

Remarks of Rep. Henry A. Waxman
Floor Consideration
H.R. 4040, the Consumer Product Safety Improvement Act
July 30, 2008

I am pleased to speak in favor of this bill, which marks a great step forward in protecting our children and all Americans from unsafe products. I want to thank Chairman Dingell, Chairman Rush, Ranking Member Barton, and all of the Conferees for their hard work in moving this bill.

I believe that this is an extremely strong bill. It provides critically needed new authorities, personnel, and resources for an Agency that has grown all but defunct in recent years. I look forward to a day when we can all feel safer as a result of this bill.

There are many important pieces of this bill, as others have noted—new lead limits, mandatory toy standards, third-party testing, a ban on phthalates, whistleblower protections, and much more. In all of these areas, we have

strengthened federal law and provided for better national enforcement with respect to consumer products.

At the same time, I am pleased that we have preserved essential state authorities, which are an essential tool in protecting consumers. State laws and state action were the catalyst for much of this bill, and it is important that we preserve their ability to take such action in the future, whenever it is needed.

One critical state law in this process was California's Proposition 65, which requires manufacturers to label any product that contains a known carcinogen or reproductive toxin. That law has played a unique role in protecting all Americans for decades, so it was important to me that we not interfere with it in this legislation.

I am therefore pleased that the conference report makes clear that any state warning laws like Prop 65 that were in effect as of August 31, 2003 are not preempted by this Act or by the Federal Hazardous Substances Act. This

important clarification effectively harmonizes the four statutes that are enforced by the Commission. Other laws enforced by CPSC, including the Consumer Product Safety Act, clearly do not preempt or affect state warning requirements like Prop 65. The Federal Hazardous Substances Act, however, is ambiguous as to its effect on state warning requirements. I am pleased that we have corrected this ambiguity with this conference report and harmonized all of the Commission's statutes on this point.

I am also pleased that under another key provision of the legislation—the new prohibition on phthalates—states retain the ability to regulate phthalates in product classes that are not regulated under this legislation. States also retain authority to enforce any toy safety standards that were in effect on the date of enactment of this bill, as long as they notify CPSC of the standard. I am pleased that the bill includes explicit language to preserve states' ability to regulate alternatives to phthalates, such as other chemical plasticizers that might be used as substitutes to the phthalates that will be removed from toys under this law.

The bill itself does not address the use of hazardous alternatives to phthalates when the prohibition goes into effect, so it is critical that states can act in this area.

California has a law on phthalate alternatives and it is important that that law will remain in effect as the new federal ban on phthalates enters into force.

Finally, I am pleased that under the bill, states have the authority to require additional or more effective testing protocols. Because testing protocols can change over time as tests become more sensitive and science evolves, states must be free to move ahead even when federal requirements lag behind. The states' ability to act quickly and proactively provides an essential backstop of protection for consumers, and this bill makes sure that backstop remains in place.

Again, I thank Chairman Dingell and Chairman Rush for putting together such a strong bill for all Americans.