

In the Senate of the United States,

December 21, 2012.

Resolved, That the bill from the House of Representatives (H.R. 4212) entitled “An Act 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.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Drywall Safety Act of*
3 *2012”.*

4 ***SEC. 2. SENSE OF CONGRESS.***

5 *It is the sense of Congress that—*

6 *(1) the Secretary of Commerce should insist that*
7 *the Government of the People’s Republic of China,*
8 *which has ownership interests in the companies that*
9 *manufactured and exported problematic drywall to*

1 *the United States, facilitate a meeting between the*
 2 *companies and representatives of the United States*
 3 *Government on remedying homeowners that have*
 4 *problematic drywall in their homes; and*

5 *(2) the Secretary of Commerce should insist that*
 6 *the Government of the People’s Republic of China di-*
 7 *rect the companies that manufactured and exported*
 8 *problematic drywall to submit to jurisdiction in*
 9 *United States Federal Courts and comply with any*
 10 *decisions issued by the Courts for homeowners with*
 11 *problematic drywall.*

12 **SEC. 3. DRYWALL LABELING REQUIREMENT.**

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

21 *(b) REVISION OF STANDARD.—If the gypsum board la-*
 22 *beling provisions of the standard referred to in subsection*
 23 *(a) are revised on or after the date of the enactment of this*
 24 *Act, ASTM International shall notify the Commission of*
 25 *such revision no later than 60 days after final approval*

1 of the revision by ASTM International. The revised provi-
 2 sions shall be treated as a rule promulgated by the Commis-
 3 sion under section 14(c) of such Act (15 U.S.C. 2063(c)),
 4 in lieu of the prior version, effective 180 days after the Com-
 5 mission is notified of the revision (or such later date as
 6 the Commission considers appropriate), unless within 90
 7 days after receiving that notice the Commission determines
 8 that the revised provisions do not adequately identify gyp-
 9 sum board by manufacturer and month and year of manu-
 10 facture, in which case the Commission shall continue to en-
 11 force the prior version.

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

13 (a) *RULE ON SULFUR CONTENT IN DRYWALL RE-*
 14 *QUIRED.*—Except as provided in subsection (c), not later
 15 than 2 years after the date of the enactment of this Act,
 16 the Consumer Product Safety Commission shall promulgate
 17 a final rule pertaining to drywall manufactured or im-
 18 ported for use in the United States that limits sulfur con-
 19 tent to a level not associated with elevated rates of corrosion
 20 in the home.

21 (b) *RULE MAKING; CONSUMER PRODUCT SAFETY*
 22 *STANDARD.*—A rule under subsection (a)—
 23 (1) shall be promulgated in accordance with sec-
 24 tion 553 of title 5, United States Code; and

(2) *shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).*

(c) *EXCEPTION.—*

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

(A) *a voluntary standard pertaining to drywall manufactured or imported for use in the United States limits sulfur content to a level not associated with elevated rates of corrosion in the home;*

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

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

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

(d) *TREATMENT OF VOLUNTARY STANDARD FOR PURPOSES OF ENFORCEMENT.—If the Commission determines that a voluntary standard meets the conditions in subsection (c)(1), the sulfur content limit in such voluntary*

1 *standard shall be treated as a consumer product safety rule*
2 *promulgated under section 9 of the Consumer Product Safe-*
3 *ty Act (15 U.S.C. 2058) beginning on the date that is the*
4 *later of—*

5 *(1) 180 days after publication of the Commis-*
6 *sion's determination under subsection (c); or*

7 *(2) the effective date contained in the voluntary*
8 *standard.*

9 *(e) REVISION OF VOLUNTARY STANDARD.—If the sul-*
10 *fur content limit of a voluntary standard that met the con-*
11 *ditions of subsection (c)(1) is subsequently revised, the orga-*
12 *nization responsible for the standard shall notify the Com-*
13 *mission no later than 60 days after final approval of the*
14 *revision. The sulfur content limit of the revised voluntary*
15 *standard shall become enforceable as a Commission rule*
16 *promulgated under section 9 of the Consumer Product Safe-*
17 *ty Act (15 U.S.C. 2058), in lieu of the prior version, effec-*
18 *tive 180 days after the Commission is notified of the revi-*
19 *sion (or such later date as the Commission considers appro-*
20 *priate), unless within 90 days after receiving that notice*
21 *the Commission determines that the sulfur content limit of*
22 *the revised voluntary standard does not meet the require-*
23 *ments of subsection (c)(1)(A), in which case the Commission*
24 *shall continue to enforce the prior version.*

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

13 **SEC. 5. REVISION OF REMEDIATION GUIDANCE FOR**
14 **DRYWALL DISPOSAL REQUIRED.**

15 *Not later than 120 days after the date of the enactment*
16 *of this Act, the Consumer Product Safety Commission shall*
17 *revise its guidance entitled “Remediation Guidance for*
18 *Homes with Corrosion from Problem Drywall” to specify*
19 *that problematic drywall removed from homes pursuant to*
20 *the guidance should not be reused or used as a component*
21 *in production of new drywall.*

Attest:

Secretary.

112TH CONGRESS
2^D SESSION

H.R. 4212

AMENDMENT