent accreditation organizations  
8 that are in effect on the date of enactment of this Act,  
9 but shall ensure that the protocols, standards, and re-  
10 quirements prescribed under such section 14(a)(3) incor-  
11 porate, as the standard for accreditation, the most current  
12 scientific and technological standards and techniques  
13 available.

14 (d) CONFORMING AMENDMENTS.—Section 14(b) (15  
15 U.S.C. 2063(b)) is amended—

16 (1) by striking “consumer products which are  
17 subject to consumer product safety standards under  
18 this Act” and inserting “any product which is sub-  
19 ject to a consumer product safety rule under this  
20 Act, or a similar rule, regulation, standard, or ban  
21 under any other Act enforced by the Commission,”;  
22 and

23 (2) by striking “or testing programs.” and in-  
24 serting “, unless the Commission, by rule, requires  
25 testing by an independent third party for a par-

1            ticular rule, regulation, standard, or ban, or for a  
2            particular class of products.”.

3 **SEC. 103. TRACKING LABELS FOR CHILDREN’S PRODUCTS.**

4            (a) IN GENERAL.—Section 14(a) (15 U.S.C.  
5 2063(a)), as amended by section 102 of this Act, is further  
6 amended by adding at the end the following:

7            “(5) Effective 1 year after the date of enactment of  
8 the Consumer Product Safety Improvement Act of 2008,  
9 the manufacturer of a children’s product shall place per-  
10 manent, distinguishing marks on the product and its pack-  
11 aging, to the extent practicable, that will enable—

12            “(A) the manufacturer to ascertain the location  
13 and date of production of the product, cohort infor-  
14 mation (including the batch, run number, or other  
15 identifying characteristic), and any other informa-  
16 tion determined by the manufacturer to facilitate  
17 ascertaining the specific source of the product by  
18 reference to those marks; and

19            “(B) the ultimate purchaser to ascertain the  
20 manufacturer or private labeler, location and date of  
21 production of the product, and cohort information  
22 (including the batch, run number, or other identi-  
23 fying characteristic).”.

24            (b) LABEL INFORMATION.—Section 14(c) (15 U.S.C.  
25 2063(c)) is amended by redesignating paragraphs (2) and



1 (3) as paragraphs (3) and (4) and by inserting after para-  
2 graph (1) the following:

3 “(2) The cohort information (including the  
4 batch, run number, or other identifying char-  
5 acteristic) of the product.”.

6 (c) ADVERTISING, LABELING, AND PACKAGING REP-  
7 RESENTATION.—Section 14 (15 U.S.C. 2063) is further  
8 amended by adding at the end the following:

9 “(d) REQUIREMENT FOR ADVERTISEMENTS.—No ad-  
10 vertisement for a consumer product or label or packaging  
11 of such product may contain a reference to a consumer  
12 product safety rule or a voluntary consumer product safety  
13 standard unless such product conforms with the applicable  
14 safety requirements of such rule or standard.”.

15 **SEC. 104. STANDARDS AND CONSUMER REGISTRATION OF**  
16 **DURABLE NURSERY PRODUCTS.**

17 (a) SHORT TITLE.—This section may be cited as the  
18 “Danny Keysar Child Product Safety Notification Act”.

19 (b) SAFETY STANDARDS.—

20 (1) IN GENERAL.—The Commission shall—

21 (A) in consultation with representatives of  
22 consumer groups, juvenile product manufactur-  
23 ers, and independent child product engineers  
24 and experts, examine and assess the effective-  
25 ness of any voluntary consumer product safety

1 standards for durable infant or toddler prod-  
2 ucts; and

3 (B) in accordance with section 553 of title  
4 5, United States Code, promulgate consumer  
5 product safety standards that—

6 (i) are substantially the same as such  
7 voluntary standards; or

8 (ii) are more stringent than such vol-  
9 untary standards, if the Commission deter-  
10 mines that more stringent standards would  
11 further reduce the risk of injury associated  
12 with such products.

13 (2) TIMETABLE FOR RULEMAKING.—Not later  
14 than 1 year after the date of enactment of this Act,  
15 the Commission shall commence the rulemaking re-  
16 quired under paragraph (1) and shall promulgate  
17 standards for no fewer than 2 categories of durable  
18 infant or toddler products every 6 months thereafter,  
19 beginning with the product categories that the Com-  
20 mission determines to be of highest priority, until  
21 the Commission has promulgated standards for all  
22 such product categories. Thereafter, the Commission  
23 shall periodically review and revise the standards set  
24 forth under this subsection to ensure that such

1 standards provide the highest level of safety for such  
2 products that is feasible.

3 (3) JUDICIAL REVIEW.—Any person adversely  
4 affected by such standards may file a petition for re-  
5 view under the procedures set forth in section 11(g)  
6 of the Consumer Product Safety Act (15 U.S.C.  
7 2060(g)), as added by section 236 of this Act.

8 (c) CRIBS.—

9 (1) IN GENERAL.—It shall be a violation of sec-  
10 tion 19(a)(1) of the Consumer Product Safety Act  
11 (15 U.S.C. 2068(a)(1)) for any person to which this  
12 subsection applies to manufacture, sell, contract to  
13 sell or resell, lease, sublet, offer, provide for use, or  
14 otherwise place in the stream of commerce a crib  
15 that is not in compliance with a standard promul-  
16 gated under subsection (b).

17 (2) PERSONS TO WHICH SUBSECTION AP-  
18 PLIES.—This subsection applies to any person  
19 that—

20 (A) manufactures, distributes in commerce,  
21 or contracts to sell cribs;

22 (B) based on the person's occupation,  
23 holds itself out as having knowledge or skill pe-  
24 culiar to cribs, including child care facilities and  
25 family child care homes;

1 (C) is in the business of contracting to sell  
2 or resell, lease, sublet, or otherwise place cribs  
3 in the stream of commerce; or

4 (D) owns or operates a place of public ac-  
5 commodation affecting commerce (as defined in  
6 section 4 of the Federal Fire Prevention and  
7 Control Act of 1974 (15 U.S.C. 2203) applied  
8 without regard to the phrase “not owned by the  
9 Federal Government”).

10 (3) CRIB DEFINED.—In this subsection, the  
11 term “crib” includes—

12 (A) new and used cribs;

13 (B) full-sized or nonfull-sized cribs; and

14 (C) portable cribs and crib-pens.

15 (d) CONSUMER REGISTRATION REQUIREMENT.—

16 (1) RULEMAKING.—Notwithstanding any provi-  
17 sion of chapter 6 of title 5, United States Code, or  
18 the Paperwork Reduction Act of 1980 (44 U.S.C.  
19 3501 et seq.), not later than 1 year after the date  
20 of enactment of this Act, the Commission shall, pur-  
21 suant to its authority under section 16(b) of the  
22 Consumer Product Safety Act (15 U.S.C. 2065(b)),  
23 promulgate a final consumer product safety rule to  
24 require each manufacturer of a durable infant or  
25 toddler product—

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

4 (B) to maintain a record of the names, ad-  
5 dresses, e-mail addresses, and other contact in-  
6 formation of consumers who register their own-  
7 ership of such products with the manufacturer  
8 in order to improve the effectiveness of manu-  
9 facturer campaigns to recall such products; and

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

14 (2) REQUIREMENTS FOR REGISTRATION  
15 FORM.—The registration form required to be pro-  
16 vided to consumers under paragraph (1) shall—

17 (A) include spaces for a consumer to pro-  
18 vide the consumer's name, address, telephone  
19 number, and e-mail address;

20 (B) include space sufficiently large to per-  
21 mit easy, legible recording of all desired infor-  
22 mation;

23 (C) be attached to the surface of each du-  
24 rable infant or toddler product so that, as a

1 practical matter, the consumer must notice and  
2 handle the form after purchasing the product;

3 (D) include the manufacturer's name,  
4 model name and number for the product, and  
5 the date of manufacture;

6 (E) include a message explaining the pur-  
7 pose of the registration and designed to encour-  
8 age consumers to complete the registration;

9 (F) include an option for consumers to  
10 register through the Internet; and

11 (G) include a statement that information  
12 provided by the consumer shall not be used for  
13 any purpose other than to facilitate a recall of  
14 or safety alert regarding that product.

15 In issuing regulations under this section, the Com-  
16 mission may prescribe the exact text and format of  
17 the required registration form.

18 (3) RECORD KEEPING AND NOTIFICATION RE-  
19 QUIREMENTS.—The rules required under this section  
20 shall require each manufacturer of a durable infant  
21 or toddler product to maintain a record of reg-  
22 istrants for each product manufactured that includes  
23 all of the information provided by each consumer  
24 registered, and to use such information to notify  
25 such consumers in the event of a voluntary or invol-

1        untary recall of or safety alert regarding such prod-  
2        uct. Each manufacturer shall maintain such a record  
3        for a period of not less than 6 years after the date  
4        of manufacture of the product. Consumer informa-  
5        tion collected by a manufacturer under this Act may  
6        not be used by the manufacturer, nor disseminated  
7        by such manufacturer to any other party, for any  
8        purpose other than notification to such consumer in  
9        the event of a product recall or safety alert.

10            (4) STUDY.—The Commission shall conduct a  
11        study at such time as it considers appropriate on the  
12        effectiveness of the consumer registration forms re-  
13        quired by this section in facilitating product recalls  
14        and whether such registration forms should be re-  
15        quired for other children’s products. Not later than  
16        4 years after the date of enactment of this Act, the  
17        Commission shall report its findings to the appro-  
18        priate Congressional committees.

19            (e) USE OF ALTERNATIVE RECALL NOTIFICATION  
20        TECHNOLOGY.—

21            (1) TECHNOLOGY ASSESSMENT AND REPORT.—

22        The Commission shall—

23            (A) beginning 2 years after a rule is pro-  
24        mulgated under subsection (d), regularly review  
25        recall notification technology and assess the ef-

1           fectiveness of such technology in facilitating re-  
2           calls of durable infant or toddler products; and

3           (B) not later than 3 years after the date  
4           of enactment of this Act and periodically there-  
5           after as the Commission considers appropriate,  
6           transmit a report on such assessments to the  
7           appropriate Congressional committees.

8           (2) DETERMINATION.—If, based on the assess-  
9           ment required by paragraph (1), the Commission de-  
10          termines by rule that a recall notification technology  
11          is likely to be as effective or more effective in facili-  
12          tating recalls of durable infant or toddler products  
13          as the registration forms required by subsection (d),  
14          the Commission—

15                 (A) shall submit to the appropriate Con-  
16                 gressional committees a report on such deter-  
17                 mination; and

18                 (B) shall permit a manufacturer of durable  
19                 infant or toddler products to use such tech-  
20                 nology in lieu of such registration forms to fa-  
21                 cilitate recalls of durable infant or toddler prod-  
22                 ucts.

23          (f) DEFINITION OF DURABLE INFANT OR TODDLER  
24          PRODUCT.—As used in this section, the term “durable in-  
25          fant or toddler product”—



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

4           (2) includes—

5                   (A) full-size cribs and nonfull-size cribs;

6                   (B) toddler beds;

7                   (C) high chairs, booster chairs, and hook-  
8           on chairs;

9                   (D) bath seats;

10                  (E) gates and other enclosures for con-  
11           fining a child;

12                  (F) play yards;

13                  (G) stationary activity centers;

14                  (H) infant carriers;

15                  (I) strollers;

16                  (J) walkers;

17                  (K) swings; and

18                  (L) bassinets and cradles.

19 **SEC. 105. LABELING REQUIREMENT FOR ADVERTISING**  
20 **TOYS AND GAMES.**

21           Section 24 of the Federal Hazardous Substances Act  
22 (15 U.S.C. 1278) is amended—

23           (1) by redesignating subsections (c) and (d) as  
24           subsection (d) and (e), respectively; and

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

3           “(c) ADVERTISING.—

4           “(1) REQUIREMENT.—

5           “(A) CAUTIONARY STATEMENT.—Any ad-  
6           vertisement by a retailer, manufacturer, im-  
7           porter, distributor, or private labeler (including  
8           advertisements on Internet websites or in cata-  
9           logues or other printed materials) that provides  
10          a direct means for the purchase or order of a  
11          product for which a cautionary statement is re-  
12          quired under subsection (a) or (b) shall include  
13          the appropriate cautionary statement displayed  
14          on or immediately adjacent to that advertise-  
15          ment, as modified by regulations issued under  
16          paragraph (3).

17          “(B) APPLICATION TO RETAILERS.—

18          “(i) REQUIREMENT TO INFORM.—A  
19          manufacturer, importer, distributor, or pri-  
20          vate labeler that provides such a product  
21          to a retailer shall inform the retailer of any  
22          cautionary statement requirement applica-  
23          ble to the product.

24          “(ii) RETAILER’S REQUIREMENT TO  
25          INQUIRE.—A retailer is not in violation of

1           subparagraph (A) if the retailer requested  
2           information from the manufacturer, im-  
3           porter, distributor, or private labeler as to  
4           whether the cautionary statement required  
5           by subparagraph (A) applies to the product  
6           that is the subject of the advertisement  
7           and the manufacturer, importer, dis-  
8           tributor, or private labeler provided false  
9           information or did not provide such infor-  
10          mation.

11           “(C) DISPLAY.—The cautionary statement  
12          required by subparagraph (A) shall be promi-  
13          nently displayed—

14                   “(i) in the primary language used in  
15                   the advertisement;

16                   “(ii) in conspicuous and legible type  
17                   in contrast by typography, layout, or color  
18                   with other material printed or displayed in  
19                   such advertisement; and

20                   “(iii) in a manner consistent with part  
21                   1500 of title 16, Code of Federal Regula-  
22                   tions.

23           “(D) DEFINITIONS.—In this subsection:

24                   “(i) The terms ‘manufacturer’, ‘dis-  
25                   tributor’, and ‘private labeler’ have the

1 meaning given those terms in section 3 of  
2 the Consumer Product Safety Act (15  
3 U.S.C. 2052).

4 “(ii) The term ‘retailer’ has the mean-  
5 ing given that term in section 3 of the  
6 Consumer Product Safety Act (15 U.S.C.  
7 2052), but does not include an individual  
8 whose selling activity is intermittent and  
9 does not constitute a trade or business.

10 “(2) EFFECTIVE DATE.—The requirement in  
11 paragraph (1) shall take effect—

12 “(A) with respect to advertisements on  
13 Internet websites, 120 days after the date of  
14 enactment of the Consumer Product Safety Im-  
15 provement Act of 2008; and

16 “(B) with respect to catalogues and other  
17 printed materials, 180 days after such date of  
18 enactment.

19 “(3) RULEMAKING.—Notwithstanding any pro-  
20 vision of chapter 6 of title 5, United States Code, or  
21 the Paperwork Reduction Act of 1980 (44 U.S.C.  
22 3501 et seq.), the Commission shall, not later than  
23 90 days after the date of enactment of the Con-  
24 sumer Product Safety Improvement Act of 2008,  
25 promulgate regulations to effectuate this section

1 with respect to catalogues and other printed mate-  
2 rial. The Commission may, under such regulations,  
3 provide a grace period of no more than 180 days for  
4 catalogues and other printed material printed prior  
5 to the effective date of paragraph (1) during which  
6 time distribution of such catalogues and other print-  
7 ed material shall not be considered a violation of  
8 such paragraph. The Commission may promulgate  
9 regulations concerning the size and placement of the  
10 cautionary statement required by paragraph (1) of  
11 this subsection as appropriate relative to the size  
12 and placement of the advertisements in such cata-  
13 logues and other printed material. The Commission  
14 shall promulgate regulations that clarify the applica-  
15 bility of these requirements to catalogues and other  
16 printed material distributed solely between busi-  
17 nesses and not to individual consumers.

18 “(4) ENFORCEMENT.—The requirements in  
19 paragraph (1) shall be treated as a consumer prod-  
20 uct safety standard promulgated under section 9 of  
21 the Consumer Product Safety Act (15 U.S.C. 2056).  
22 The publication or distribution of any advertisement  
23 that is not in compliance with paragraph (1) shall  
24 be treated as a prohibited act under section 19(a)(1)  
25 of such Act (15 U.S.C. 2068).”.

1 **SEC. 106. MANDATORY TOY SAFETY STANDARDS.**

2 (a) IN GENERAL.—Beginning 180 days after the date  
3 of enactment of this Act, the provisions of ASTM Inter-  
4 national Standard F963–07 Consumer Safety Specifica-  
5 tions for Toy Safety (ASTM F963), as it exists on the  
6 date of enactment of this Act (except for section 4.2 and  
7 Annex 4 or any provision that restates or incorporates an  
8 existing mandatory standard or ban promulgated by the  
9 Commission or by statute) shall be considered to be con-  
10 sumer product safety standards issued by the Commission  
11 under section 9 of the Consumer Product Safety Act (15  
12 U.S.C. 2058).

13 (b) RULEMAKING FOR SPECIFIC TOYS, COMPONENTS  
14 AND RISKS.—

15 (1) EVALUATION.—Not later than 1 year after  
16 the date of enactment of this Act, the Commission,  
17 in consultation with representatives of consumer  
18 groups, juvenile product manufacturers, and inde-  
19 pendent child product engineers and experts, shall  
20 examine and assess the effectiveness of ASTM F963  
21 or its successor standard (except for section 4.2 and  
22 Annex 4), as it relates to safety requirements, safety  
23 labeling requirements, and test methods related to—

24 (A) internal harm or injury hazards caused  
25 by the ingestion or inhalation of magnets in  
26 children’s products;

- 1 (B) toxic substances;
- 2 (C) toys with spherical ends;
- 3 (D) hemispheric-shaped objects;
- 4 (E) cords, straps, and elastics; and
- 5 (F) battery-operated toys.

6 (2) RULEMAKING.—Within 1 year after the  
7 completion of the assessment required by paragraph  
8 (1), the Commission shall promulgate rules in ac-  
9 cordance with section 553 of title 5, United States  
10 Code, that—

11 (A) take into account other children’s  
12 product safety rules; and

13 (B) are more stringent than such stand-  
14 ards, if the Commission determines that more  
15 stringent standards would further reduce the  
16 risk of injury of such toys.

17 (c) PERIODIC REVIEW.—The Commission shall peri-  
18 odically review and revise the rules set forth under this  
19 section to ensure that such rules provide the highest level  
20 of safety for such products that is feasible.

21 (d) CONSIDERATION OF REMAINING ASTM STAND-  
22 ARDS.—After promulgating the rules required by sub-  
23 section (b), the Commission shall—

24 (1) in consultation with representatives of con-  
25 sumer groups, juvenile product manufacturers, and

1 independent child product engineers and experts, ex-  
2 amine and assess the effectiveness of ASTM F963  
3 (and alternative health protective requirements to  
4 prevent or minimize flammability of children's prod-  
5 ucts) or its successor standard, and shall assess the  
6 adequacy of such standards in protecting children  
7 from safety hazards; and

8 (2) in accordance with section 553 of title 5,  
9 United States Code, promulgate consumer product  
10 safety rules that—

11 (A) take into account other children's  
12 product safety rules; and

13 (B) are more stringent than such stand-  
14 ards, if the Commission determines that more  
15 stringent standards would further reduce the  
16 risk of injury associated with such toys.

17 (e) PRIORITIZATION.—The Commission shall promul-  
18 gate rules beginning with the product categories that the  
19 Commission determines to be of highest priority, until the  
20 Commission has promulgated standards for all such prod-  
21 uct categories.

22 (f) TREATMENT AS CONSUMER PRODUCT SAFETY  
23 STANDARDS.—Rules issued under this section shall be  
24 considered consumer product safety standards issued by



1 the Commission under section 9 of the Consumer Product  
2 Safety Act (15 U.S.C. 2058).

3 (g) REVISIONS.—If ASTM International (or its suc-  
4 cessor entity) proposes to revise ASTM F963–07, or a  
5 successor standard, it shall notify the Commission of the  
6 proposed revision. The Commission shall incorporate the  
7 revision or a section of the revision into the consumer  
8 product safety rule. The revised standard shall be consid-  
9 ered to be a consumer product safety standard issued by  
10 the Consumer Product Safety Commission under section  
11 9 of the Consumer Product Safety Act (15 U.S.C. 2058),  
12 effective 180 days after the date on which ASTM Inter-  
13 national notifies the Commission of the revision unless,  
14 within 90 days after receiving that notice, the Commission  
15 notifies ASTM International that it has determined that  
16 the proposed revision does not improve the safety of the  
17 consumer product covered by the standard. If the Commis-  
18 sion so notifies ASTM International with respect to a pro-  
19 posed revision of the standard, the existing standard shall  
20 continue to be considered to be a consumer product safety  
21 rule without regard to the proposed revision.

22 (h) RULEMAKING TO CONSIDER EXEMPTION FROM  
23 PREEMPTION.—

24 (1) EXEMPTION OF STATE LAW FROM PREEMP-  
25 TION.—Upon application of a State or political sub-

1 division of a State, the Commission shall, after no-  
2 tice and opportunity for oral presentation of views,  
3 consider a rulemaking to exempt from the provisions  
4 of section 26(a) of the Consumer Product Safety Act  
5 (under such conditions as it may impose in the rule)  
6 any proposed safety standard or regulation which is  
7 described in such application and which is designed  
8 to protect against a risk of injury associated with a  
9 children's product subject to the consumer product  
10 safety standards described in subsection (a) or any  
11 rule promulgated under this section. The Commis-  
12 sion shall grant such an exemption if the State or  
13 political subdivision standard or regulation—

14 (A) provides a significantly higher degree  
15 of protection from such risk of injury than the  
16 consumer product safety standard or rule under  
17 this section; and

18 (B) does not unduly burden interstate  
19 commerce.

20 In determining the burden, if any, of a State or po-  
21 litical subdivision standard or regulation on inter-  
22 state commerce, the Commission shall consider and  
23 make appropriate (as determined by the Commission  
24 in its discretion) findings on the technological and  
25 economic feasibility of complying with such standard

1 or regulation, the cost of complying with such stand-  
2 ard or regulation, the geographic distribution of the  
3 consumer product to which the standard or regula-  
4 tion would apply, the probability of other States or  
5 political subdivisions applying for an exemption  
6 under this subsection for a similar standard or regu-  
7 lation, and the need for a national, uniform standard  
8 under this Act for such consumer product.

9 (2) EFFECT OF STANDARDS ON ESTABLISHED  
10 STATE LAWS.—Nothing in this section or in section  
11 26 of the Consumer Product Safety Act (15 U.S.C.  
12 2075) shall prevent a State or political subdivision  
13 of a State from continuing in effect a safety require-  
14 ment applicable to a toy or other children’s product  
15 that is designed to deal with the same risk of injury  
16 as the consumer product safety standards estab-  
17 lished by this section and that is in effect on the day  
18 before the date of enactment of this Act, if such  
19 State or political subdivision has filed such require-  
20 ment with the Commission within 90 days after the  
21 date of enactment of this Act, in such form and in  
22 such manner as the Commission may require.

23 (i) JUDICIAL REVIEW.—The issuance of any rule  
24 under this section is subject to judicial review as provided

1 in section 11(g) of the Consumer Product Safety Act (15  
2 U.S.C. 2060(g)), as added by section 236 of this Act.

3 **SEC. 107. STUDY OF PREVENTABLE INJURIES AND DEATHS**  
4 **IN MINORITY CHILDREN RELATED TO CON-**  
5 **SUMER PRODUCTS.**

6 (a) IN GENERAL.—Not later than 90 days after the  
7 date of enactment of this Act, the Comptroller General  
8 shall initiate a study, by the Government Accountability  
9 Office or by contract through an independent entity, to  
10 assess disparities in the risks and incidence of preventable  
11 injuries and deaths among children of minority popu-  
12 lations, including Black, Hispanic, American Indian, Alas-  
13 ka Native, Native Hawaiian, and Asian/Pacific Islander  
14 children in the United States. The Comptroller General  
15 shall consult with the Commission as necessary.

16 (b) REQUIREMENTS.—The study shall examine the  
17 racial disparities of the rates of preventable injuries and  
18 deaths related to suffocation, poisonings, and drownings,  
19 including those associated with the use of cribs, mattresses  
20 and bedding materials, swimming pools and spas, and toys  
21 and other products intended for use by children.

22 (c) REPORT.—Not later than 1 year after the date  
23 of enactment of this Act, the Comptroller General shall  
24 report the findings to the appropriate Congressional com-  
25 mittees. The report shall include—

1           (1) the Comptroller General’s findings on the  
2           incidence of preventable risks of injuries and deaths  
3           among children of minority populations and rec-  
4           ommendations for minimizing such risks;

5           (2) recommendations for public outreach,  
6           awareness, and prevention campaigns specifically  
7           aimed at racial minority populations; and

8           (3) recommendations for education initiatives  
9           that may reduce statistical disparities.

10 **SEC. 108. PROHIBITION ON SALE OF CERTAIN PRODUCTS**  
11 **CONTAINING SPECIFIED PHTHALATES.**

12           (a) PROHIBITION ON THE SALE OF CERTAIN PROD-  
13 UCTS CONTAINING PHTHALATES.—Beginning on the date  
14 that is 180 days after the date of enactment of this Act,  
15 it shall be unlawful for any person to manufacture for sale,  
16 offer for sale, distribute in commerce, or import into the  
17 United States any children’s toy or child care article that  
18 contains concentrations of more than 0.1 percent of di-  
19 (2-ethylhexyl) phthalate (DEHP), dibutyl phthalate  
20 (DBP), or benzyl butyl phthalate (BBP).

21           (b) PROHIBITION ON THE SALE OF ADDITIONAL  
22 PRODUCTS CONTAINING CERTAIN PHTHALATES.—

23           (1) INTERIM PROHIBITION.—Beginning on the  
24           date that is 180 days after the date of enactment of  
25           this Act and until a final rule is promulgated under

1 paragraph (3), it shall be unlawful for any person to  
2 manufacture for sale, offer for sale, distribute in  
3 commerce, or import into the United States any chil-  
4 dren's toy that can be placed in a child's mouth or  
5 child care article that contains concentrations of  
6 more than 0.1 percent of diisononyl phthalate  
7 (DINP), diisodecyl phthalate (DIDP), or di-n-octyl  
8 phthalate (DnOP).

9 (2) CHRONIC HAZARD ADVISORY PANEL.—

10 (A) APPOINTMENT.—Not earlier than 180  
11 days after the date of enactment of this Act,  
12 the Commission shall begin the process of ap-  
13 pointing a Chronic Hazard Advisory Panel pur-  
14 suant to the procedures of section 28 of the  
15 Consumer Product Safety Act (15 U.S.C. 2077)  
16 to study the effects on children's health of all  
17 phthalates and phthalate alternatives as used in  
18 children's toys and child care articles.

19 (B) EXAMINATION.—The panel shall, with-  
20 in 18 months after its appointment under sub-  
21 paragraph (A), complete an examination of the  
22 full range of phthalates that are used in prod-  
23 ucts for children and shall—

- 1 (i) examine all of the potential health  
2 effects (including endocrine disrupting ef-  
3 fects) of the full range of phthalates;
- 4 (ii) consider the potential health ef-  
5 fects of each of these phthalates both in  
6 isolation and in combination with other  
7 phthalates;
- 8 (iii) examine the likely levels of chil-  
9 dren's, pregnant women's, and others' ex-  
10 posure to phthalates, based on a reason-  
11 able estimation of normal and foreseeable  
12 use and abuse of such products;
- 13 (iv) consider the cumulative effect of  
14 total exposure to phthalates, both from  
15 children's products and from other sources,  
16 such as personal care products;
- 17 (v) review all relevant data, including  
18 the most recent, best-available, peer-re-  
19 viewed, scientific studies of these  
20 phthalates and phthalate alternatives that  
21 employ objective data collection practices  
22 or employ other objective methods;
- 23 (vi) consider the health effects of  
24 phthalates not only from ingestion but also

1 as a result of dermal, hand-to-mouth, or  
2 other exposure;

3 (vii) consider the level at which there  
4 is a reasonable certainty of no harm to  
5 children, pregnant women, or other suscep-  
6 tible individuals and their offspring, con-  
7 sidering the best available science, and  
8 using sufficient safety factors to account  
9 for uncertainties regarding exposure and  
10 susceptibility of children, pregnant women,  
11 and other potentially susceptible individ-  
12 uals; and

13 (viii) consider possible similar health  
14 effects of phthalate alternatives used in  
15 children's toys and child care articles.

16 The panel's examinations pursuant to this para-  
17 graph shall be conducted *de novo*. The findings  
18 and conclusions of any previous Chronic Haz-  
19 ard Advisory Panel on this issue and other  
20 studies conducted by the Commission shall be  
21 reviewed by the panel but shall not be consid-  
22 ered determinative.

23 (C) REPORT.—Not later than 180 days  
24 after completing its examination, the panel ap-  
25 pointed under subparagraph (A) shall report to



1 the Commission the results of the examination  
2 conducted under this section and shall make  
3 recommendations to the Commission regarding  
4 any phthalates (or combinations of phthalates)  
5 in addition to those identified in subsection (a)  
6 or phthalate alternatives that the panel deter-  
7 mines should be declared banned hazardous  
8 substances.

9 (3) PERMANENT PROHIBITION BY RULE.—Not  
10 later than 180 days after receiving the report of the  
11 panel under paragraph (2)(C), the Commission shall,  
12 pursuant to section 553 of title 5, United States  
13 Code, promulgate a final rule to—

14 (A) determine, based on such report,  
15 whether to continue in effect the prohibition  
16 under paragraph (1), in order to ensure a rea-  
17 sonable certainty of no harm to children, preg-  
18 nant women, or other susceptible individuals  
19 with an adequate margin of safety; and

20 (B) evaluate the findings and recommenda-  
21 tions of the Chronic Hazard Advisory Panel  
22 and declare any children's product containing  
23 any phthalates to be a banned hazardous prod-  
24 uct under section 8 of the Consumer Product  
25 Safety Act (15 U.S.C. 2057), as the Commis-

1           sion determines necessary to protect the health  
2           of children.

3           (c) TREATMENT OF VIOLATION.—A violation of sub-  
4 section (a) or (b)(1) or any rule promulgated by the Com-  
5 mission under subsection (b)(3) shall be treated as a viola-  
6 tion of section 19(a)(1) of the Consumer Product Safety  
7 Act (15 U.S.C. 2068(a)(1)).

8           (d) TREATMENT AS CONSUMER PRODUCT SAFETY  
9 STANDARDS; EFFECT ON STATE LAWS.—Subsections (a)  
10 and (b)(1) and any rule promulgated under subsection  
11 (b)(3) shall be considered consumer product safety stand-  
12 ards under the Consumer Product Safety Act. Nothing in  
13 this section or the Consumer Product Safety Act (15  
14 U.S.C. 2051 et seq.) shall be construed to preempt or oth-  
15 erwise affect any State requirement with respect to any  
16 phthalate alternative not specifically regulated in a con-  
17 sumer product safety standard under the Consumer Prod-  
18 uct Safety Act.

19           (e) DEFINITIONS.—

20           (1) DEFINED TERMS.—As used in this section:

21           (A) The term “phthalate alternative”  
22           means any common substitute to a phthalate,  
23           alternative material to a phthalate, or alter-  
24           native plasticizer.

1           (B) The term “children’s toy” means a  
2 consumer product designed or intended by the  
3 manufacturer for a child 12 years of age or  
4 younger for use by the child when the child  
5 plays.

6           (C) The term “child care article” means a  
7 consumer product designed or intended by the  
8 manufacturer to facilitate sleep or the feeding  
9 of children age 3 and younger, or to help such  
10 children with sucking or teething.

11           (D) The term “consumer product” has the  
12 meaning given such term in section 3(a)(1) of  
13 the Consumer Product Safety Act (15 U.S.C.  
14 2052(a)(1)).

15 (2) DETERMINATION GUIDELINES.—

16           (A) AGE.—In determining whether prod-  
17 ucts described in paragraph (1) are designed or  
18 intended for use by a child of the ages specified,  
19 the following factors shall be considered:

20           (i) A statement by a manufacturer  
21 about the intended use of such product, in-  
22 cluding a label on such product if such  
23 statement is reasonable.

24           (ii) Whether the product is rep-  
25 resented in its packaging, display, pro-

1 motion, or advertising as appropriate for  
2 use by children of the ages specified.

3 (iii) Whether the product is commonly  
4 recognized by consumers as being intended  
5 for use by a child of the ages specified.

6 (iv) The Age Determination guidelines  
7 issued by the Commission staff in Sep-  
8 tember 2002 and any successor to such  
9 guidelines.

10 (B) TOY THAT CAN BE PLACED IN A  
11 CHILD'S MOUTH.— For purposes of this section  
12 a toy can be placed in a child's mouth if any  
13 part of the toy can actually be brought to the  
14 mouth and kept in the mouth by a child so that  
15 it can be sucked and chewed. If the children's  
16 product can only be licked, it is not regarded as  
17 able to be placed in the mouth. If a toy or part  
18 of a toy in one dimension is smaller than 5 cen-  
19 timeters, it can be placed in the mouth.

1 **TITLE II—CONSUMER PRODUCT**  
2 **SAFETY COMMISSION REFORM**  
3 **Subtitle A—Administrative**  
4 **Improvements**

5 **SEC. 201. REAUTHORIZATION OF THE COMMISSION.**

6 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-  
7 section (a) of section 32 (15 U.S.C. 2081) is amended to  
8 read as follows:

9 “(a) GENERAL AUTHORIZATION OF APPROPRIA-  
10 TIONS.—

11 “(1) IN GENERAL.—There are authorized to be  
12 appropriated to the Commission for the purpose of  
13 carrying out the provisions of this Act and any other  
14 provision of law the Commission is authorized or di-  
15 rected to carry out—

16 “(A) \$118,200,000 for fiscal year 2010;

17 “(B) \$115,640,000 for fiscal year 2011;

18 “(C) \$123,994,000 for fiscal year 2012;

19 “(D) \$131,783,000 for fiscal year 2013;

20 and

21 “(E) \$136,409,000 for fiscal year 2014.

22 “(2) TRAVEL ALLOWANCE.—From amounts ap-  
23 propriated pursuant to paragraph (1), there shall be  
24 made available \$1,200,000 for fiscal year 2010,  
25 \$1,248,000 for fiscal year 2011, \$1,297,000 for fis-

1 cal year 2012, \$1,350,000 for fiscal year 2013, and  
2 \$1,403,000 for fiscal year 2014, for travel, subsist-  
3 ence, and related expenses incurred in furtherance of  
4 the official duties of Commissioners and employees  
5 with respect to attendance at meetings or similar  
6 functions, which shall be used by the Commission  
7 for such purposes in lieu of acceptance of payment  
8 or reimbursement for such expenses from any per-  
9 son—

10 “(A) seeking official action from, doing  
11 business with, or conducting activities regulated  
12 by, the Commission; or

13 “(B) whose interests may be substantially  
14 affected by the performance or nonperformance  
15 of the Commissioner’s or employee’s official du-  
16 ties.”.

17 (b) REPORT.—Not later than 180 days after the date  
18 of enactment of this Act, the Commission shall transmit  
19 to the appropriate Congressional committees a report of  
20 its plans to allocate the funding authorized by subsection  
21 (a). Such report shall include—

22 (1) the number of full-time investigators and  
23 other full-time equivalents the Commission intends  
24 to employ;

1           (2) efforts by the Commission to develop stand-  
2           ards for training product safety inspectors and tech-  
3           nical staff employed by the Commission;

4           (3) efforts and policies of the Commission to  
5           encourage Commission scientific staff to seek appro-  
6           priate publishing opportunities in peer-reviewed jour-  
7           nals and other media; and

8           (4) the efforts of the Commission to reach and  
9           educate retailers of second-hand products and infor-  
10          mal sellers, such as thrift shops and yard sales, con-  
11          cerning consumer product safety rules and product  
12          recalls, especially those relating to durable nursery  
13          products, in order to prevent the resale of any prod-  
14          ucts that have been recalled, including the develop-  
15          ment of educational materials for distribution not  
16          later than 1 year after the date of enactment of this  
17          Act.

18          (c) CONFORMING AMENDMENTS.—Section 32 (15  
19          U.S.C. 2081) is further amended by striking subsection  
20          (b) and redesignating subsection (c) as subsection (b) and  
21          inserting after such subsection designation the following:  
22          “LIMITATION.—”.

1 **SEC. 202. FULL COMMISSION REQUIREMENT; INTERIM**  
2 **QUORUM; PERSONNEL.**

3 (a) TEMPORARY QUORUM.—Notwithstanding section  
4 4(d) of the Consumer Product Safety Act (15 U.S.C.  
5 2053(d)), 2 members of the Commission, if they are not  
6 affiliated with the same political party, shall constitute a  
7 quorum for the transaction of business for the 1 year pe-  
8 riod beginning on the date of enactment of this Act.

9 (b) REPEAL OF QUORUM LIMITATION.—

10 (1) REPEAL.—Title III of Public Law 102–389  
11 is amended by striking the first proviso in the item  
12 captioned “CONSUMER PRODUCT SAFETY COMMIS-  
13 SION, SALARIES AND EXPENSES” (15 U.S.C. 2053  
14 note).

15 (2) EFFECTIVE DATE.—The amendment made  
16 by paragraph (1) shall take effect 1 year after the  
17 date of enactment of this Act.

18 (c) PERSONNEL.—

19 (1) PROFESSIONAL STAFF.—The Commission  
20 shall increase the number of full-time personnel em-  
21 ployed by the Commission to at least 500 by October  
22 1, 2013, subject to the availability of appropriations.

23 (2) PORTS OF ENTRY; OVERSEAS INSPEC-  
24 TORS.—As part of the 500 full-time employees re-  
25 quired by paragraph (1), the Commission shall hire  
26 personnel to be assigned to duty stations at United



1 States ports of entry, or to inspect overseas manu-  
2 facturing facilities, subject to the availability of ap-  
3 propriations.

4 **SEC. 203. SUBMISSION OF COPY OF CERTAIN DOCUMENTS**  
5 **TO CONGRESS.**

6 (a) IN GENERAL.—Notwithstanding any rule, regula-  
7 tion, or order to the contrary, the Commission shall com-  
8 ply with the requirements of section 27(k) of the Con-  
9 sumer Product Safety Act (15 U.S.C. 2076(k)) with re-  
10 spect to budget recommendations, legislative recommenda-  
11 tions, testimony, and comments on legislation submitted  
12 by the Commission to the President or the Office of Man-  
13 agement and Budget after the date of enactment of this  
14 Act.

15 (b) REINSTATEMENT OF REQUIREMENT.—Section  
16 3003(d) of Public Law 104–66 (31 U.S.C. 1113 note) is  
17 amended—

18 (1) by striking “or” after the semicolon in  
19 paragraph (31);

20 (2) by redesignating paragraph (32) as (33);  
21 and

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

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

1 **SEC. 204. EXPEDITED RULEMAKING.**

2 (a) ANPR REQUIREMENT.—

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

5 (A) by striking “shall be commenced” in  
6 subsection (a) and inserting “may be com-  
7 menced”;

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

10 (C) by striking “unless, not less than 60  
11 days after publication of the notice required in  
12 subsection (a), the” in subsection (c) and in-  
13 serting “unless the”;

14 (D) by striking “an advance notice of pro-  
15 posed rulemaking under subsection (a) relating  
16 to the product involved,” in the third sentence  
17 of subsection (c) and inserting “the notice,”;  
18 and

19 (E) by striking “Register.” in the matter  
20 following paragraph (4) of subsection (c) and  
21 inserting “Register. Nothing in this subsection  
22 shall preclude any person from submitting an  
23 existing standard or portion of a standard as a  
24 proposed consumer product safety standard.”.

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) RULEMAKING.—

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

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

24           (2) PROCEDURE.—Section 2(q)(2) of the Fed-  
25           eral Hazardous Substances Act (15 U.S.C.

1       1261(q)(2)) is amended by striking “Proceedings for  
2       the issuance, amendment, or repeal of regulations  
3       pursuant to clause (B) of subparagraph (1) of this  
4       paragraph shall be governed by the provisions of sec-  
5       tions 701(e), (f), and (g) of the Federal Food, Drug,  
6       and Cosmetic Act: Provided, That if” and inserting  
7       “Proceedings for the issuance, amendment, or repeal  
8       of regulations pursuant to clause (B) of subpara-  
9       graph (1) of this paragraph shall be governed by the  
10      provisions of subsections (f) through (i) of section 3  
11      of this Act, except that if”.

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

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

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

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

24           (D) by striking “Committee on Commerce”  
25      and all that follows through “Representatives.”

1 in subsection (h), and inserting “appropriate  
2 Congressional committees. Nothing in this sub-  
3 section shall preclude any person from submit-  
4 ting an existing standard or portion of a stand-  
5 ard as a proposed regulation.”

6 (4) OTHER CONFORMING AMENDMENTS.—The  
7 Federal Hazardous Substances Act (15 U.S.C. 1261  
8 et seq.) is amended—

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

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

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

15 (i) in section 10(b) (15 U.S.C.  
16 1269(b));

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

18 and

19 (iii) in section 21(a) (15 U.S.C.  
20 1276(a));

21 (C) by striking “Department” each place it  
22 appears, except in sections 5(c)(6)(D)(i) and  
23 14(b) (15 U.S.C. 1264(c)(6)(D)(i) and  
24 1273(b)), and inserting “Commission”;

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

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

8 (F) by striking “Secretary of Health, Edu-  
9 cation, and Welfare” each place it appears in  
10 section 14 (15 U.S.C. 1273) and inserting  
11 “Commission”;

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

15 (H) by striking “Consumer Product Safety  
16 Commission” each place it appears and insert-  
17 ing “Commission”;

18 (I) by striking “(hereinafter in this section  
19 referred to as the ‘Commission’)” in section  
20 14(d) (15 U.S.C. 1273(d)) and section 20(a)(1)  
21 (15 U.S.C. 1275(a)(1)); and

22 (J) by striking paragraph (5) of section  
23 18(b) (15 U.S.C. 1261 note).

24 (c) RULEMAKING UNDER FLAMMABLE FABRICS  
25 ACT.—

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

3           (A) by striking “shall be commenced” in  
4 subsection (g) and inserting “may be com-  
5 menced by a notice of proposed rulemaking or”;

6           (B) by striking “unless, not less than 60  
7 days after publication of the notice required in  
8 subsection (g), the” in subsection (i) and insert-  
9 ing “unless the”; and

10           (C) by striking “Committee on Commerce”  
11 and all that follows through “Representatives.”  
12 in subsection (i), and inserting “appropriate  
13 Congressional committees. Nothing in this sub-  
14 section shall preclude any person from submit-  
15 ting an existing standard or portion of a stand-  
16 ard as a proposed regulation.”

17           (2) OTHER CONFORMING AMENDMENTS.—The  
18 Flammable Fabrics Act (15 U.S.C. 1193) is amend-  
19 ed—

20           (A) by striking paragraph (i) of section 2  
21 (15 U.S.C. 1191(i)) and inserting the following:

22           “(i) The term ‘Commission’ means the Consumer  
23 Product Safety Commission.”;

1 (B) by striking “Secretary of Commerce”  
2 each place it appears and inserting “Commis-  
3 sion”;

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

7 (D) by striking “he” and “his” each place  
8 either such word appears in reference to the  
9 Secretary and inserting “it” and “its”, respec-  
10 tively;

11 (E) by striking paragraph (5) of section  
12 4(e) (15 U.S.C. 1193(e)) and redesignating  
13 paragraph (6) as paragraph (5);

14 (F) by striking “Consumer Product Safety  
15 Commission (hereinafter in this section referred  
16 to as the ‘Commission’) in section 15 (15  
17 U.S.C. 1202)” and inserting “Commission”;

18 (G) by amending subsection (d) of section  
19 16 (15 U.S.C. 1203) to read as follows:

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



1 (H) by striking “Consumer Product Safety  
2 Commission” in section 17 (15 U.S.C. 1204)  
3 and inserting “Commission”.

4 **SEC. 205. INSPECTOR GENERAL AUDITS AND REPORTS.**

5 (a) IMPROVEMENTS BY THE COMMISSION.—The In-  
6 spector General of the Commission shall conduct reviews  
7 and audits to assess—

8 (1) the Commission’s capital improvement ef-  
9 forts, including improvements and upgrades of the  
10 Commission’s information technology architecture  
11 and systems and the development of the database of  
12 publicly available information on incidents involving  
13 injury or death required under section 6A of the  
14 Consumer Product Safety Act, as added by section  
15 212 of this Act; and

16 (2) the adequacy of procedures for accrediting  
17 conformity assessment bodies as authorized by sec-  
18 tion 14(a)(3) of the Consumer Product Safety Act  
19 (15 U.S.C. 2063(a)(3)), as amended by this Act,  
20 and overseeing the third party testing required by  
21 such section.

22 (b) EMPLOYEE COMPLAINTS.—Within 1 year after  
23 the date of enactment of this Act, the Inspector General  
24 shall conduct a review of—

1           (1) complaints received by the Inspector Gen-  
2           eral from employees of the Commission about fail-  
3           ures of other employees to enforce the rules or regu-  
4           lations of the Consumer Product Safety Act or any  
5           other Act enforced by the Commission or otherwise  
6           carry out their responsibilities under such Acts if  
7           such alleged failures raise issues of conflicts of inter-  
8           est, ethical violations, or the absence of good faith;  
9           and

10           (2) actions taken by the Commission to address  
11           such failures and complaints, including an assess-  
12           ment of the timeliness and effectiveness of such ac-  
13           tions.

14           (c) PUBLIC INTERNET WEBSITE LINKS.—Not later  
15           than 30 days after the date of enactment of this Act, the  
16           Commission shall establish and maintain—

17           (1) a direct link on the homepage of its Inter-  
18           net website to the Internet webpage of the Commis-  
19           sion’s Office of Inspector General; and

20           (2) a mechanism on the webpage of the Com-  
21           mission’s Office of Inspector General by which indi-  
22           viduals may anonymously report cases of waste,  
23           fraud, or abuse with respect to the Commission.

24           (d) REPORTS.—

1           (1) ACTIVITIES AND NEEDS OF INSPECTOR  
2           GENERAL.—Not later than 60 days after the date of  
3           enactment of this Act, the Inspector General of the  
4           Commission shall transmit a report to the appro-  
5           priate Congressional committees on the activities of  
6           the Inspector General, any structural barriers which  
7           prevent the Inspector General from providing robust  
8           oversight of the activities of the Commission, and  
9           any additional authority or resources that would fa-  
10          cilitate more effective oversight.

11          (2) REVIEWS OF IMPROVEMENTS AND EM-  
12          PLOYEE COMPLAINTS.—Beginning for fiscal year  
13          2010, the Inspector General of the Commission shall  
14          include in an annual report to the appropriate Con-  
15          gressional committees the Inspector General’s find-  
16          ings, conclusions, and recommendations from the re-  
17          views and audits under subsections (a) and (b).

18 **SEC. 206. INDUSTRY-SPONSORED TRAVEL BAN.**

19          (a) IN GENERAL.—The Act (15 U.S.C. 1251 et seq.)  
20          is amended by adding at the end the following new section:

21 **“SEC. 39. PROHIBITION ON INDUSTRY-SPONSORED TRAVEL.**

22          “Notwithstanding section 1353 of title 31, United  
23          States Code, and section 27(b)(6) of this Act, no Commis-  
24          sioner or employee of the Commission shall accept travel,  
25          subsistence, or related expenses with respect to attendance

1 by a Commissioner or employee at any meeting or similar  
2 function relating to official duties of a Commissioner or  
3 an employee, from a person—

4 “(1) seeking official action from, doing business  
5 with, or conducting activities regulated by, the Com-  
6 mission; or

7 “(2) whose interests may be substantially af-  
8 fected by the performance or nonperformance of the  
9 Commissioner’s or employee’s official duties.”.

10 (b) CLERICAL AMENDMENT.—The table of contents  
11 in section 1 (15 U.S.C. 2051 note) is amended by insert-  
12 ing at the end the following:

“Sec. 39. Prohibition on industry-sponsored travel.”.

13 **SEC. 207. SHARING OF INFORMATION WITH FEDERAL,**  
14 **STATE, LOCAL, AND FOREIGN GOVERNMENT**  
15 **AGENCIES.**

16 Section 29 (15 U.S.C. 2078) is amended by adding  
17 at the end the following:

18 “(f) SHARING OF INFORMATION WITH FEDERAL,  
19 STATE, LOCAL, AND FOREIGN GOVERNMENT AGEN-  
20 CIES.—

21 “(1) AGREEMENTS AND CONDITIONS.—Not-  
22 withstanding the requirements of subsections (a)(3)  
23 and (b) of section 6, relating to public disclosure of  
24 information, the Commission may make information  
25 obtained by the Commission available to any Fed-

1       eral, State, local, or foreign government agency upon  
2       the prior certification of an appropriate official of  
3       any such agency, either by a prior agreement or  
4       memorandum of understanding with the Commission  
5       or by other written certification, that such material  
6       will be maintained in confidence and will be used  
7       only for official law enforcement or consumer protec-  
8       tion purposes, if—

9               “(A) the agency has set forth a bona fide  
10              legal basis for its authority to maintain the ma-  
11              terial in confidence;

12             “(B) the materials are to be used for pur-  
13              poses of investigating, or engaging in enforce-  
14              ment proceedings related to, possible violations  
15              of—

16               “(i) laws regulating the manufacture,  
17               importation, distribution, or sale of defec-  
18               tive or unsafe consumer products, or other  
19               practices substantially similar to practices  
20               prohibited by any law administered by the  
21               Commission;

22               “(ii) a law administered by the Com-  
23               mission, if disclosure of the material would  
24               further a Commission investigation or en-  
25               forcement proceeding; or

1                   “(iii) with respect to a foreign law en-  
2                   forcement agency, with the approval of the  
3                   Attorney General, other foreign criminal  
4                   laws, if such foreign criminal laws are of-  
5                   fenses defined in or covered by a criminal  
6                   mutual legal assistance treaty in force be-  
7                   tween the government of the United States  
8                   and the foreign law enforcement agency’s  
9                   government; and

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

20                   “(2) ABROGATION OF AGREEMENTS.—The  
21                   Commission may abrogate any agreement or memo-  
22                   randum of understanding with another agency if the  
23                   Commission determines that the other agency has  
24                   failed to maintain in confidence any information pro-  
25                   vided under such agreement or memorandum of un-

1       derstanding, or has used any such information for  
2       purposes other than those set forth in such agree-  
3       ment or memorandum of understanding.

4           “(3) ADDITIONAL RULES AGAINST DISCLO-  
5       SURE.—Except as provided in paragraph (4), the  
6       Commission shall not be required to disclose under  
7       section 552 of title 5, United States Code, or any  
8       other provision of law—

9           “(A) any material obtained from a foreign  
10       government agency, if the foreign government  
11       agency has requested confidential treatment, or  
12       has precluded such disclosure under other use  
13       limitations, as a condition of providing the ma-  
14       terial;

15          “(B) any material reflecting a consumer  
16       complaint obtained from any other foreign  
17       source, if that foreign source supplying the ma-  
18       terial has requested confidential treatment as a  
19       condition of providing the material; or

20          “(C) any material reflecting a consumer  
21       complaint submitted to a Commission reporting  
22       mechanism sponsored in part by foreign govern-  
23       ment agencies.

24          “(4) LIMITATION.—Nothing in this subsection  
25       authorizes the Commission to withhold information

1 from the Congress or prevent the Commission from  
2 complying with an order of a court of the United  
3 States in an action commenced by the United States  
4 or the Commission.

5 “(5) DEFINITION.—In this subsection, the term  
6 ‘foreign government agency’ means—

7 “(A) any agency or judicial authority of a  
8 foreign government, including a foreign state, a  
9 political subdivision of a foreign state, or a mul-  
10 tinational organization constituted by and com-  
11 prised of foreign states, that is vested with law  
12 enforcement or investigative authority in civil,  
13 criminal, or administrative matters; and

14 “(B) any multinational organization, to the  
15 extent that it is acting on behalf of an entity  
16 described in subparagraph (A).

17 “(g) NOTIFICATION TO STATE HEALTH DEPART-  
18 MENTS.—Whenever the Commission is notified of any vol-  
19 untary corrective action taken by a manufacturer (or a  
20 retailer in the case of a retailer selling a product under  
21 its own label) in consultation with the Commission, or  
22 issues an order under section 15(c) or (d) with respect  
23 to any product, the Commission shall notify each State’s  
24 health department (or other agency designated by the  
25 State) of such voluntary corrective action or order.”.



1 **SEC. 208. EMPLOYEE TRAINING EXCHANGES.**

2 (a) IN GENERAL.—The Commission may—

3 (1) retain or employ officers or employees of  
4 foreign government agencies on a temporary basis  
5 pursuant to section 4 of the Consumer Product  
6 Safety Act (15 U.S.C. 2053) or section 3101 or  
7 3109 of title 5, United States Code; and

8 (2) detail officers or employees of the Commis-  
9 sion to work on a temporary basis for appropriate  
10 foreign government agencies for the purpose of pro-  
11 viding or receiving training.

12 (b) RECIPROCITY AND REIMBURSEMENT.—The Com-  
13 mission may execute the authority contained in subsection  
14 (a) with or without reimbursement in money or in kind,  
15 and with or without reciprocal arrangements by or on be-  
16 half of the foreign government agency involved. Any  
17 amounts received as reimbursement for expenses incurred  
18 by the Commission under this section shall be credited to  
19 the appropriations account from which such expenses were  
20 paid.

21 (c) STANDARDS OF CONDUCT.—An individual re-  
22 tained or employed under subsection (a)(1) shall be con-  
23 sidered to be a Federal employee while so retained or em-  
24 ployed, only for purposes of—

25 (1) injury compensation as provided in chapter  
26 81 of title 5, United States Code, and tort claims li-

1 ability under chapter 171 of title 28, United States  
2 Code;

3 (2) the Ethics in Government Act (5 U.S.C.  
4 App.) and the provisions of chapter 11 of title 18,  
5 United States Code; and

6 (3) any other statute or regulation governing  
7 the conduct of Federal employees.

8 **SEC. 209. ANNUAL REPORTING REQUIREMENT.**

9 (a) IN GENERAL.—Section 27(j) (15 U.S.C. 2076(j))  
10 is amended—

11 (1) in the matter preceding paragraph (1), by  
12 striking “The Commission” and inserting “Notwith-  
13 standing section 3003 of the Federal Reports Elimini-  
14 nation and Sunset Act of 1995 (31 U.S.C. 1113  
15 note), the Commission”; and

16 (2) by redesignating paragraphs (5) through  
17 (11) as paragraphs (7) through (13), respectively,  
18 and inserting after paragraph (4) the following:

19 “(5) the number and a summary of recall or-  
20 ders issued under section 12 or 15 during such year  
21 and a summary of voluntary corrective actions taken  
22 by manufacturers in consultation with the Commis-  
23 sion of which the Commission has notified the pub-  
24 lic, and an assessment of such orders and actions;

1           “(6) beginning not later than 1 year after the  
2           date of enactment of the Consumer Product Safety  
3           Improvement Act of 2008—

4                   “(A) progress reports and incident updates  
5                   with respect to action plans implemented under  
6                   section 15(d);

7                   “(B) statistics with respect to injuries and  
8                   deaths associated with products that the Com-  
9                   mission determines present a substantial prod-  
10                  uct hazard under section 15(c); and

11                  “(C) the number and type of communica-  
12                  tion from consumers to the Commission with  
13                  respect to each product with respect to which  
14                  the Commission takes action under section  
15                  15(d);”.

16           (b) EFFECTIVE DATE.—The amendments made by  
17           this section shall apply with respect to reports submitted  
18           for fiscal year 2009 and thereafter.

## 19   **Subtitle B—Enhanced Enforcement** 20                                   **Authority**

### 21   **SEC. 211. 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 “30 days” in subsection (b)(1)  
4 and inserting “15 days”;

5 (3) by striking “finds that the public” in sub-  
6 section (b)(1) and inserting “publishes a finding  
7 that the public”;

8 (4) by striking “notice and publishes such a  
9 finding in the Federal Register),” in subsection  
10 (b)(1) and inserting “notice,”;

11 (5) by striking “10 days” in subsection (b)(2)  
12 and inserting “5 days”;

13 (6) by striking “finds that the public” in sub-  
14 section (b)(2) and inserting “publishes a finding  
15 that the public”;

16 (7) by striking “notice and publishes such find-  
17 ing in the Federal Register.” in subsection (b)(2)  
18 and inserting “notice.”;

19 (8) in subsection (b)—

20 (A) by striking “(3)” and inserting  
21 “(3)(A)”; and

22 (B) by adding at the end thereof the fol-  
23 lowing:

24 “(B) If the Commission determines that  
25 the public health and safety requires expedited

1 consideration of an action brought under sub-  
2 paragraph (A), the Commission may file a re-  
3 quest with the District Court for such expedited  
4 consideration. If the Commission files such a  
5 request, the District Court shall—

6 “(i) assign the matter for hearing at  
7 the earliest possible date;

8 “(ii) give precedence to the matter, to  
9 the greatest extent practicable, over all  
10 other matters pending on the docket of the  
11 court at the time;

12 “(iii) expedite consideration of the  
13 matter to the greatest extent practicable;  
14 and

15 “(iv) grant or deny the requested in-  
16 junction within 30 days after the date on  
17 which the Commission’s request was filed  
18 with the court.”;

19 (9) by striking “section 19 (related to prohib-  
20 ited acts);” in subsection (b)(4) and inserting “any  
21 consumer product safety rule or provision of this Act  
22 or similar rule or provision of any other Act enforced  
23 by the Commission;”;

24 (10) by striking “or” after the semicolon in  
25 subsection (b)(5)(B);

1 (11) by striking “disclosure.” in subsection  
2 (b)(5)(C) and inserting “disclosure; or”;

3 (12) by inserting in subsection (b)(5) after sub-  
4 paragraph (C) the following:

5 “(D) the Commission publishes a finding  
6 that the public health and safety requires public  
7 disclosure with a lesser period of notice than is  
8 required under paragraph (1).”; and

9 (13) in the matter following subparagraph (D)  
10 of subsection (b)(5) (as added by paragraph (12) of  
11 this section), by striking “section 19(a),” and insert-  
12 ing “any consumer product safety rule or provision  
13 under this Act or similar rule or provision of any  
14 other Act enforced by the Commission,”.

15 **SEC. 212. ESTABLISHMENT OF A PUBLIC CONSUMER PROD-**  
16 **UCT SAFETY DATABASE.**

17 (a) IN GENERAL.—The Act is amended by inserting  
18 after section 6 (15 U.S.C. 2055) the following:

19 **“SEC. 6A. PUBLICLY AVAILABLE CONSUMER PRODUCT**  
20 **SAFETY INFORMATION DATABASE.**

21 “(a) DATABASE REQUIRED.—

22 “(1) IN GENERAL.—Subject to the availability  
23 of appropriations, the Commission shall, in accord-  
24 ance with the requirements of this section, establish  
25 and maintain a database on the safety of consumer

1 products, and other products or substances regu-  
2 lated by the Commission, that is—

3 “(A) publicly available;

4 “(B) searchable; and

5 “(C) accessible through the Internet  
6 website of the Commission.

7 “(2) SUBMISSION OF DETAILED IMPLEMENTA-  
8 TION PLAN TO CONGRESS.—Not later than 180 days  
9 after the date of enactment of the Consumer Prod-  
10 uct Safety Improvement Act of 2008, the Commis-  
11 sion shall transmit to the appropriate Congressional  
12 committees a detailed plan for establishing and  
13 maintaining the database required by paragraph (1),  
14 including plans for the operation, content, mainte-  
15 nance, and functionality of the database. The plan  
16 shall detail the integration of the database into the  
17 Commission’s overall information technology im-  
18 provement objectives and plans. The plan submitted  
19 under this subsection shall include a detailed imple-  
20 mentation schedule for the database, and plans for  
21 a public awareness campaign to be conducted by the  
22 Commission to increase consumer awareness of the  
23 database.

24 “(3) DATE OF INITIAL AVAILABILITY.—Not  
25 later than 18 months after the date on which the

1 Commission submits the plan required by paragraph  
2 (2), the Commission shall establish the database re-  
3 quired by paragraph (1).

4 “(b) CONTENT AND ORGANIZATION.—

5 “(1) CONTENTS.—Except as provided in sub-  
6 section (c)(4), the database shall include the fol-  
7 lowing:

8 “(A) Reports of harm relating to the use  
9 of consumer products, and other products or  
10 substances regulated by the Commission, that  
11 are received by the Commission from—

12 “(i) consumers;

13 “(ii) local, State, or Federal govern-  
14 ment agencies;

15 “(iii) health care professionals;

16 “(iv) child service providers; and

17 “(v) public safety entities.

18 “(B) Information derived by the Commis-  
19 sion from notice under section 15(c) or any no-  
20 tice to the public relating to a voluntary correc-  
21 tive action taken by a manufacturer, in con-  
22 sultation with the Commission, of which action  
23 the Commission has notified the public.



1           “(C) The comments received by the Com-  
2           mission under subsection (c)(2)(A) to the extent  
3           requested under subsection (c)(2)(B).

4           “(2) SUBMISSION OF INFORMATION.—In imple-  
5           menting the database, the Commission shall estab-  
6           lish the following:

7                   “(A) Electronic, telephonic, and paper-  
8                   based means of submitting, for inclusion in the  
9                   database, reports described in paragraph (1)(A)  
10                  of this subsection.

11                  “(B) A requirement that any report de-  
12                  scribed in paragraph (1)(A) submitted for in-  
13                  clusion in such database include, at a min-  
14                  imum—

15                          “(i) a description of the consumer  
16                          product (or other product or substance  
17                          regulated by the Commission) concerned;

18                          “(ii) identification of the manufac-  
19                          turer or private labeler of the consumer  
20                          product (or other product or substance  
21                          regulated by the Commission);

22                          “(iii) a description of the harm relat-  
23                          ing to the use of the consumer product (or  
24                          other product or substance regulated by  
25                          the Commission);

1                   “(iv) contact information for the per-  
2                   son submitting the report; and

3                   “(v) a verification by the person sub-  
4                   mitting the information that the informa-  
5                   tion submitted is true and accurate to the  
6                   best of the person’s knowledge and that  
7                   the person consents that such information  
8                   be included in the database.

9                   “(3) ADDITIONAL INFORMATION.—In addition  
10                  to the reports received under paragraph (1), the  
11                  Commission shall include in the database, consistent  
12                  with the requirements of section 6(a) and (b), any  
13                  additional information it determines to be in the  
14                  public interest.

15                  “(4) ORGANIZATION OF DATABASE.—The Com-  
16                  mission shall categorize the information available on  
17                  the database in a manner consistent with the public  
18                  interest and in such manner as it determines to fa-  
19                  cilitate easy use by consumers and shall ensure, to  
20                  the extent practicable, that the database is sortable  
21                  and accessible by—

22                               “(A) the date on which information is sub-  
23                               mitted for inclusion in the database;

1           “(B) the name of the consumer product  
2           (or other product or substance regulated by the  
3           Commission);

4           “(C) the model name;

5           “(D) the manufacturer’s or private label-  
6           er’s name; and

7           “(E) such other elements as the Commis-  
8           sion considers in the public interest.

9           “(5) NOTICE REQUIREMENTS.—The Commis-  
10          sion shall provide clear and conspicuous notice to  
11          users of the database that the Commission does not  
12          guarantee the accuracy, completeness, or adequacy  
13          of the contents of the database.

14          “(6) AVAILABILITY OF CONTACT INFORMA-  
15          TION.—The Commission may not disclose, under  
16          this section, the name, address, or other contact in-  
17          formation of any individual or entity that submits to  
18          the Commission a report described in paragraph  
19          (1)(A), except that the Commission may provide  
20          such information to the manufacturer or private la-  
21          beler of the product with the express written consent  
22          of the person submitting the information. Consumer  
23          information provided to a manufacturer or private  
24          labeler under this section may not be used or dis-  
25          seminated to any other party for any purpose other

1 than verifying a report submitted under paragraph  
2 (1)(A).

3 “(c) PROCEDURAL REQUIREMENTS.—

4 “(1) TRANSMISSION OF REPORTS TO MANUFAC-  
5 TURERS AND PRIVATE LABELERS.—Not later than 5  
6 business days after the Commission receives a report  
7 described in subsection (b)(1)(A) which includes the  
8 information required by subsection (b)(2)(B), the  
9 Commission shall to the extent practicable transmit  
10 the report, subject to subsection (b)(6), to the manu-  
11 facturer or private labeler identified in the report.

12 “(2) OPPORTUNITY TO COMMENT.—

13 “(A) IN GENERAL.—If the Commission  
14 transmits a report under paragraph (1) to a  
15 manufacturer or private labeler, the Commis-  
16 sion shall provide such manufacturer or private  
17 labeler an opportunity to submit comments to  
18 the Commission on the information contained in  
19 such report.

20 “(B) REQUEST FOR INCLUSION IN DATA-  
21 BASE.—A manufacturer or private labeler may  
22 request the Commission to include its comments  
23 in the database.

24 “(C) CONFIDENTIAL MATTER.—

1                   “(i) IN GENERAL.—If the Commission  
2                   transmits a report received under para-  
3                   graph (1) to a manufacturer or private la-  
4                   beler, the manufacturer or private labeler  
5                   may review the report for confidential in-  
6                   formation and request that portions of the  
7                   report identified as confidential be so des-  
8                   ignated.

9                   “(ii) REDACTION.—If the Commission  
10                  determines that the designated information  
11                  contains, or relates to, a trade secret or  
12                  other matter referred to in section 1905 of  
13                  title 18, United States Code, or that is  
14                  subject to section 552(b)(4) of title 5,  
15                  United States Code, the Commission shall  
16                  redact the designated information in the  
17                  report before it is placed in the database.

18                  “(iii) REVIEW.—If the Commission  
19                  determines that the designated information  
20                  is not confidential under clause (ii), the  
21                  Commission shall notify the manufacturer  
22                  or private labeler and include the informa-  
23                  tion in the database. The manufacturer or  
24                  private labeler may bring an action in the  
25                  district court of the United States in the

1 district in which the complainant resides,  
2 or has its principal place of business, or in  
3 the United States District Court for the  
4 District of Columbia, to seek removal of  
5 the information from the database.

6 “(3) PUBLICATION OF REPORTS AND COM-  
7 MENTS.—

8 “(A) REPORTS.—Except as provided in  
9 paragraph (4)(A), if the Commission receives a  
10 report described in subsection (b)(1)(A), the  
11 Commission shall make the report available in  
12 the database not later than the 10th business  
13 day after the date on which the Commission  
14 transmits the report under paragraph (1) of  
15 this subsection.

16 “(B) COMMENTS.—Except as provided in  
17 paragraph (4)(A), if the Commission receives a  
18 comment under paragraph (2)(A) with respect  
19 to a report described in subsection (b)(1)(A)  
20 and a request with respect to such comment  
21 under paragraph (2)(B) of this subsection, the  
22 Commission shall make such comment available  
23 in the database at the same time as such report  
24 or as soon as practicable thereafter.

25 “(4) INACCURATE INFORMATION.—

1           “(A) INACCURATE INFORMATION IN RE-  
2           PORTS AND COMMENTS RECEIVED.—If, prior to  
3           making a report described in subsection  
4           (b)(1)(A) or a comment described in paragraph  
5           (2) of this subsection available in the database,  
6           the Commission determines that the informa-  
7           tion in such report or comment is materially in-  
8           accurate, the Commission shall—

9                   “(i) decline to add the materially inac-  
10                  curate information to the database;

11                   “(ii) correct the materially inaccurate  
12                  information in the report or comment and  
13                  add the report or comment to the data-  
14                  base; or

15                   “(iii) add information to correct inac-  
16                  curate information in the database.

17           “(B) INACCURATE INFORMATION IN DATA-  
18           BASE.—If the Commission determines, after in-  
19           vestigation, that information previously made  
20           available in the database is materially inac-  
21           curate or duplicative of information in the data-  
22           base, the Commission shall, not later than 7  
23           business days after such determination—

24                   “(i) remove such information from the  
25                  database;

1 “(ii) correct such information; or

2 “(iii) add information to correct inaccurate information in the database.

3  
4 “(d) ANNUAL REPORT.—The Commission shall submit to the appropriate Congressional committees an annual report on the database, including—

5  
6  
7 “(1) the operation, content, maintenance, functionality, and cost of the database for the reporting year; and

8  
9  
10 “(2) the number of reports and comments for the year—

11  
12 “(A) received by the Commission under this section;

13  
14 “(B) posted on the database; and

15  
16 “(C) corrected on or removed from the database.

17 “(e) GAO STUDY.—Within 2 years after the date on which the Commission establishes the database under this section, the Comptroller General shall submit a report to the appropriate Congressional committees containing—

18  
19  
20  
21 “(1) an analysis of the general utility of the database, including—

22  
23 “(A) an assessment of the extent of use of the database by consumers, including whether the database is accessed by a broad range of



1 the public and whether consumers find the  
2 database to be useful; and

3 “(B) efforts by the Commission to inform  
4 the public about the database; and

5 “(2) recommendations for measures to increase  
6 use of the database by consumers and to ensure use  
7 by a broad range of the public.

8 “(f) APPLICATION OF CERTAIN NOTICE AND DISCLO-  
9 SURE REQUIREMENTS.—

10 “(1) IN GENERAL.—The provisions of section  
11 6(a) and (b) shall not apply to the disclosure under  
12 this section of a report described in subsection  
13 (b)(1)(A) of this section.

14 “(2) CONSTRUCTION.—Paragraph (1) shall not  
15 be construed to exempt from the requirements of  
16 section 6(a) and (b) information received by the  
17 Commission under—

18 “(A) section 15(b); or

19 “(B) any other mandatory or voluntary re-  
20 porting program established between a retailer,  
21 manufacturer, or private labeler and the Com-  
22 mission.

23 “(g) HARM DEFINED.—In this section, the term  
24 ‘harm’ means—

25 “(1) injury, illness, or death; or

1           “(2) risk of injury, illness, or death, as deter-  
2           mined by the Commission.”.

3           (b) **UPGRADE OF COMMISSION INFORMATION TECH-**  
4 **NOLOGY SYSTEMS.**—The Commission shall expedite ef-  
5 ferts to upgrade and improve the information technology  
6 systems in use by the Commission on the date of enact-  
7 ment of this Act.

8           (c) **CLERICAL AMENDMENT.**—The table of contents  
9 in section 1 (15 U.S.C. 2051 note), as amended by section  
10 206, is amended by inserting after the item relating to  
11 section 6 the following new item:

“Sec. 6A. Publicly available consumer product safety information database.”.

12 **SEC. 213. PROHIBITION ON STOCKPILING UNDER OTHER**  
13 **COMMISSION-ENFORCED STATUTES.**

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

15           (1) by inserting “or to which a rule under this  
16 Act or similar rule, regulation, standard, or ban  
17 under any other Act enforced by the Commission ap-  
18 plies,” after “applies,”; and

19           (2) by striking “consumer product safety rule”  
20 the second, third, and fourth places it appears, and  
21 inserting “rule, regulation, standard, or ban”.

22 **SEC. 214. ENHANCED RECALL AUTHORITY AND CORREC-**  
23 **TIVE ACTION PLANS.**

24           (a) **ENHANCED RECALL AUTHORITY.**—Section 15  
25 (15 U.S.C. 2064) is amended—

1 (1) in subsection (a)(1), by inserting “under  
2 this Act or a similar rule, regulation, standard, or  
3 ban under any other Act enforced by the Commis-  
4 sion” after “consumer product safety rule”;

5 (2) in subsection (b)—

6 (A) by striking “consumer product distrib-  
7 uted in commerce,” and inserting “consumer  
8 product, or other product or substance over  
9 which the Commission has jurisdiction under  
10 any other Act enforced by the Commission  
11 (other than motor vehicle equipment as defined  
12 in section 30102(a)(7) of title 49, United  
13 States Code), distributed in commerce,”;

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

16 (C) by inserting after paragraph (1) the  
17 following:

18 “(2) fails to comply with any other rule, regula-  
19 tion, standard, or ban under this Act or any other  
20 Act enforced by the Commission;” and

21 (D) by adding at the end the following: “A  
22 report provided under paragraph (2) may not  
23 be used as the basis for criminal prosecution of  
24 the reporting person under section 5 of the  
25 Federal Hazardous Substances Act (15 U.S.C.

1           1264), except for offenses which require a  
2           showing of intent to defraud or mislead.”.

3           (3) in subsection (c)—

4                 (A) by inserting “(1)” after the subsection  
5           designation;

6                 (B) by inserting “or if the Commission,  
7           after notifying the manufacturer, determines a  
8           product to be an imminently hazardous con-  
9           sumer product and has filed an action under  
10          section 12,” after “from such substantial prod-  
11          uct hazard,”;

12                (C) by redesignating paragraphs (1)  
13          through (3) as subparagraphs (D) through (F),  
14          respectively;

15                (D) by inserting after “the following ac-  
16          tions:” the following:

17                   “(A) To cease distribution of the product.

18                   “(B) To notify all persons that transport, store,  
19          distribute, or otherwise handle the product, or to  
20          which the product has been transported, sold, dis-  
21          tributed, or otherwise handled, to cease immediately  
22          distribution of the product.

23                   “(C) To notify appropriate State and local pub-  
24          lic health officials.”;

1           (E) by striking “comply.” in subparagraph  
2           (D), as redesignated, and inserting “comply, in-  
3           cluding posting clear and conspicuous notice on  
4           its Internet website, providing notice to any  
5           third party Internet website on which such  
6           manufacturer, retailer, distributor, or licensor  
7           has placed the product for sale, and announce-  
8           ments in languages other than English and on  
9           radio and television where the Commission de-  
10          termines that a substantial number of con-  
11          sumers to whom the recall is directed may not  
12          be reached by other notice.”; and

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

14          “(2) The Commission may require a notice described  
15          in paragraph (1) to be distributed in a language other  
16          than English if the Commission determines that doing so  
17          is necessary to adequately protect the public.

18          “(3) If a district court determines, in an action filed  
19          under section 12, that the product that is the subject of  
20          such action is not an imminently hazardous consumer  
21          product, the Commission shall rescind any order issued  
22          under this subsection with respect to such product.”;

23          (4) in subsection (f)—

1 (A) by striking “An order” and inserting  
2 “(1) Except as provided in paragraph (2), an  
3 order”; and

4 (B) by inserting at the end the following:  
5 “(2) The requirement for a hearing in paragraph (1)  
6 shall not apply to an order issued under subsection (c)  
7 or (d) relating to an imminently hazardous consumer  
8 product with regard to which the Commission has filed  
9 an action under section 12.”.

10 (b) CORRECTIVE ACTION PLANS.—Section 15(d) (15  
11 U.S.C. 2064(d)) is amended—

12 (1) by inserting “(1)” after the subsection des-  
13 ignation;

14 (2) by inserting “to provide the notice required  
15 by subsection (c) and” after “such product” the first  
16 place it appears;

17 (3) by striking “whichever of the following ac-  
18 tions the person to whom the order is directed  
19 elects:” and inserting “any one or more of the fol-  
20 lowing actions it determines to be in the public in-  
21 terest:”;

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

24 (5) in each of subparagraphs (A) and (B) (as  
25 so redesignated), by striking “consumer product

1 safety rule” each place it appears and inserting  
2 “rule, regulation, standard, or ban”;

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

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

7 (8) by striking “An order under this subsection  
8 may” and inserting:

9 “(2) An order under this subsection shall”;

10 (9) by striking “satisfactory to the Commis-  
11 sion,” and inserting “for approval by the Commis-  
12 sion,”;

13 (10) by striking “paragraphs of this subsection  
14 under which such person has elected to act” and in-  
15 serting “subparagraphs under which such person  
16 has been ordered to act”;

17 (11) by striking “if the person to whom the  
18 order is directed elects to take the action described  
19 in paragraph (3)” and insert “if the Commission or-  
20 ders the action described in subparagraph (C)”;

21 (12) by striking “If an order under this sub-  
22 section is directed” and all that follows through “has  
23 the election under this subsection”;

24 (13) by striking “described in paragraph (3).”  
25 and inserting “described in paragraph (1)(C).”; and

1 (14) by adding at the end the following:

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

4 “(B) If the Commission finds that an approved action  
5 plan is not effective or appropriate under the cir-  
6 cumstances, or that the manufacturer, retailer, or dis-  
7 tributor is not executing an approved action plan effec-  
8 tively, the Commission may, by order, amend, or require  
9 amendment of, the action plan. In determining whether  
10 an approved plan is effective or appropriate under the cir-  
11 cumstances, the Commission shall consider whether a re-  
12 pair or replacement changes the intended functionality of  
13 the product.

14 “(C) If the Commission determines, after notice and  
15 opportunity for comment, that a manufacturer, retailer,  
16 or distributor has failed to comply substantially with its  
17 obligations under its action plan, the Commission may re-  
18 voke its approval of the action plan. The manufacturer,  
19 retailer, or distributor to which the action plan applies  
20 may not distribute in commerce the product to which the  
21 action plan relates after receipt of notice of a revocation  
22 of the action plan.”.

23 (c) CONTENT OF NOTICE.—Section 15 (15 U.S.C.  
24 2064) is further amended by adding at the end the fol-  
25 lowing:



1 “(i) REQUIREMENTS FOR RECALL NOTICES.—

2 “(1) GUIDELINES.—Not later than 180 days  
3 after the date of enactment of the Consumer Prod-  
4 uct Safety Improvement Act of 2008, the Commis-  
5 sion shall, by rule, establish guidelines setting forth  
6 a uniform class of information to be included in any  
7 notice required under an order under subsection (c)  
8 or (d) of this section or under section 12. Such  
9 guidelines shall include any information that the  
10 Commission determines would be helpful to con-  
11 sumers in—

12 “(A) identifying the specific product that  
13 is subject to such an order;

14 “(B) understanding the hazard that has  
15 been identified with such product (including in-  
16 formation regarding incidents or injuries known  
17 to have occurred involving such product); and

18 “(C) understanding what remedy, if any, is  
19 available to a consumer who has purchased the  
20 product.

21 “(2) CONTENT.—Except to the extent that the  
22 Commission determines with respect to a particular  
23 product that one or more of the following items is  
24 unnecessary or inappropriate under the cir-  
25 cumstances, the notice shall include the following:

1           “(A) description of the product, includ-  
2           ing—

3                   “(i) the model number or stock keep-  
4                   ing unit (SKU) number of the product;

5                   “(ii) the names by which the product  
6                   is commonly known; and

7                   “(iii) a photograph of the product.

8           “(B) A description of the action being  
9           taken with respect to the product.

10                   “(C) The number of units of the product  
11                   with respect to which the action is being taken.

12                   “(D) A description of the substantial prod-  
13                   uct hazard and the reasons for the action.

14                   “(E) An identification of the manufactur-  
15                   ers and significant retailers of the product.

16                   “(F) The dates between which the product  
17                   was manufactured and sold.

18                   “(G) The number and a description of any  
19                   injuries or deaths associated with the product,  
20                   the ages of any individuals injured or killed,  
21                   and the dates on which the Commission re-  
22                   ceived information about such injuries or  
23                   deaths.

24                   “(H) A description of—

1 “(i) any remedy available to a con-  
2 sumer;

3 “(ii) any action a consumer must take  
4 to obtain a remedy; and

5 “(iii) any information a consumer  
6 needs in order to obtain a remedy or infor-  
7 mation about a remedy, such as mailing  
8 addresses, telephone numbers, fax num-  
9 bers, and email addresses.

10 “(I) Other information the Commission  
11 deems appropriate.”

12 **SEC. 215. INSPECTION OF FIREWALLED CONFORMITY AS-**  
13 **SESSMENT BODIES; IDENTIFICATION OF SUP-**  
14 **PLY CHAIN.**

15 (a) INSPECTION OF FIREWALLED CONFORMITY AS-  
16 SESSMENT BODY.—Section 16(a) (15 U.S.C. 2065(a)) is  
17 amended—

18 (1) by striking “or (B)” and inserting “(B) any  
19 firewalled conformity assessment bodies accredited  
20 under section 14(f)(2)(D), or (C)” in paragraph (1);  
21 and

22 (2) by inserting “firewalled conformity assess-  
23 ment body,” after “factory,” in paragraph (2).

24 (b) IDENTIFICATION OF MANUFACTURERS, IMPORT-  
25 ERS, RETAILERS, AND DISTRIBUTORS.—Section 16 (15

1 U.S.C. 2065) is further amended by adding at the end  
2 thereof the following:

3 “(c) IDENTIFICATION OF MANUFACTURERS, IMPORT-  
4 ERS, RETAILERS, AND DISTRIBUTORS.—Upon request by  
5 an officer or employee duly designated by the Commis-  
6 sion—

7 “(1) every importer, retailer, or distributor of a  
8 consumer product (or other product or substance  
9 over which the Commission has jurisdiction under  
10 this or any other Act) shall identify the manufac-  
11 turer of that product by name, address, or such  
12 other identifying information as the officer or em-  
13 ployee may request, to the extent that such informa-  
14 tion is known or can be readily determined by the  
15 importer, retailer, or distributor; and

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

19 “(A) each retailer or distributor to which  
20 the manufacturer directly supplied a given con-  
21 sumer product (or other product or substance  
22 over which the Commission has jurisdiction  
23 under this or any other Act);

1           “(B) each subcontractor involved in the  
2           production or fabrication of such product or  
3           substance; and

4           “(C) each subcontractor from which the  
5           manufacturer obtained a component thereof.”.

6           (c) CONFORMING AMENDMENTS.—Section 16 (15  
7 U.S.C. 2065) is further amended—

8           (1) in subsection (a), by inserting “INSPEC-  
9           TION.—” after the subsection designation; and

10          (2) in subsection (b), by inserting “RECORD-  
11          KEEPING.—” after the subsection designation.

12 **SEC. 216. PROHIBITED ACTS.**

13          (a) SALE OF RECALLED PRODUCTS.—Section 19(a)  
14 (15 U.S.C. 2068(a)) is amended—

15          (1) by striking paragraphs (1) and (2) and in-  
16          serting the following:

17                 “(1) sell, offer for sale, manufacture for sale,  
18                 distribute in commerce, or import into the United  
19                 States any consumer product, or other product or  
20                 substance that is regulated under this Act or any  
21                 other Act enforced by the Commission, that is not  
22                 in conformity with an applicable consumer product  
23                 safety rule under this Act, or any similar rule, regu-  
24                 lation, standard, or ban under any other Act en-  
25                 forced by the Commission;

1           “(2) 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—

5                   “(B) subject to voluntary corrective action  
6                   taken by the manufacturer, in consultation with  
7                   the Commission, of which action the Commis-  
8                   sion has notified the public or if the seller, dis-  
9                   tributor, or manufacturer knew or should have  
10                  known of such voluntary corrective action;

11                  “(C) subject to an order issued under sec-  
12                  tion 12 or 15 of this Act; or

13                  “(D) a banned hazardous substance within  
14                  the meaning of section 2(q)(1) of the Federal  
15                  Hazardous Substances Act (15 U.S.C.  
16                  1261(q)(1));”;

17                  (2) by amending paragraph (6) to read as fol-  
18                  lows:

19                  “(6) fail to furnish a certificate required by this  
20                  Act or any other Act enforced by the Commission,  
21                  or to issue a false certificate if such person in the  
22                  exercise of due care has reason to know that the cer-  
23                  tificate is false or misleading in any material re-  
24                  spect; or to fail to comply with any requirement of  
25                  section 14 (including the requirement for tracking

1 labels) or any rule or regulation under such sec-  
2 tion;”.

3 (3) by striking “or” after the semicolon in  
4 paragraph (7);

5 (4) by striking “and” after the semicolon in  
6 paragraph (8);

7 (5) by striking “insulation).” in paragraph (9)  
8 and inserting “insulation);”; and

9 (6) by striking the period at the end of para-  
10 graph (10) and inserting a semicolon; and

11 (7) by inserting at the end the following:

12 “(12) sell, offer for sale, distribute in com-  
13 merce, or import into the United States any con-  
14 sumer product bearing a registered safety certifi-  
15 cation mark owned by an accredited conformity as-  
16 sessment body, which mark is known, or should have  
17 been known, by such person to be used in a manner  
18 unauthorized by the owner of that certification  
19 mark;

20 “(13) misrepresent to any officer or employee  
21 of the Commission the scope of consumer products  
22 subject to an action required under section 12 or 15,  
23 or to make a material misrepresentation to such an  
24 officer or employee in the course of an investigation

1 under this Act or any other Act enforced by the  
2 Commission; or

3 “(14) exercise, or attempt to exercise, undue in-  
4 fluence on a third party conformity assessment body  
5 (as defined in section 14(f)(2)) with respect to the  
6 testing, or reporting of the results of testing, of any  
7 product for compliance under this Act or any other  
8 Act enforced by the Commission.

9 “(15) export from the United States for pur-  
10 pose of sale any consumer product, or other product  
11 or substance regulated by the Commission (other  
12 than a consumer product or substance, the export of  
13 which is permitted by the Secretary of the Treasury  
14 pursuant to section 17(e)) that—

15 “(A) is subject to an order issued under  
16 section 12 or 15 of this Act or is a banned haz-  
17 ardous substance within the meaning of section  
18 2(q)(1) of the Federal Hazardous Substances  
19 Act (15 U.S.C. 1261(q)(1)); or

20 “(B) is subject to a voluntary corrective  
21 action taken by the manufacturer, in consulta-  
22 tion with the Commission, of which action the  
23 Commission has notified the public; or

24 “(16) violate an order of the Commission issued  
25 under section 18(c).”.



1 (b) CONFORMING AMENDMENT.—Section 17(a)(2)  
2 (15 U.S.C. 2066(a)(2)) is amended to read as follows:

3 “(2) is not accompanied by a certificate re-  
4 quired by this Act or any other Act enforced by the  
5 Commission, or is accompanied by a false certificate,  
6 if the manufacturer in the exercise of due care has  
7 reason to know that the certificate is false or mis-  
8 leading in any material respect, or is not accom-  
9 panied by any label or certificate (including tracking  
10 labels) required under section 14 or any rule or reg-  
11 ulation under such section;”.

12 **SEC. 217. PENALTIES.**

13 (a) MAXIMUM CIVIL PENALTIES OF THE CONSUMER  
14 PRODUCT SAFETY COMMISSION.—

15 (1) CONSUMER PRODUCT SAFETY ACT.—Section  
16 20(a)(1) (15 U.S.C. 2069(a)(1)) is amended—

17 (A) by striking “\$5,000” and inserting  
18 “\$100,000”;

19 (B) by striking “\$1,250,000” both places  
20 it appears and inserting “\$15,000,000”; and

21 (C) by striking “December 1, 1994,” in  
22 paragraph (3)(B) and inserting “December 1,  
23 2011,”.

1           (2) FEDERAL HAZARDOUS SUBSTANCES ACT.—  
2           Section 5(e)(1) of the Federal Hazardous Sub-  
3           stances Act (15 U.S.C. 1264(e)(1)) is amended—

4                   (A) by striking “\$5,000” in paragraph (1)  
5                   and inserting “\$100,000”;

6                   (B) by striking “\$1,250,000” both places  
7                   it appears and inserting “\$15,000,000”; and

8                   (C) by striking “December 1, 1994,” in  
9                   paragraph (6)(B) and inserting “December 1,  
10                  2011,”.

11           (3) FLAMMABLE FABRICS ACT.—Section 5(e)(1)  
12           of the Flammable Fabrics Act (15 U.S.C.  
13           1194(e)(1)) is amended—

14                   (A) by striking “\$5,000” in paragraph (1)  
15                   and inserting “\$100,000”;

16                   (B) by striking “\$1,250,000” and insert-  
17                   ing “\$15,000,000”; and

18                   (C) by striking “December 1, 1994,” in  
19                   paragraph (6)(B) and inserting “December 1,  
20                  2011,”.

21           (4) EFFECTIVE DATE.—The amendments made  
22           by this subsection shall take effect on the date that  
23           is the earlier of the date on which final regulations  
24           are issued under subsection (b)(2) or 1 year after  
25           the date of enactment of this Act.

1 (b) DETERMINATION OF PENALTIES BY THE CON-  
2 SUMER PRODUCT SAFETY COMMISSION.—

3 (1) FACTORS TO BE CONSIDERED.—

4 (A) CONSUMER PRODUCT SAFETY ACT.—

5 Section 20 (15 U.S.C. 2069) is amended—

6 (i) in subsection (b)—

7 (I) by inserting “the nature, cir-  
8 cumstances, extent, and gravity of the  
9 violation, including” after “shall con-  
10 sider”;

11 (II) by striking “products distrib-  
12 uted, and” and inserting “products  
13 distributed,” ; and

14 (III) by inserting “, including  
15 how to mitigate undue adverse eco-  
16 nomic impacts on small businesses,  
17 and such other factors as appro-  
18 priate” before the period; and

19 (ii) in subsection (c)—

20 (I) by inserting “, including how  
21 to mitigate undue adverse economic  
22 impacts on small businesses, the na-  
23 ture, circumstances, extent, and grav-  
24 ity of the violation, including” after  
25 “person charged”; and

1 (II) by inserting “, and such  
2 other factors as appropriate” after  
3 “products distributed”.

4 (B) FEDERAL HAZARDOUS SUBSTANCES  
5 ACT.—Section 5(c) of the Federal Hazardous  
6 Substances Act (15 U.S.C. 1264(c)) is amend-  
7 ed—

8 (i) in paragraph (3)—

9 (I) by inserting “the nature, cir-  
10 cumstances, extent, and gravity of the  
11 violation, including” after “shall con-  
12 sider”;

13 (II) by striking “substance dis-  
14 tributed, and” and inserting “sub-  
15 stance distributed,”; and

16 (III) by inserting “, including  
17 how to mitigate undue adverse eco-  
18 nomic impacts on small businesses,  
19 and such other factors as appro-  
20 priate” before the period; and

21 (ii) in paragraph (4)—

22 (I) by inserting “, including how  
23 to mitigate undue adverse economic  
24 impacts on small businesses, the na-  
25 ture, circumstances, extent, and grav-

1           ity of the violation, including” after  
2           “person charged”; and

3                   (II) by inserting “, and such  
4           other factors as appropriate” after  
5           “substance distributed”.

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

9                   (i) in paragraph (2)—

10                           (I) by striking “nature and num-  
11                           ber” and inserting “nature, cir-  
12                           cumstances, extent, and gravity”;

13                           (II) by striking “absence of in-  
14                           jury, and” and inserting “absence of  
15                           injury,”; and

16                           (III) by inserting “, and such  
17                           other factors as appropriate” before  
18                           the period; and

19                   (ii) in paragraph (3)—

20                           (I) by striking “nature and num-  
21                           ber” and inserting “nature, cir-  
22                           cumstances, extent, and gravity”;

23                           (II) by striking “absence of in-  
24                           jury, and” and inserting “absence of  
25                           injury,”; and

1 (III) by inserting “, and such  
2 other factors as appropriate” before  
3 the period.

4 (2) CIVIL PENALTY CRITERIA.—Not later than  
5 1 year after the date of enactment of this Act, and  
6 in accordance with the procedures of section 553 of  
7 title 5, United States Code, the Commission shall  
8 issue a final regulation providing its interpretation  
9 of the penalty factors described in section 20(b) of  
10 the Consumer Product Safety Act (15 U.S.C.  
11 2069(b)), section 5(c)(3) of the Federal Hazardous  
12 Substances Act (15 U.S.C. 1264(c)(3)), and section  
13 5(e)(2) of the Flammable Fabrics Act (15 U.S.C.  
14 1194(e)(2)), as amended by subsection (a).

15 (c) CRIMINAL PENALTIES.—

16 (1) IN GENERAL.—Section 21(a) (15 U.S.C.  
17 2070(a)) is amended to read as follows:

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

20 “(1) imprisonment for not more than 5 years  
21 for a knowing and willful violation of that section;

22 “(2) a fine determined under section 3571 of  
23 title 18, United States Code; or

24 “(3) both.”.

1           (2) DIRECTORS, OFFICERS, AND AGENTS.—Sec-  
2           tion 21(b) (15 U.S.C. 2070(b)) is amended by strik-  
3           ing “19, and who has knowledge of notice of non-  
4           compliance received by the corporation from the  
5           Commission,” and inserting “19”.

6           (3) UNDER THE FEDERAL HAZARDOUS SUB-  
7           STANCES ACT.—Section 5(a) of the Federal Haz-  
8           ardous Substances Act (15 U.S.C. 1264(a)) is  
9           amended by striking “one year, or a fine of not more  
10          than \$3,000, or both such imprisonment and fine.”  
11          and inserting “5 years, a fine determined under sec-  
12          tion 3571 of title 18, United States Code, or both.”.

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

16    “PENALTIES  
17          “SEC. 7. Violation of section 3 or 8(b) of this Act,  
18          or failure to comply with section 15(c) of this Act, is pun-  
19          ishable by—

20    “(1) imprisonment for not more than 5 years  
21          for a knowing and willful violation of that section;

22    “(2) a fine determined under section 3571 of  
23          title 18, United States Code; or

24    “(3) both.”.

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 or any other Act enforced  
10 by the Commission for which the violator is sentenced to  
11 pay a fine, be imprisoned, or both.”.

12 **SEC. 218. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

13 (a) IN GENERAL.—Section 24 (15 U.S.C. 2073) is  
14 amended—

15 (1) by striking “**PRIVATE**” in the section head-  
16 ing and inserting “**ADDITIONAL**”;

17 (2) by inserting “(a) IN GENERAL.—” before  
18 “Any interested person”; and

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

20 “(b) STATE ATTORNEY GENERAL ENFORCEMENT.—

21 “(1) RIGHT OF ACTION.—Except as provided in  
22 paragraph (5), the attorney general of a State, or  
23 other authorized State officer, alleging a violation of  
24 section 19(a)(1), (2), (5), (6), (7), (9), or (12) of  
25 this Act that affects or may affect such State or its



1 residents may bring an action on behalf of the resi-  
2 dents of the State in any United States district  
3 court for the district in which the defendant is found  
4 or transacts business to obtain appropriate injunc-  
5 tive relief.

6 “(2) INITIATION OF CIVIL ACTION.—

7 “(A) NOTICE TO COMMISSION REQUIRED  
8 IN ALL CASES.—A State shall provide written  
9 notice to the Commission regarding any civil ac-  
10 tion under paragraph (1). Except when pro-  
11 ceeding under subparagraph (C), the State shall  
12 provide the notice at least 30 days before the  
13 date on which the State intends to initiate the  
14 civil action by filing a complaint.

15 “(B) FILING OF COMPLAINT.—A State  
16 may initiate the civil action by filing a com-  
17 plaint—

18 “(i) at any time after the date on  
19 which the 30-day period ends; or

20 “(ii) earlier than such date if the  
21 Commission consents to an earlier initi-  
22 ation of the civil action by the State.

23 “(C) ACTIONS INVOLVING SUBSTANTIAL  
24 PRODUCT HAZARD.—Notwithstanding subpara-  
25 graph (B), a State may initiate a civil action

1 under paragraph (1) by filing a complaint im-  
2 mediately after notifying the Commission of the  
3 State's determination that such immediate ac-  
4 tion is necessary to protect the residents of the  
5 State from a substantial product hazard (as de-  
6 fined in section 15(a)).

7 “(D) FORM OF NOTICE.—The written no-  
8 tice required by this paragraph may be provided  
9 by electronic mail, facsimile machine, or any  
10 other means of communication accepted by the  
11 Commission.

12 “(E) COPY OF COMPLAINT.—A State shall  
13 provide a copy of the complaint to the Commis-  
14 sion upon filing the complaint or as soon as  
15 possible thereafter.

16 “(3) INTERVENTION BY THE COMMISSION.—  
17 The Commission may intervene in such civil action  
18 and upon intervening—

19 “(A) be heard on all matters arising in  
20 such civil action; and

21 “(B) file petitions for appeal of a decision  
22 in such civil action.

23 “(4) CONSTRUCTION.—Nothing in this section,  
24 section 5(d) of the Federal Hazardous Substances  
25 Act (15 U.S.C. 1264(d)), section 9 of the Poison

1 Prevention Packaging Act of 1970, or section 5(a)  
2 of the Flammable Fabrics Act (15 U.S.C. 1194(d))  
3 shall be construed—

4 “(A) to prevent the attorney general of a  
5 State, or other authorized State officer, from  
6 exercising the powers conferred on the attorney  
7 general, or other authorized State officer, by  
8 the laws of such State; or

9 “(B) to prohibit the attorney general of a  
10 State, or other authorized State officer, from  
11 proceeding in State or Federal court on the  
12 basis of an alleged violation of any civil or  
13 criminal statute of that State.

14 “(5) LIMITATION.—No separate suit shall be  
15 brought under this subsection (other than a suit al-  
16 leging a violation of paragraph (1) or (2) of section  
17 19(a)) if, at the time the suit is brought, the same  
18 alleged violation is the subject of a pending civil or  
19 criminal action by the United States under this Act.

20 “(6) RESTRICTIONS ON PRIVATE COUNSEL.—If  
21 private counsel is retained to assist in any civil ac-  
22 tion under paragraph (1), the private counsel re-  
23 tained to assist the State may not—

1           “(A) share with participants in other pri-  
2           vate civil actions that arise out of the same op-  
3           erative facts any information that is—

4                   “(i) subject to attorney-client or work  
5                   product privilege; and

6                   “(ii) was obtained during discovery in  
7                   the action under paragraph (1); or

8           “(B) use any information that is subject to  
9           attorney-client or work product privilege that  
10          was obtained while assisting the State in the  
11          action under paragraph (1) in any other private  
12          civil actions that arise out of the same operative  
13          facts.”.

14          (b) CONFORMING AMENDMENTS.—

15               (1) POISON PREVENTION PACKAGING ACT.—

16          The Poison Prevention Packaging Act of 1970 (15  
17          U.S.C. 1471 et seq.) is amended by adding at the  
18          end the following:

19          **“SEC. 9. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

20               “The attorney general of a State, or other authorized  
21          State officer, alleging a violation of a standard or rule pro-  
22          mulgated under section 3 that affects or may affect such  
23          State or its residents, may bring an action on behalf of  
24          the residents of the State in any United States district  
25          court for the district in which the defendant is found or

1 transacts business to obtain appropriate injunctive relief.  
2 The procedural requirements of section 24(b) of the Con-  
3 sumer Product Safety Act (15 U.S.C. 2073(b)) shall apply  
4 to any such action.”.

5 (2) CLERICAL AMENDMENT.—The table of con-  
6 tents in section 1 (15 U.S.C. 2051 note) is amended  
7 by striking the item relating to section 24 and in-  
8 serting the following:

“Sec. 24. Additional enforcement of product safety rules and of section 15 or-  
ders.”.

9 **SEC. 219. WHISTLEBLOWER PROTECTIONS.**

10 (a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.),  
11 as amended by section 206 of this Act, is further amended  
12 by adding at the end the following:

13 “WHISTLEBLOWER PROTECTION

14 “SEC. 40. (a) No manufacturer, private labeler, dis-  
15 tributor, or retailer, may discharge an employee or other-  
16 wise discriminate against an employee with respect to  
17 compensation, terms, conditions, or privileges of employ-  
18 ment because the employee, whether at the employee’s ini-  
19 tiative or in the ordinary course of the employee’s duties  
20 (or any person acting pursuant to a request of the em-  
21 ployee)—

22 “(1) provided, caused to be provided, or is  
23 about to provide or cause to be provided to the em-  
24 ployer, the Federal Government, or the attorney

1 general of a State information relating to any viola-  
2 tion of, or any act or omission the employee reason-  
3 ably believes to be a violation of any provision of this  
4 Act or any other Act enforced by the Commission,  
5 or any order, rule, regulation, standard, or ban  
6 under any such Acts;

7 “(2) testified or is about to testify in a pro-  
8 ceeding concerning such violation;

9 “(3) assisted or participated or is about to as-  
10 sist or participate in such a proceeding; or

11 “(4) objected to, or refused to participate in,  
12 any activity, policy, practice, or assigned task that  
13 the employee (or other such person) reasonably be-  
14 lieved to be in violation of any provision of this Act  
15 or any other Act enforced by the Commission, or  
16 any order, rule, regulation, standard, or ban under  
17 any such Acts.

18 “(b)(1) A person who believes that he or she has been  
19 discharged or otherwise discriminated against by any per-  
20 son in violation of subsection (a) may, not later than 180  
21 days after the date on which such violation occurs, file  
22 (or have any person file on his or her behalf) a complaint  
23 with the Secretary of Labor alleging such discharge or dis-  
24 crimination and identifying the person responsible for  
25 such act. Upon receipt of such a complaint, the Secretary

1 shall notify, in writing, the person named in the complaint  
2 of the filing of the complaint, of the allegations contained  
3 in the complaint, of the substance of evidence supporting  
4 the complaint, and of the opportunities that will be af-  
5 farded to such person under paragraph (2).

6       “(2)(A) Not later than 60 days after the date of re-  
7 ceipt of a complaint filed under paragraph (1) and after  
8 affording the complainant and the person named in the  
9 complaint an opportunity to submit to the Secretary a  
10 written response to the complaint and an opportunity to  
11 meet with a representative of the Secretary to present  
12 statements from witnesses, the Secretary shall initiate an  
13 investigation and determine whether there is reasonable  
14 cause to believe that the complaint has merit and notify,  
15 in writing, the complainant and the person alleged to have  
16 committed a violation of subsection (a) of the Secretary’s  
17 findings. If the Secretary concludes that there is reason-  
18 able cause to believe that a violation of subsection (a) has  
19 occurred, the Secretary shall accompany the Secretary’s  
20 findings with a preliminary order providing the relief pre-  
21 scribed by paragraph (3)(B). Not later than 30 days after  
22 the date of notification of findings under this paragraph,  
23 either the person alleged to have committed the violation  
24 or the complainant may file objections to the findings or  
25 preliminary order, or both, and request a hearing on the

1 record. The filing of such objections shall not operate to  
2 stay any reinstatement remedy contained in the prelimi-  
3 nary order. Any such hearing shall be conducted expedi-  
4 tiously. If a hearing is not requested in such 30-day pe-  
5 riod, the preliminary order shall be deemed a final order  
6 that is not subject to judicial review.

7       “(B)(i) The Secretary shall dismiss a complaint filed  
8 under this subsection and shall not conduct an investiga-  
9 tion otherwise required under subparagraph (A) unless the  
10 complainant makes a prima facie showing that any behav-  
11 ior described in paragraphs (1) through (4) of subsection  
12 (a) was a contributing factor in the unfavorable personnel  
13 action alleged in the complaint.

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

21       “(iii) The Secretary may determine that a violation  
22 of subsection (a) has occurred only if the complainant  
23 demonstrates that any behavior described in paragraphs  
24 (1) through (4) of subsection (a) was a contributing factor



1 in the unfavorable personnel action alleged in the com-  
2 plaint.

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

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

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

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

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

1       privileges associated with his or her employment;  
2       and

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

5 If such an order is issued under this paragraph, the Sec-  
6 retary, 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 Secretary, by the complain-  
11 ant for, or in connection with, the bringing of the com-  
12 plaint upon which the order was issued.

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

18       “(4) If the Secretary has not issued a final decision  
19 within 210 days after the filing of the complaint, or within  
20 90 days after receiving a written determination, the com-  
21 plainant may bring an action at law or equity for *de novo*  
22 review in the appropriate district court of the United  
23 States with jurisdiction, which shall have jurisdiction over  
24 such an action without regard to the amount in con-  
25 troversy, and which action shall, at the request of either

1 party to such action, be tried by the court with a jury.  
2 The proceedings shall be governed by the same legal bur-  
3 dens of proof specified in paragraph (2)(B). The court  
4 shall have jurisdiction to grant all relief necessary to make  
5 the employee whole, including injunctive relief and com-  
6 pensatory damages, including—

7           “(A) reinstatement with the same seniority sta-  
8           tus that the employee would have had, but for the  
9           discharge or discrimination;

10           “(B) the amount of back pay, with interest; and

11           “(C) compensation for any special damages sus-  
12           tained as a result of the discharge or discrimination,  
13           including litigation costs, expert witness fees, and  
14           reasonable attorney’s fees.

15           “(5)(A) Unless the complainant brings an action  
16 under paragraph (4), any person adversely affected or ag-  
17 grieved by a final order issued under paragraph (3) may  
18 obtain review of the order in the United States Court of  
19 Appeals for the circuit in which the violation, with respect  
20 to which the order was issued, allegedly occurred or the  
21 circuit in which the complainant resided on the date of  
22 such violation. The petition for review must be filed not  
23 later than 60 days after the date of the issuance of the  
24 final order of the Secretary. Review shall conform to chap-  
25 ter 7 of title 5, United States Code. The commencement

1 of proceedings under this subparagraph shall not, unless  
2 ordered by the court, operate as a stay of the order.

3 “(B) An order of the Secretary with respect to which  
4 review could have been obtained under subparagraph (A)  
5 shall not be subject to judicial review in any criminal or  
6 other civil proceeding.

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

16 “(7)(A) A person on whose behalf an order was  
17 issued under paragraph (3) may commence a civil action  
18 against the person to whom such order was issued to re-  
19 quire compliance with such order. The appropriate United  
20 States district court shall have jurisdiction, without regard  
21 to the amount in controversy or the citizenship of the par-  
22 ties, to enforce such order.

23 “(B) The court, in issuing any final order under this  
24 paragraph, may award costs of litigation (including rea-

1 sonable attorneys' and expert witness fees) to any party  
2 whenever the court determines such award is appropriate.

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

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

16 (b) CONFORMING AMENDMENT.—The table of con-  
17 tents, as amended by section 206 of this Act, is further  
18 amended by inserting after the item relating to section 39  
19 the following:

“Sec. 40. Whistleblower protection.”.

20 **Subtitle C—Specific Import-Export**  
21 **Provisions**

22 **SEC. 221. EXPORT OF RECALLED AND NON-CONFORMING**  
23 **PRODUCTS.**

24 (a) IN GENERAL.—Section 18 (15 U.S.C. 2067) is  
25 amended—

1           (1) in subsection (b), by striking “any prod-  
2           uct—” and all that follows through “promulgated  
3           under section 9,” and inserting “any product which  
4           is not in conformity with an applicable consumer  
5           product safety rule in effect under this Act,”; and

6           (2) by adding at the end the following:

7           “(c) The Commission may prohibit a person from ex-  
8           porting from the United States for purpose of sale any  
9           consumer product that is not in conformity with an appli-  
10          cable consumer product safety rule under this Act, unless  
11          the importing country has notified the Commission that  
12          such country accepts the importation of such consumer  
13          product, provided that if the importing country has not  
14          so notified the Commission within 30 days after the Com-  
15          mission has provided notice to the importing country of  
16          the impending shipment, the Commission may take such  
17          action as appropriate within its authority with respect to  
18          the disposition of the product under the circumstances.

19          “(d) Nothing in this section shall apply to any con-  
20          sumer product, the export of which is permitted by the  
21          Secretary of the Treasury pursuant to section 17(e).”.

22          (b) CONFORMING AMENDMENTS TO FLAMMABLE  
23          FABRICS ACT.—Section 15 of the Flammable Fabrics Act  
24          (15 U.S.C. 1202) is amended by adding at the end the  
25          following:

1           “(d) Notwithstanding any other provision of this sec-  
2 tion, the Consumer Product Safety Commission may pro-  
3 hibit, by order, a person from exporting from the United  
4 States for purpose of sale any fabric or related material  
5 that the Commission determines is not in conformity with  
6 an applicable standard or rule under this Act, unless the  
7 importing country has notified the Commission that such  
8 country accepts the importation of such fabric or related  
9 material, provided that if the importing country has not  
10 so notified the Commission within 30 days after the Com-  
11 mission has provided notice to the importing country of  
12 the impending shipment, the Commission may take such  
13 action as is appropriate with respect to the disposition of  
14 the fabric or related material under the circumstances.

15           “(e) Nothing in this section shall apply to any fabric  
16 or related material, the export of which is permitted by  
17 the Secretary of the Treasury pursuant to section 17(e).”.

18 **SEC. 222. IMPORT SAFETY MANAGEMENT AND INTER-**

19 **AGENCY COOPERATION.**

20           (a) **RISK ASSESSMENT METHODOLOGY.**—Not later  
21 than 2 years after the date of enactment of this Act, the  
22 Commission shall develop a risk assessment methodology  
23 for the identification of shipments of consumer products  
24 that are—

1 (1) intended for import into the United States;  
2 and

3 (2) likely to include consumer products in viola-  
4 tion of section 17(a) of the Consumer Product Safe-  
5 ty Act (15 U.S.C. 2066(a)) or other import provi-  
6 sions enforced by the Commission.

7 (b) USE OF INTERNATIONAL TRADE DATA SYSTEM  
8 AND OTHER DATABASES.—In developing the methodology  
9 required under subsection (a), the Commission shall—

10 (1) provide for the use of the International  
11 Trade Data System, insofar as is practicable, estab-  
12 lished under section 411(d) of the Tariff Act of  
13 1930 (19 U.S.C. 1411(d)) to evaluate and assess in-  
14 formation about shipments of consumer products in-  
15 tended for import into the customs territory of the  
16 United States;

17 (2) incorporate the risk assessment method-  
18 ology required under this section into its information  
19 technology modernization plan;

20 (3) examine, in consultation with U.S. Customs  
21 and Border Protection, how to share information  
22 collected and retained by the Commission, including  
23 information in the database required under section  
24 6A of the Consumer Product Safety Act, for the  
25 purpose of identifying shipments of consumer prod-



1       ucts in violation of section 17(a) of such Act (15  
2       U.S.C. 2066(a)) or other import provisions enforced  
3       by the Commission; and

4           (4) examine, in consultation with U.S. Customs  
5       and Border Protection, how to share information re-  
6       quired by section 15(j) of the CPSA as added by  
7       section 223 of this Act for the purpose of identifying  
8       shipments of consumer products in violation of sec-  
9       tion 17(a) of the Consumer Product Safety Act (15  
10      U.S.C. 2066(a)) or other import provisions enforced  
11      by the Commission.

12      (c) COOPERATION WITH U.S. CUSTOMS AND BOR-  
13      DER PROTECTION.—Not later than 1 year after the date  
14      of enactment of this Act, the Commission shall develop  
15      a plan for sharing information and coordinating with U.S.  
16      Customs and Border Protection that considers, at a min-  
17      imum, the following:

18           (1) The number of full-time equivalent per-  
19      sonnel employed by the Commission that should be  
20      stationed at U.S. ports of entry for the purpose of  
21      identifying shipments of consumer products that are  
22      in violation of section 17(a) of the Consumer Prod-  
23      uct Safety Act (15 U.S.C. 2066(a)) or other import  
24      provisions enforced by the Commission.

1           (2) The extent and nature of cooperation be-  
2           tween the Commission and U.S. Customs and Bor-  
3           der Protection personnel stationed at ports of entry  
4           in the identification of shipments of consumer prod-  
5           uct that are in violation of section 17(a) of the Con-  
6           sumer Product Safety Act (15 U.S.C. 2066(a)) or  
7           other import provisions enforced by the Commission  
8           under this Act or any other provision of law.

9           (3) The number of full-time equivalent per-  
10          sonnel employed by the Commission that should be  
11          stationed at the National Targeting Center (or its  
12          equivalent) of U.S. Customs and Border Protection,  
13          including—

14                (A) the extent and nature of cooperation  
15                between Commission and U.S. Customs and  
16                Border Protection personnel stationed at the  
17                National Targeting Center (or its equivalent),  
18                as well as at United States ports of entry;

19                (B) the responsibilities of Commission per-  
20                sonnel assigned to the National Targeting Cen-  
21                ter (or its equivalent) under subsection (b)(3);  
22                and

23                (C) whether the information available at  
24                the National Targeting Center (or its equiva-  
25                lent) would be useful to the Commission or U.S.

1 Customs and Border Protection in identifying  
2 the consumer products described in subsection  
3 (a).

4 (4) The development of rule sets for the Auto-  
5 mated Targeting System and expedited access for  
6 the Commission to the Automated Targeting Sys-  
7 tem.

8 (5) The information and resources necessary  
9 for the development, updating, and effective imple-  
10 mentation of the risk assessment methodology re-  
11 quired in subsection (a).

12 (d) REPORT TO CONGRESS.—Not later than 180 days  
13 after completion of the risk assessment methodology re-  
14 quired under this section, the Commission shall submit a  
15 report to the appropriate Congressional committees con-  
16 cerning, at a minimum, the following:

17 (1) The Commission's plan for implementing  
18 the risk assessment methodology required under this  
19 section.

20 (2) The changes made or necessary to be made  
21 to the Commission's memorandum of understanding  
22 with U.S. Customs and Border Protection.

23 (3) The status of—

1 (A) the development of the Automated  
2 Targeting System rule set required under sub-  
3 section (c)(4) of this section;

4 (B) the Commission's access to the Auto-  
5 mated Targeting System; and

6 (C) the effectiveness of the International  
7 Trade Data System in enhancing cooperation  
8 between the Commission and U.S. Customs and  
9 Border Protection for the purpose of identifying  
10 shipments of consumer products in violation of  
11 section 17(a) of the Consumer Product Safety  
12 Act (15 U.S.C. 2066(a)) or other import provi-  
13 sions enforced by the Commission;

14 (4) Whether the Commission requires additional  
15 statutory authority under the Consumer Product  
16 Safety Act, the Federal Hazardous Substances Act,  
17 the Flammable Fabrics Act, or the Poison Preven-  
18 tion Packaging Act of 1970 in order to implement  
19 the risk assessment methodology required under this  
20 section.

21 (5) The level of appropriations necessary to im-  
22 plement the risk assessment methodology required  
23 under this section.

1 **SEC. 223. SUBSTANTIAL PRODUCT HAZARD LIST AND DE-**  
2 **STRUCTION OF NONCOMPLIANT IMPORTED**  
3 **PRODUCTS.**

4 (a) IDENTIFICATION OF SUBSTANTIAL HAZARDS.—  
5 Section 15 (15 U.S.C. 2064), as amended by section 214,  
6 is amended by adding at the end thereof the following:

7 “(j) SUBSTANTIAL PRODUCT HAZARD LIST.—

8 “(1) IN GENERAL.—The Commission may  
9 specify, by rule, for any consumer product or class  
10 of consumer products, characteristics whose exist-  
11 ence or absence shall be deemed a substantial prod-  
12 uct hazard under subsection (a)(2), if the Commis-  
13 sion determines that—

14 “(A) such characteristics are readily ob-  
15 servable and have been addressed by voluntary  
16 standards; and

17 “(B) such standards have been effective in  
18 reducing the risk of injury from consumer prod-  
19 ucts and that there is substantial compliance  
20 with such standards.

21 “(2) JUDICIAL REVIEW.—Not later than 60  
22 days after promulgation of a rule under paragraph  
23 (1), any person adversely affected by such rule may  
24 file a petition for review under the procedures set  
25 forth in section 11 of this Act.”.

1 (b) DESTRUCTION OF NONCOMPLIANT IMPORTED  
2 PRODUCTS.—Section 17(e) (15 U.S.C. 2066(e)) is amend-  
3 ed to read as follows:

4 “(e) Products refused admission into the customs ter-  
5 ritory of the United States shall be destroyed unless, upon  
6 application by the owner, consignee, or importer of record,  
7 the Secretary of the Treasury permits the export of the  
8 product in lieu of destruction. If the owner, consignee, or  
9 importer of record does not export the product within 90  
10 days of approval to export, such product shall be de-  
11 stroyed.”.

12 (c) INSPECTION AND RECORDKEEPING REQUIRE-  
13 MENT.—The Act is further amended—

14 (1) by amending section 17(g) (15 U.S.C.  
15 2066(g)) to read as follows:

16 “(g) Manufacturers of imported products shall be in  
17 compliance with all inspection and recordkeeping require-  
18 ments under section 16 applicable to such products, and  
19 the Commission shall advise the Secretary of the Treasury  
20 of any manufacturer who is not in compliance with all in-  
21 spection and recordkeeping requirements under section  
22 16.”; and

23 (2) by adding at the end of section 16 (15  
24 U.S.C. 2065) the following:

1 “(d) The Commission shall, by rule, condition the  
2 manufacturing for sale, offering for sale, distribution in  
3 commerce, or importation into the United States of any  
4 consumer product or other product on the manufacturer’s  
5 compliance with the inspection and recordkeeping require-  
6 ments of this Act and the Commission’s rules with respect  
7 to such requirements.”.

8 **SEC. 224. FINANCIAL RESPONSIBILITY.**

9 (a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.),  
10 as amended by section 219, is further amended by adding  
11 at the end the following:

12 **“SEC. 41. FINANCIAL RESPONSIBILITY.**

13 “(a) IDENTIFICATION AND DETERMINATION OF  
14 BOND.—The Commission, in consultation with U.S. Cus-  
15 toms and Border Protection and other relevant Federal  
16 agencies, shall identify any consumer product, or other  
17 product or substance that is regulated under this Act or  
18 any other Act enforced by the Commission, for which the  
19 cost of destruction would normally exceed bond amounts  
20 determined under sections 623 and 624 of the Tariff Act  
21 of 1930 (19 U.S.C. 1623, 1624) and shall recommend to  
22 U.S. Customs and Border Protection a bond amount suffi-  
23 cient to cover the cost of destruction of such products or  
24 substances.

1           “(b) STUDY OF REQUIRING ESCROW FOR RECALLS  
2 AND DESTRUCTION OF PRODUCTS.—

3           “(1) STUDY.—The Comptroller General shall  
4 conduct a study to determine the feasibility of re-  
5 quiring—

6           “(A) the posting of an escrow, proof of in-  
7 surance, or security sufficient in amount to  
8 cover the cost of destruction of a domestically-  
9 produced product or substance regulated under  
10 this Act or any other Act enforced by the Com-  
11 mission; and

12           “(B) the posting of an escrow, proof of in-  
13 surance, or security sufficient in amount to  
14 cover the cost of an effective recall of a product  
15 or substance, domestic or imported, regulated  
16 under this Act or any other Act enforced by the  
17 Commission.

18           “(2) REPORT.—Not later than 180 days after  
19 the date of enactment of the Consumer Product  
20 Safety Improvement Act of 2008, the Comptroller  
21 General shall transmit to the appropriate Congres-  
22 sional committees a report on the conclusions of the  
23 study required under paragraph (1), including an as-  
24 sessment of whether such an escrow requirement



1       could be implemented and any recommendations for  
2       such implementation.”.

3       (b) CONFORMING AMENDMENTS.—The table of con-  
4       tents in section 1 (15 U.S.C. 2051 note), as amended by  
5       section 219, is amended by adding at the end the fol-  
6       lowing:

      “Sec. 41. Financial responsibility.”.

7       **SEC. 225. STUDY AND REPORT ON EFFECTIVENESS OF AU-**  
8                   **THORITIES RELATING TO SAFETY OF IM-**  
9                   **PORTED CONSUMER PRODUCTS.**

10       Not later than 1 year after the date of enactment  
11       of this Act, the Comptroller General of the United States  
12       shall—

13               (1) conduct a study of the authorities and pro-  
14       visions of the Consumer Product Safety Act (15  
15       U.S.C. 2051 et seq.) to assess the effectiveness of  
16       such authorities and provisions in preventing unsafe  
17       consumer products from entering the customs terri-  
18       tory of the United States;

19               (2) review and provide recommendations with  
20       respect to plans to prevent unsafe consumer prod-  
21       ucts from entering the customs territory of the  
22       United States; and

23               (3) submit to the appropriate Congressional  
24       committees a report on the findings of the Comp-  
25       troller General with respect to paragraphs (1) and

1 (2), including legislative recommendations related to,  
2 at a minimum—

3 (A) inspection of foreign manufacturing  
4 plants by the Commission; and

5 (B) requiring foreign manufacturers to  
6 consent to the jurisdiction of United States  
7 courts with respect to enforcement actions by  
8 the Commission.

9 **Subtitle D—Miscellaneous Provi-**  
10 **sions and Conforming Amend-**  
11 **ments**

12 **SEC. 231. PREEMPTION.**

13 (a) RULE WITH REGARD TO PREEMPTION.—The  
14 provisions of sections 25 and 26 of the Consumer Product  
15 Safety Act (15 U.S.C. 2074 and 2075, respectively), sec-  
16 tion 18 of the Federal Hazardous Substances Act (15  
17 U.S.C. 1261 note), section 16 of the Flammable Fabrics  
18 Act (15 U.S.C. 1203), and section 7 of the Poison Pack-  
19 aging Prevention Act of 1970 (15 U.S.C. 1476) estab-  
20 lishing the extent to which those Acts preempt, limit, or  
21 otherwise affect any other Federal, State, or local law, any  
22 rule, procedure, or regulation, or any cause of action  
23 under State or local law may not be expanded or con-  
24 tracted in scope, or limited, modified or extended in appli-  
25 cation, by any rule or regulation thereunder, or by ref-

1 erence in any preamble, statement of policy, executive  
2 branch statements, or other matter associated with the  
3 publication of any such rule or regulation. In accordance  
4 with the provisions of those Acts, the Commission may not  
5 construe any such Act as preempting any cause of action  
6 under State or local common law or State statutory law  
7 regarding damage claims.

8 (b) **PRESERVATION OF CERTAIN STATE LAW.**—Noth-  
9 ing in this Act or the Federal Hazardous Substances Act  
10 shall be construed to preempt or otherwise affect any  
11 warning requirement relating to consumer products or  
12 substances that is established pursuant to State law that  
13 was in effect on August 31, 2003.

14 **SEC. 232. ALL-TERRAIN VEHICLE STANDARD.**

15 (a) **IN GENERAL.**—The Act (15 U.S.C. 2051 et seq.),  
16 as amended by section 224, is further amended by adding  
17 at the end thereof the following:

18 **“SEC. 42. ALL-TERRAIN VEHICLES.**

19 “(a) **IN GENERAL.**—

20 “(1) **MANDATORY STANDARD.**—Notwith-  
21 standing any other provision of law, within 90 days  
22 after the date of enactment of the Consumer Prod-  
23 uct Safety Improvement Act of 2008, the Commis-  
24 sion shall publish in the Federal Register as a man-  
25 datory consumer product safety standard the Amer-

1       ican National Standard for Four Wheel All-Terrain  
2       Vehicles Equipment Configuration, and Performance  
3       Requirements developed by the Specialty Vehicle In-  
4       stitute of America (American National Standard  
5       ANSI/SVIA –1–2007). The standard shall take ef-  
6       fect 150 days after it is published.

7               “(2) COMPLIANCE WITH STANDARD.—After the  
8       standard takes effect, it shall be unlawful for any  
9       manufacturer or distributor to import into or dis-  
10      tribute in commerce in the United States any new  
11      assembled or unassembled all-terrain vehicle un-  
12      less—

13              “(A) the all-terrain vehicle complies with  
14      each applicable provision of the standard;

15              “(B) the ATV is subject to an ATV action  
16      plan filed with the Commission before the date  
17      of enactment of the Act, or subsequently filed  
18      with and approved by the Commission, and  
19      bears a label certifying such compliance and  
20      identifying the manufacturer, importer or pri-  
21      vate labeler and the ATV action plan to which  
22      it is subject; and

23              “(C) the manufacturer or distributor is in  
24      compliance with all provisions of the applicable  
25      ATV action plan.

1           “(3) VIOLATION.—The failure to comply with  
2           any requirement of paragraph (2) shall be deemed to  
3           be a failure to comply with a consumer product safe-  
4           ty standard under this Act and subject to all of the  
5           penalties and remedies available under this Act.

6           “(4) COMPLIANT MODELS WITH ADDITIONAL  
7           FEATURES.—Paragraph (2) shall not be construed  
8           to prohibit the distribution in commerce of new all-  
9           terrain vehicles that comply with the requirements of  
10          that paragraph but also incorporate characteristics  
11          or components that are not covered by those require-  
12          ments. Any such characteristics or components shall  
13          be subject to the requirements of section 15 of this  
14          Act.

15          “(b) MODIFICATION OF STANDARD.—

16                 “(1) ANSI REVISIONS.—If the American Na-  
17                 tional Standard ANSI/SVIA-1-2007 is revised  
18                 through the applicable consensus standards develop-  
19                 ment process after the date on which the product  
20                 safety standard for all-terrain vehicles is published  
21                 in the Federal Register, the American National  
22                 Standards Institute shall notify the Commission of  
23                 the revision.

24                 “(2) COMMISSION ACTION.—Within 120 days  
25                 after it receives notice of such a revision by the

1 American National Standards Institute, the Com-  
2 mission shall issue a notice of proposed rulemaking  
3 in accordance with section 553 of title 5, United  
4 States Code, to amend the product safety standard  
5 for all-terrain vehicles to include any such revision  
6 that the Commission determines is reasonably re-  
7 lated to the safe performance of all-terrain vehicles,  
8 and notify the Institute of any provision it has de-  
9 termined not to be so related. The Commission shall  
10 promulgate an amendment to the standard for all-  
11 terrain vehicles within 180 days after the date on  
12 which the notice of proposed rulemaking for the  
13 amendment is published in the Federal Register.

14 “(3) UNREASONABLE RISK OF INJURY.—Not-  
15 withstanding any other provision of this Act, the  
16 Commission may, pursuant to sections 7 and 9 of  
17 this Act, amend the product safety standard for all-  
18 terrain vehicles to include any additional provision  
19 that the Commission determines is reasonably nec-  
20 essary to reduce an unreasonable risk of injury asso-  
21 ciated with the performance of all-terrain vehicles.

22 “(4) CERTAIN PROVISIONS NOT APPLICABLE.—  
23 Sections 7 and 9 of this Act shall not apply to pro-  
24 mulgation of any amendment of the product safety  
25 standard under paragraph (2). Judicial review of

1 any amendment of the standard under paragraph  
2 (2) shall be in accordance with chapter 7 of title 5,  
3 United States Code.

4 “(c) REQUIREMENTS FOR 3-WHEELED ALL-TERRAIN  
5 VEHICLES.—Until a mandatory consumer product safety  
6 standard applicable to 3-wheeled all-terrain vehicles pro-  
7 mulgated pursuant to this Act is in effect, new 3-wheeled  
8 all-terrain vehicles may not be imported into or distributed  
9 in commerce in the United States. Any violation of this  
10 subsection shall be considered to be a violation of section  
11 19(a)(1) of this Act and may also be enforced under sec-  
12 tion 17 of this Act.

13 “(d) FURTHER PROCEEDINGS.—

14 “(1) DEADLINE.—The Commission shall issue a  
15 final rule in its proceeding entitled ‘Standards for  
16 All Terrain Vehicles and Ban of Three-wheeled All  
17 Terrain Vehicles’.

18 “(2) CATEGORIES OF YOUTH ATVS.—In the  
19 final rule, the Commission, in consultation with the  
20 National Highway Traffic Safety Administration,  
21 may provide for a multiple factor method of cat-  
22 egorization that, at a minimum, takes into ac-  
23 count—

24 “(A) the weight of the ATV;

25 “(B) the maximum speed of the ATV;

1           “(C) the velocity at which an ATV of a  
2           given weight is traveling at the maximum speed  
3           of the ATV;

4           “(D) the age of children for whose oper-  
5           ation the ATV is designed or who may reason-  
6           ably be expected to operate the ATV; and

7           “(E) the average weight of children for  
8           whose operation the ATV is designed or who  
9           may reasonably be expected to operate the  
10          ATV.

11          “(3) ADDITIONAL SAFETY STANDARDS.—In the  
12          final rule, the Commission, in consultation with the  
13          National Highway Traffic Safety Administration,  
14          shall review the standard published under subsection  
15          (a)(1) and establish additional safety standards for  
16          all-terrain vehicles to the extent necessary to protect  
17          the public health and safety. As part of its review,  
18          the Commission shall consider, at a minimum, estab-  
19          lishing or strengthening standards on—

20                 “(A) suspension;

21                 “(B) brake performance;

22                 “(C) speed governors;

23                 “(D) warning labels;

24                 “(E) marketing; and

25                 “(F) dynamic stability.



1 “(e) DEFINITIONS.—In this section:

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

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

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

14 “(2) ATV ACTION PLAN.—The term ‘ATV ac-  
15 tion plan’ means a written plan or letter of under-  
16 taking that describes actions the manufacturer or  
17 distributor agrees to take to promote ATV safety,  
18 including rider training, dissemination of safety in-  
19 formation, age recommendations, other policies gov-  
20 erning marketing and sale of the ATVs, the moni-  
21 toring of such sales, and other safety related meas-  
22 ures, and that is substantially similar to the plans  
23 described under the heading ‘The Undertakings of  
24 the Companies in the Commission Notice’ published

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

3 (b) GAO STUDY.—The Comptroller General shall  
4 conduct a study of the utility, recreational, and other ben-  
5 efits of all-terrain vehicles to which section 42 of the Con-  
6 sumer Product Safety Act (15 U.S.C. 2085) applies, and  
7 the costs associated with all-terrain vehicle-related acci-  
8 dents and injuries.

9 (c) CONFORMING AMENDMENT.—The table of con-  
10 tents of this Act is further amended by inserting after the  
11 item relating to section 42 the following:

“Sec. 42. All-terrain vehicles.”.

12 **SEC. 233. COST-BENEFIT ANALYSIS UNDER THE POISON**  
13 **PREVENTION PACKAGING ACT OF 1970.**

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

17 “(e) Nothing in this Act shall be construed to require  
18 the Consumer Product Safety Commission, in establishing  
19 a standard under this section, to prepare a comparison  
20 of the costs that would be incurred in complying with such  
21 standard with the benefits of such standard.”.

1 **SEC. 234. STUDY ON USE OF FORMALDEHYDE IN MANUFAC-**  
2 **TURING OF TEXTILE AND APPAREL ARTI-**  
3 **CLES.**

4 Not later than 2 years after the date of enactment  
5 of this Act, the Comptroller General, in consultation with  
6 the Commission, shall conduct a study on the use of form-  
7 aldehyde in the manufacture of textile and apparel arti-  
8 cles, or in any component of such articles, to identify any  
9 risks to consumers caused by the use of formaldehyde in  
10 the manufacturing of such articles, or components of such  
11 articles.

12 **SEC. 235. TECHNICAL AND CONFORMING CHANGES.**

13 (a) DEFINITIONS.—Section 3(a) (15 U.S.C. 2052) is  
14 amended by adding at the end the following:

15 “(15) APPROPRIATE CONGRESSIONAL COMMIT-  
16 TEES.—The term ‘appropriate Congressional com-  
17 mittees’ means the Committee on Energy and Com-  
18 merce of the House of Representatives and the Com-  
19 mittee on Commerce, Science, and Transportation of  
20 the Senate.

21 “(16) CHILDREN’S PRODUCT.—The term ‘chil-  
22 dren’s product’ means a consumer product designed  
23 or intended primarily for children 12 years of age or  
24 younger. In determining whether a consumer prod-  
25 uct is primarily intended for a child 12 years of age  
26 or younger, the following factors shall be considered:

1           “(A) A statement by a manufacturer about  
2           the intended use of such product, including a  
3           label on such product if such statement is rea-  
4           sonable.

5           “(B) Whether the product is represented  
6           in its packaging, display, promotion, or adver-  
7           tising as appropriate for use by children 12  
8           years of age or younger.

9           “(C) Whether the product is commonly  
10          recognized by consumers as being intended for  
11          use by a child 12 years of age or younger.

12          “(D) The Age Determination Guidelines  
13          issued by the Commission staff in September  
14          2002, and any successor to such guidelines.

15          “(17) THIRD-PARTY LOGISTICS PROVIDER.—  
16          The term ‘third-party logistics provider’ means a  
17          person who solely receives, holds, or otherwise trans-  
18          ports a consumer product in the ordinary course of  
19          business but who does not take title to the prod-  
20          uct.”.

21          (b) MISCELLANEOUS.—Section 3 (15 U.S.C. 2052)  
22          is amended—

23                 (1) by striking “(a) for purposes of this Act:”  
24                 and inserting “(a) IN GENERAL.—In this Act:”;

1           (2) by indenting each paragraph and subpara-  
2           graph of subsection (a) 2 em spaces;

3           (3) by inserting a heading, in a form consistent  
4           with the form of the heading of this subsection con-  
5           sisting of the term defined by such paragraph, after  
6           the designation of each paragraph of subsection (a);

7           (4) by reordering such paragraphs and the ad-  
8           ditional paragraphs added by paragraph (1) of this  
9           subsection in alphabetical order based on the head-  
10          ings of such paragraphs and renumbering such para-  
11          graphs as so reordered; and

12          (5) by inserting “common carriers, contract  
13          carriers, and freight forwarders” after “(b)” in sub-  
14          section (b).

15          (c) CONFORMING AMENDMENTS.—

16          (1) Section 3(b) (15 U.S.C. 2052(b) is amended  
17          by inserting “third-party logistics provider,” after  
18          “contract carrier,”.

19          (2) Section 6(e)(4) (15 U.S.C. 2055(e)(4)) is  
20          amended by striking “the Committee on Commerce,  
21          Science, and Transportation of the Senate or the  
22          Committee on Energy and Commerce of the House  
23          of Representatives or any subcommittee of such  
24          committee,” and insert “either of the appropriate

1 Congressional committees or any subcommittee  
2 thereof.”.

3 (3) Sections 9(a), 9(c), and 35(c)(2)(D)(iii) (15  
4 U.S.C. 2058(a), (c), and 2082(c)(2)(D)(iii), and  
5 2082(e)(1), respectively) are each amended by strik-  
6 ing “the Committee on Commerce, Science, and  
7 Transportation of the Senate and the Committee on  
8 Energy and Commerce of the House of Representa-  
9 tives” each place it appears and inserting “the ap-  
10 propriate Congressional committees”.

11 (4) Section 32(b)(1) (15 U.S.C. 2050(b)(1)) is  
12 amended by striking “the Committee on Energy and  
13 Commerce of the House of Representatives, and by  
14 the Committee on Commerce, Science, and Trans-  
15 portation of the Senate.” and inserting “the appro-  
16 priate Congressional committees.”.

17 (5) Section 35(e)(1) (15 U.S.C. 2082(e)(1)) is  
18 amended by striking “the Committee on Commerce,  
19 Science, and Transportation of the Senate and to  
20 the Committee on Energy and Commerce of the  
21 House of Representatives” and insert “the appro-  
22 priate Congressional committees”.

23 (6) Sections 17(h)(3), 28(j)(10)(F), and  
24 28(k)(1) and (2) (15 U.S.C. 2066(h)(3),  
25 2077(j)(10)(F), and 2077(k)(1) and (2), respec-

1 tively) are each amended by striking “the Congress”  
2 and inserting “the appropriate Congressional com-  
3 mittees”.

4 (7) Section 29(e) (15 U.S.C. 2078(e)) is  
5 amended by striking “The Commission” and insert-  
6 ing “Notwithstanding section 6(a)(3), the Commis-  
7 sion”.

8 **SEC. 236. EXPEDITED JUDICIAL REVIEW.**

9 (a) IN GENERAL.—Section 11 (15 U.S.C. 2060) is  
10 amended by adding at the end thereof the following:

11 “(g) EXPEDITED JUDICIAL REVIEW.—

12 “(1) APPLICATION.—This subsection applies, in  
13 lieu of the preceding subsections of this section, to  
14 judicial review of—

15 “(A) any consumer product safety rule  
16 promulgated by the Commission pursuant to  
17 section 15(j) (relating to identification of sub-  
18 stantial hazards);

19 “(B) any consumer product safety stand-  
20 ard promulgated by the Commission pursuant  
21 to section 42 (relating to all-terrain vehicles);

22 “(C) any standard promulgated by the  
23 Commission under section 104 of the Consumer  
24 Product Safety Improvement Act of 2008 (re-

1           lating to durable infant and toddler products);  
2           and

3           “(D) any consumer product safety stand-  
4           ard promulgated by the Commission under sec-  
5           tion 106 of the Consumer Product Safety Im-  
6           provement Act of 2008 (relating to mandatory  
7           toy safety standards).

8           “(2) IN GENERAL.—Not later than 60 days  
9           after the promulgation, by the Commission, of a rule  
10          or standard to which this subsection applies, any  
11          person adversely affected by such rule or standard  
12          may file a petition with the United States Court of  
13          Appeals for the District of Columbia Circuit for ju-  
14          dicial review of such rule. Copies of the petition shall  
15          be forthwith transmitted by the clerk of the court to  
16          the Commission or other officer designated by it for  
17          that purpose and to the Attorney General. The  
18          record of the proceedings on which the Commission  
19          based its rule shall be filed in the court as provided  
20          for in section 2112 of title 28, United States Code.

21          “(3) REVIEW.—Upon the filing of the petition  
22          under paragraph (2) of this subsection, the court  
23          shall have jurisdiction to review the rule in accord-  
24          ance with chapter 7 of title 5, United States Code,



1 and to grant appropriate relief, including interim re-  
2 lief, as provided in such chapter.

3 “(4) CONCLUSIVENESS OF JUDGMENT.—The  
4 judgment of the court affirming or setting aside, in  
5 whole or in part, any final rule under this section  
6 shall be final, subject to review by the Supreme  
7 Court of the United States upon certiorari or certifi-  
8 cation, as provided in section 1254 of title 28,  
9 United States Code.

10 “(5) FURTHER REVIEW.—A rule or standard  
11 with respect to which this subsection applies shall  
12 not be subject to judicial review in proceedings  
13 under section 17 (relating to imported products) or  
14 in civil or criminal proceedings for enforcement.”.

15 (b) PENDING ACTIONS UNAFFECTED.—The amend-  
16 ment made by subsection (a) shall not apply to any peti-  
17 tion filed before the date of enactment of this Act for judi-  
18 cial review of any action by the Consumer Product Safety  
19 Commission.

20 **SEC. 237. REPEAL.**

21 Section 30 (15 U.S.C. 2079) is amended by striking  
22 subsection (d).

1 **SEC. 238. POOL AND SPA SAFETY ACT TECHNICAL AMEND-**  
2 **MENTS.**

3 Title XIV of the Energy Independence and Security  
4 Act of 2007 (Public Law 110–140) is amended—

5 (1) in section 1403 by adding at the end the  
6 following:

7 “(8) STATE.—The term ‘State’ has the mean-  
8 ing given such term in section 3(10) of the Con-  
9 sumer Product Safety Act (15 U.S.C. 2052(10)),  
10 and includes the Northern Mariana Islands.”.

11 (2) in section 1404 by adding at the end of sub-  
12 section (b) the following: “If a successor standard is  
13 proposed, the American Society of Mechanical Engi-  
14 neers shall notify the Commission of the proposed  
15 revision. If the Commission determines that the pro-  
16 posed revision is in the public interest, it shall incor-  
17 porate the revision into the standard after providing  
18 30 days notice to the public.”; and

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

20 **“SEC. 1409. APPLICABILITY.**

21 “This Act is applicable to the United States and its  
22 territories, including American Samoa, the Commonwealth  
23 of Puerto Rico, Guam, the Commonwealth of the Northern  
24 Mariana Islands, and the United States Virgin Islands.”.

25 **SEC. 239. EFFECTIVE DATES AND SEVERABILITY.**

26 (a) **EFFECTIVE DATES.—**

1           (1) IN GENERAL.—Except as otherwise specifi-  
2 cally provided in this Act, this Act and the amend-  
3 ments made by this Act shall take effect on the date  
4 of enactment of this Act.

5           (2) CERTAIN DELAYED EFFECTIVE DATES.—  
6 The amendments made by sections 103(c) and  
7 214(a)(2) shall take effect on the date that is 60  
8 days after the date of enactment of this Act. Sub-  
9 section (c) of section 42 of the Consumer Product  
10 Safety Act, as added by section 232 of this Act, and  
11 the amendments made by sections 216 and 223(b)  
12 shall take effect on the date that is 30 days after  
13 the date of enactment of this Act.

14          (b) SEVERABILITY.—If any provision of this Act or  
15 the amendments made by this Act, or the application of  
16 such provision to any person or circumstance, is held in-  
17 valid, the remainder of this Act and the amendments made  
18 by this Act, and the application of such provision to other  
19 persons not similarly situated or to other circumstances,  
20 shall not be affected by such invalidation.