

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

H. R. 4212

To prevent the introduction into commerce of unsafe drywall, to ensure the manufacturer of drywall is readily identifiable, to ensure that problematic drywall removed from homes is not reused, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. VITTER (for himself, Mr. WARNER, and Mr. NELSON of Florida)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drywall Safety Act
5 of 2012”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) the Secretary of Commerce should insist
9 that the Government of the People’s Republic of
10 China, which has ownership interests in the compa-

1 nies that manufactured and exported problematic
2 drywall to the United States, facilitate a meeting be-
3 tween the companies and representatives of the
4 United States Government on remedying home-
5 owners that have problematic drywall in their homes;
6 and

7 (2) the Secretary of Commerce should insist
8 that the Government of the People’s Republic of
9 China direct the companies that manufactured and
10 exported problematic drywall to submit to jurisdic-
11 tion in United States Federal Courts and comply
12 with any decisions issued by the Courts for home-
13 owners with problematic drywall.

14 **SEC. 3. DRYWALL LABELING REQUIREMENT.**

15 (a) LABELING REQUIREMENT.—Beginning 180 days
16 after the date of the enactment of this Act, the gypsum
17 board labeling provisions of standard ASTM C1264-11 of
18 ASTM International, as in effect on the day before the
19 date of the enactment of this Act, shall be treated as a
20 rule promulgated by the Consumer Product Safety Com-
21 mission under section 14(c) of the Consumer Product
22 Safety Act (15 U.S.C. 2063(c)).

23 (b) REVISION OF STANDARD.—If the gypsum board
24 labeling provisions of the standard referred to in sub-
25 section (a) are revised on or after the date of the enact-

1 ment of this Act, ASTM International shall notify the
2 Commission of such revision no later than 60 days after
3 final approval of the revision by ASTM International. The
4 revised provisions shall be treated as a rule promulgated
5 by the Commission under section 14(c) of such Act (15
6 U.S.C. 2063(c)), in lieu of the prior version, effective 180
7 days after the Commission is notified of the revision (or
8 such later date as the Commission considers appropriate),
9 unless within 90 days after receiving that notice the Com-
10 mission determines that the revised provisions do not ade-
11 quately identify gypsum board by manufacturer and
12 month and year of manufacture, in which case the Com-
13 mission shall continue to enforce the prior version.

14 **SEC. 4. SULFUR CONTENT IN DRYWALL STANDARD.**

15 (a) RULE ON SULFUR CONTENT IN DRYWALL RE-
16 QUIRED.—Except as provided in subsection (c), not later
17 than 2 years after the date of the enactment of this Act,
18 the Consumer Product Safety Commission shall promul-
19 gate a final rule pertaining to drywall manufactured or
20 imported for use in the United States that limits sulfur
21 content to a level not associated with elevated rates of cor-
22 rosion in the home.

23 (b) RULE MAKING; CONSUMER PRODUCT SAFETY
24 STANDARD.—A rule under subsection (a)—

1 (1) shall be promulgated in accordance with
2 section 553 of title 5, United States Code; and

3 (2) shall be treated as a consumer product safe-
4 ty rule promulgated under section 9 of the Con-
5 sumer Product Safety Act (15 U.S.C. 2058).

6 (c) EXCEPTION.—

7 (1) VOLUNTARY STANDARD.—Subsection (a)
8 shall not apply if the Commission determines that—

9 (A) a voluntary standard pertaining to
10 drywall manufactured or imported for use in
11 the United States limits sulfur content to a
12 level not associated with elevated rates of corro-
13 sion in the home;

14 (B) such voluntary standard is or will be
15 in effect not later than two years after the date
16 of enactment of this Act; and

17 (C) such voluntary standard is developed
18 by Subcommittee C11.01 on Specifications and
19 Test Methods for Gypsum Products of ASTM
20 International.

21 (2) FEDERAL REGISTER.—Any determination
22 made under paragraph (1) shall be published in the
23 Federal Register.

24 (d) TREATMENT OF VOLUNTARY STANDARD FOR
25 PURPOSES OF ENFORCEMENT.—If the Commission deter-

1 mines that a voluntary standard meets the conditions in
2 subsection (c)(1), the sulfur content limit in such vol-
3 untary standard shall be treated as a consumer product
4 safety rule promulgated under section 9 of the Consumer
5 Product Safety Act (15 U.S.C. 2058) beginning on the
6 date that is the later of—

7 (1) 180 days after publication of the Commis-
8 sion's determination under subsection (c); or

9 (2) the effective date contained in the voluntary
10 standard.

11 (e) REVISION OF VOLUNTARY STANDARD.—If the
12 sulfur content limit of a voluntary standard that met the
13 conditions of subsection (c)(1) is subsequently revised, the
14 organization responsible for the standard shall notify the
15 Commission no later than 60 days after final approval of
16 the revision. The sulfur content limit of the revised vol-
17 untary standard shall become enforceable as a Commis-
18 sion rule promulgated under section 9 of the Consumer
19 Product Safety Act (15 U.S.C. 2058), in lieu of the prior
20 version, effective 180 days after the Commission is noti-
21 fied of the revision (or such later date as the Commission
22 considers appropriate), unless within 90 days after receiv-
23 ing that notice the Commission determines that the sulfur
24 content limit of the revised voluntary standard does not
25 meet the requirements of subsection (c)(1)(A), in which

1 case the Commission shall continue to enforce the prior
2 version.

3 (f) **FUTURE RULEMAKING.**—The Commission, at any
4 time subsequent to publication of the consumer product
5 safety rule required by subsection (a) or a determination
6 under subsection (c), may initiate a rulemaking in accord-
7 ance with section 553 of title 5, United States Code, to
8 modify the sulfur content limit or to include any provision
9 relating only to the composition or characteristics of
10 drywall that the Commission determines is reasonably nec-
11 essary to protect public health or safety. Any rule promul-
12 gated under this subsection shall be treated as a consumer
13 product safety rule promulgated under section 9 of the
14 Consumer Product Safety Act (15 U.S.C. 2058).

15 **SEC. 5. REVISION OF REMEDIATION GUIDANCE FOR**
16 **DRYWALL DISPOSAL REQUIRED.**

17 Not later than 120 days after the date of the enact-
18 ment of this Act, the Consumer Product Safety Commis-
19 sion shall revise its guidance entitled “Remediation Guid-
20 ance for Homes with Corrosion from Problem Drywall”
21 to specify that problematic drywall removed from homes
22 pursuant to the guidance should not be reused or used
23 as a component in production of new drywall.