

118TH CONGRESS
2D SESSION

S. 4298

To provide that certain water beads products shall be considered banned hazardous products under section 8 of the Consumer Product Safety Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2024

Ms. BALDWIN (for herself, Mr. CASEY, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide that certain water beads products shall be considered banned hazardous products under section 8 of the Consumer Product Safety Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Esther’s Law”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) ART MATERIAL OR ART MATERIAL PROD-
8 UCT.—The term “art material or art material prod-
9 uct” has the meaning given such term in section

1 23(b)(1) of the Federal Hazardous Substances Act
2 (15 U.S.C. 1277(b)(1)) as applied to a child under
3 14 years of age.

4 (2) COMMISSION.—The term “Commission”
5 means the Consumer Product Safety Commission.

6 (3) EDUCATIONAL MATERIAL.—The term “edu-
7 cational material” means any substance or product,
8 other than a toy, as defined in paragraph (5), that
9 is designed, intended, or marketed by the producer
10 or repackager as suitable to assist with the cognitive
11 development of a child under 14 years of age.

12 (4) SENSORY STIMULATION MATERIAL OR SEN-
13 SORY TOOL.—The term “sensory stimulation mate-
14 rial or sensory tool” means a consumer product, as
15 defined in section 3(a)(5) of the Consumer Product
16 Safety Act (15 U.S.C. 2052(a)(5)), that stimulates
17 the visual or tactile sense of a child under 14 years
18 of age.

19 (5) TOY.—The term “toy” has the meaning
20 given such term in section 3.1.92 of ASTM F963–
21 23 (Standard Consumer Safety Specification for Toy
22 Safety), or any successor to such document.

23 (6) WATER BEADS PRODUCT.—The term
24 “water beads product” means a consumer product,
25 whether accessible or not, that—

1 (A) is composed, in whole or in part, of
 2 water-absorbing super absorbent polymers, such
 3 as polyacrylamides and polyacrylates; and

4 (B) at the point of sale to a consumer,
 5 contains at least 1 individual bead that can—

6 (i) fit entirely within the cylinder de-
 7 scribed in section 1501.4 of title 16, Code
 8 of Federal Regulations; and

9 (ii) through water absorption, ex-
 10 pand—

11 (I) to a size of at least 3 millime-
 12 ters (in 1 or more dimensions); or

13 (II) by 50 percent or more in di-
 14 ameter in any dimension from its as-
 15 received state.

16 **SEC. 3. CERTAIN WATER BEADS PRODUCTS CONSIDERED**
 17 **BANNED HAZARDOUS PRODUCTS.**

18 (a) IN GENERAL.—On and after the date that is 180
 19 days after the date of the enactment of this Act, a water
 20 beads product, without regard to the date of manufacture
 21 or importation, shall be considered a banned hazardous
 22 product under section 8 of the Consumer Product Safety
 23 Act (15 U.S.C. 2057).

24 (b) WATER BEADS PRODUCT.—For purposes of sub-
 25 section (a), the term “water beads product” (as defined

1 in section 2) refers to a product that is designed, intended,
 2 or marketed as—

3 (1) a toy;

4 (2) educational material;

5 (3) art material or art material product; or

6 (4) sensory stimulation material or sensory tool.

7 **SEC. 4. REGULATION OF WATER BEAD PRODUCTS NOT DE-**
 8 **SIGNED, INTENDED, OR MARKETING AS TOYS,**
 9 **EDUCATIONAL MATERIALS, ART MATERIALS,**
 10 **OR SENSORY TOOLS.**

11 (a) IN GENERAL.—Not later than 24 months after
 12 the date of the enactment of this Act, the Commission
 13 shall, in accordance with section 553 of title 5, United
 14 States Code, promulgate a final consumer product safety
 15 standard for water beads products that are not banned
 16 under section 3 that—

17 (1) may contain requirements on the colors of
 18 such water beads products, so as to deter use by
 19 children; and

20 (2) shall contain warning label requirements—

21 (A) to be included, as practicable, on the
 22 packaging of such products;

23 (B) to be included on any literature dis-
 24 tributed with the product, in print or in an on-
 25 line format; and

1 (C) that shall contain language describing
2 the risk of injury and death if used by children
3 or around children, including—

4 (i) the hazard of ingestion, orally or
5 otherwise;

6 (ii) the need for the consumer to keep
7 the product out of an environment that
8 contains children; and

9 (iii) instructions for the consumer to
10 seek medical care and advice should the
11 consumer suspect ingestion by a child.

12 (b) FUTURE RULEMAKING.—At any time after the
13 promulgation of a final consumer product safety standard
14 under subsection (a), the Commission may initiate rule-
15 making in accordance with section 553 of title 5, United
16 States Code, to modify the requirements of the standard
17 or any revised standard. Any rule promulgated under this
18 subsection shall be treated as a consumer product safety
19 rule promulgated under section 9 of the Consumer Prod-
20 uct Safety Act (15 U.S.C. 2058).

21 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be construed as applying to water beads that
23 are used commercially in diapers, personal care products,

- 1 sanitary products, or agricultural supplies, including fer-
- 2 tilizers and agricultural soil conditioners.

