

REESE'S LAW

JULY 26, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 5313]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5313) to protect children and other consumers against hazards associated with the accidental ingestion of button cell or coin batteries by requiring the Consumer Product Safety Commission to promulgate a consumer product safety standard to require child-resistant closures on consumer products that use such batteries, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. CONSUMER PRODUCT SAFETY STANDARD FOR BUTTON CELL OR COIN BATTERIES AND CONSUMER PRODUCTS CONTAINING SUCH BATTERIES.

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Commission shall, in accordance with section 553 of title 5, United States Code, promulgate a final consumer product safety standard for button cell or coin batteries and consumer products containing button cell or coin batteries that shall only contain—

(1) a performance standard requiring the button cell or coin battery compartments of a consumer product containing button cell or coin batteries to be secured in a manner that would eliminate or adequately reduce the risk of injury from button or coin cell battery ingestion by children that are 6 years of age or younger during reasonably foreseeable use or misuse conditions; and

(2) warning label requirements—

(A) to be included on the packaging of button cell or coin batteries and the packaging of a consumer product containing button cell or coin batteries;

(B) to be included in any literature, such as a user manual, that accompanies a consumer product containing button cell or coin batteries; and

(C) to be included, as practicable—

(i) directly on a consumer product containing button cell or coin batteries in a manner that is visible to the consumer upon installation or replacement of the button cell or coin battery; or

(ii) in the case of a product for which the battery is not intended to be replaced or installed by the consumer, to be included directly on the consumer product in a manner that is visible to the consumer upon access to the battery compartment, except that if it is impracticable to label the product, this information shall be placed on the packaging or instructions.

(b) **REQUIREMENTS FOR WARNING LABELS.**—Warning labels required under subsection (a)(2) shall—

(1) clearly identify the hazard of ingestion; and

(2) instruct consumers, as practicable, to keep new and used batteries out of the reach of children, to seek immediate medical attention if a battery is ingested, and to follow any other consensus medical advice.

(c) **TREATMENT OF STANDARD FOR ENFORCEMENT PURPOSES.**—A consumer product safety standard promulgated under subsection (a) shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(d) **EXCEPTION FOR RELIANCE ON VOLUNTARY STANDARD.**—

(1) **BEFORE PROMULGATION OF STANDARD BY COMMISSION.**—Subsection (a) shall not apply if the Commission determines, before the Commission promulgates a final consumer product safety standard under such subsection, that—

(A) with respect to any consumer product for which there is a voluntary consumer product safety standard that meets the requirements for a standard promulgated under subsection (a) with respect to such product; and

(B) the voluntary standard described in subparagraph (A)—

(i) is in effect at the time of the determination by the Commission;

or

(ii) will be in effect not later than the date that is 180 days after the date of the enactment of this Act.

(2) **DETERMINATION REQUIRED TO BE PUBLISHED IN FEDERAL REGISTER.**—Any determination made by the Commission under this subsection shall be published in the Federal Register.

(e) **TREATMENT OF VOLUNTARY STANDARD FOR ENFORCEMENT PURPOSES.**—

(1) **IN GENERAL.**—If the Commission makes a determination under subsection (d) with respect to a voluntary standard, the requirements of such voluntary standard shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) beginning on the date described in paragraph (2).

(2) **DATE DESCRIBED.**—The date described in this paragraph is the later of—

(A) the date of the determination of the Commission under subsection (d) with respect to the voluntary standard described in paragraph (1); or

(B) the effective date contained in the voluntary standard described in paragraph (1).

(f) **REVISION OF VOLUNTARY STANDARD.**—

(1) **NOTICE TO COMMISSION.**—If a voluntary standard with respect to which the Commission has made a determination under subsection (d) is subsequently

revised, the organization that revised the standard shall notify the Commission after the final approval of the revision.

(2) **EFFECTIVE DATE OF REVISION.**—Beginning on the date that is 180 days after the Commission is notified of a revised voluntary standard described in paragraph (1) (or such later date as the Commission determines appropriate), such revised voluntary standard in whole or in part shall be considered to be a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), in place of the prior version, unless, within 90 days after receiving the notice, the Commission notifies the organization that the revised voluntary standard, in whole or in part, does not improve the safety of the consumer product covered by the standard and that the Commission is retaining all or part of the existing consumer product safety standard.

(g) **FUTURE RULEMAKING.**—At any time after the promulgation of a final consumer product safety standard under subsection (a), a voluntary standard is treated as a consumer product safety rule under subsection (e), or a revised voluntary standard becomes enforceable as a consumer product safety rule under subsection (f), the Commission may initiate a rulemaking in accordance with section 553 of title 5, United States Code, to modify the requirements of the standard or revised standard. Any rule promulgated under this subsection shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

SEC. 3. CHILD-RESISTANT PACKAGING FOR BUTTON CELL OR COIN BATTERIES.

(a) **REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, any button cell or coin battery sold, offered for sale, manufactured for sale, distributed in commerce, or imported into the United States, or included separately with a consumer product sold, offered for sale, manufactured for sale, distributed in commerce, or imported into the United States, shall be packaged in accordance with the standards provided in section 1700.15 of title 16, Code of Federal Regulations (or any successor regulation), as determined through testing in accordance with the method described in section 1700.20 of title 16, Code of Federal Regulations (or any successor regulation), or another test method for button cell or coin battery packaging specified, by rule, by the Commission.

(b) **APPLICABILITY.**—The requirement of subsection (a) shall be treated as a standard for the special packaging of a household substance established under section 3(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472(a)).

SEC. 4. EXEMPTION FOR COMPLIANCE WITH EXISTING STANDARD.

The standards promulgated under this Act shall not apply with respect to any toy product that is in compliance with the battery accessibility and labeling requirements of part 1250 of title 16, Code of Federal Regulations, and in reference to section 3(a), shall not apply with respect to button cell or coin batteries that are in compliance with the marking and packaging provisions of the ANSI Safety Standard for Portable Lithium Primary Cells and Batteries (ANSI C18.3M).

SEC. 5. DEFINITIONS.

In this Act:

(1) **BUTTON CELL OR COIN BATTERY.**—The term “button cell or coin battery” means—

(A) a single cell battery with a diameter greater than the height of the battery; or

(B) any other battery, regardless of the technology used to produce an electrical charge, that is determined by the Commission to pose an ingestion hazard.

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

(3) **CONSUMER PRODUCT.**—The term “consumer product” has the meaning given such term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)).

(4) **CONSUMER PRODUCT CONTAINING BUTTON CELL OR COIN BATTERIES.**—The term “consumer product containing button cell or coin batteries” means a consumer product containing or designed to use one or more button cell or coin batteries, regardless of whether such batteries are intended to be replaced by the consumer or are included with the product or sold separately.

(5) **TOY PRODUCT.**—The term “toy product” means any object designed, manufactured, or marketed as a plaything for children under 14 years of age.

SEC. 6. EFFECTIVE DATE.

The standard promulgated under section 2(a) and the requirements of section 3(a) shall only apply to a product that is manufactured or imported after the effective date of such standard or requirement.

I. PURPOSE AND SUMMARY

H.R. 5313, “Reese’s Law,” requires the Consumer Product Safety Commission (CPSC) to promulgate a final consumer product safety standard to protect children from ingesting button cell batteries or coin batteries. The standard shall include requirements for button cell battery packaging and warning label requirements to warn consumers of the hazards of ingestion and instruct consumers to keep new and used batteries out of the reach of children. The bill is named after Reese Hamsmith, an 18-month-old child who tragically died after ingesting a button cell battery.

II. BACKGROUND AND NEED FOR LEGISLATION

Button cell or coin batteries are small, single-cell batteries with a diameter greater than the height of the battery, so that it resembles a button. These batteries can be used to power children’s toys, television remotes, key fobs, and meat thermometers, among other common household items. Due to their small size and availability in various household electronics, button cell batteries pose a serious harm to children under six years old who can suffer serious injuries or death if they swallow these batteries.¹ The battery can get caught in the child’s esophagus and burn the esophageal tissue, and, in some cases, these burns can rapidly create a hole in the esophagus, which can lead to difficulty breathing and eating.²

In 2021, the CPSC found that injuries related to batteries among children between the ages of five and nine rose by 93 percent during the first six months of the coronavirus disease of 2019 (COVID-19) pandemic, from March to September 2020.³ Consumer and parent advocacy groups have urged manufacturers to make safer button cell batteries or to make safer device covers for compartments where these batteries are kept.⁴

III. COMMITTEE HEARINGS

For the purposes of section 3(c) of rule XIII of the Rules of the House of Representatives, the following hearings were used to develop or consider H.R. 5313:

The Subcommittee on Consumer Protection and Commerce held a legislative hearing on May 26, 2022. The hearing was entitled, “Legislative Hearing to Protect Consumers and Strengthen the Economy.” The Subcommittee received testimony from the following witnesses:

- Katlin Kraska, Director of Federal Legislation, Government Relations, American Society for the Prevention of Cruelty to Animals;
- Julie Menin, Former Commissioner, New York City Department of Consumer Affairs;
- Hadley Heath Manning, Vice President for Policy, Independent Women’s Forum; Partner, Wiley Rein LLP;

¹ Trisha Koriath, *Parent Plus: Button Batteries Can Cause Injuries, Death if Swallowed*, American Academy of Pediatrics (May 6, 2016) (<https://publications.aap.org/aapnews/news/12468?autologincheck=redirected>).

² *Her Daughter Swallowed a Button Battery and Died, Now This Mom is Taking Action*, Today (Mar. 1, 2021).

³ Consumer Product Safety Commission, *Effect of Novel Coronavirus Pandemic on 2020 Preliminary NEISS Estimates (March-September, 2020)* (Jan. 11, 2021).

⁴ See note 2.

- Michael O’Neal, Vice President—Corporate Underwriting, First American Title Insurance Company;
- Trista Hamsmith, Founder and Reese’s Mom, Reese’s Purpose;
- Eric D. Hagopian, CEO and President, Pilot Precision Products; and
- Tori Barnes, Executive Vice President, Public Affairs and Policy, U.S. Travel Association.

IV. COMMITTEE CONSIDERATION

H.R. 5313, “Reese’s Law,” was introduced on September 21, 2021, by Representative Robin Kelly (D–IL) and referred to the Committee on Energy and Commerce. Subsequently, on September 22, 2021, the bill was referred to the Subcommittee on Consumer Protection and Commerce. A legislative hearing was held on May 26, 2022. On June 23, 2022, the Subcommittee on Consumer Protection and Commerce met in open markup session, pursuant to notice, to consider H.R. 5313 and seven other bills. An amendment in the nature of a substitute was offered by Representative Kelly and agreed to by a voice vote. Upon conclusion of consideration of the bill, the Subcommittee on Consumer Protection and Commerce agreed to report the bill favorably to the full Committee, amended, by a roll call vote of 21 yeas to zero nays.

On July 20, 2022, the full Committee met in open markup session, pursuant to notice, to consider H.R. 5313 and five other bills. During consideration of the bill, no amendments were offered. Upon conclusion of consideration of the bill, the full Committee agreed to a motion on final passage offered by Representative Pallone, Chairman of the Committee, to order H.R. 5313 reported favorably to the House, as amended by the Subcommittee on Consumer Protection and Commerce, by a roll call vote of 54 yeas to zero nays.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were two record votes taken on H.R. 5313, including a motion by Mr. Pallone ordering H.R. 5313 favorably reported to the House, amended. The motion on final passage of the bill was approved by a record vote of 54 yeas to zero nays. The following are the record votes taken during Committee consideration, including the names of those members voting for and against:

Committee on Energy and Commerce
117th Congress

Subcommittee on Consumer Protection and Commerce

(ratio: 14-10)

ROLL CALL VOTE #8

Bill: **H.R. 5313**, "Reese's Law"

Motion: A motion by Ms. Schakowsky of Illinois to order **H.R. 5313** transmitted favorably to the full Committee, amended.

Disposition: **AGREED TO** by a roll call vote of 21 yeas to 0 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Ms. Schakowsky	X			Mr. Bilirakis	X		
Mr. Rush	X			Mr. Upton	X		
Ms. Castor	X			Mr. Latta	X		
Ms. Trahan	X			Mr. Guthrie	X		
Mr. McNerney	X			Mr. Bucshon	X		
Ms. Clarke	X			Mr. Dunn	X		
Mr. Cárdenas	X			Ms. Lesko	X		
Mrs. Dingell	X			Mr. Pence			
Ms. Kelly	X			Mr. Armstrong	X		
Mr. Soto	X			Mrs. Rodgers	X		
Ms. Rice	X						
Ms. Craig							
Ms. Fletcher							
Mr. Pallone	X						

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)

ROLL CALL VOTE #134

Bill: **H.R. 5313, "Reese's Law"**
Vote: Final Passage
Disposition: **AGREED TO** by a roll call vote of 54 yeas to 0 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers	X		
Mr. Rush	X			Mr. Upton	X		
Ms. Eshoo	X			Mr. Burgess	X		
Ms. DeGette	X			Mr. Scalise			
Mr. Doyle	X			Mr. Latta	X		
Ms. Schakowsky	X			Mr. Guthrie	X		
Mr. Butterfield	X			Mr. McKinley			
Ms. Matsui	X			Mr. Kinzinger			
Ms. Castor	X			Mr. Griffith			
Mr. Sarbanes	X			Mr. Bilirakis	X		
Mr. McNerney	X			Mr. Johnson	X		
Mr. Welch	X			Mr. Long	X		
Mr. Tonko	X			Mr. Bucshon	X		
Ms. Clarke	X			Mr. Mullin	X		
Mr. Schrader	X			Mr. Hudson	X		
Mr. Cárdenas	X			Mr. Walberg	X		
Mr. Ruiz	X			Mr. Carter	X		
Mr. Peters	X			Mr. Duncan	X		
Mrs. Dingell	X			Mr. Palmer	X		
Mr. Veasey	X			Mr. Dunn	X		
Ms. Kuster	X			Mr. Curtis	X		
Ms. Kelly	X			Ms. Lesko	X		
Ms. Barragán	X			Mr. Pence	X		
Mr. McEachin	X			Mr. Crenshaw	X		
Ms. Blunt Rochester	X			Mr. Joyce	X		
Mr. Soto	X			Mr. Armstrong	X		
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

07/20/22

VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to direct the CPSC to promulgate a final consumer product safety standard to protect children from ingesting button cell batteries or coin batteries, which can cause serious injury and death.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 5313 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 5313 contains no earmarks, limited tax benefits, or limited tariff benefits.

XIII. ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates that the short title may be cited as “Reese’s Law.”

Sec. 2. Consumer product safety standard for button cell or coin batteries and consumer products containing such batteries

Section 2 requires that no later than one year after the date of enactment of this Act, the CPSC shall promulgate a final consumer product safety standard for button cell or coin batteries and consumer products containing button cell or coin batteries. The standard shall include a performance standard requiring the button cell or coin battery compartment of a consumer product be secured in a manner that would eliminate or adequately reduce the risk of injury from button or coin cell battery ingestion by children six years old and younger during reasonably foreseeable use and misuse conditions. The standard shall also include warning label requirements to be included on the packaging of the button cell or coin batteries and the packaging of the consumer product containing the batteries. A warning label requirement under this section also applies to any literature, like a user manual, that comes with the consumer product containing the button cell or coin batteries.

Section 2 also requires that warning labels be placed directly on the consumer product in a way that is visible to the consumer upon installation or replacement of the button cell or coin battery or, in the case of a product for which the battery is not intended to be replaced or installed by the consumer, to be included directly on the consumer product in a manner that is visible to the consumer upon access of the battery compartment. Warning labels must clearly identify the hazard of ingestion and instruct consumers to keep new and used batteries out of reach of children and to seek medical attention immediately if a battery is ingested.

Under Section 2, manufacturers of button and coin cell batteries are considered in compliance for enforcement purposes if the manufacturer is relying on a voluntary safety standard that the CPSC approves of prior to promulgation of the new safety standard. The CPSC may also adopt the voluntary standard as the new safety standard should it find the voluntary standard meets the requirements of this Act during rulemaking.

Sec. 3. Child-resistant packaging for button cell or coin batteries

Section 3 requires that 180 days after the date of enactment of this Act, any button cell or coin battery that is sold, offered for sale, manufactured for sale, distributed in commerce, or imported

into the United States shall be packaged in accordance with the standards provided in section 1700.15 of title 16, Code of Federal Regulations, as determined through testing in accordance with the method described in section 1700.20 of title 16, Code of Federal Regulations. Compliance with these standards include any successor regulations.

Sec. 4. Exemption for compliance with existing standard

Section 4 exempts toy products that are in compliance with the battery accessibility and labeling requirements of part 1250 of title 16, Code of Federal Regulations and button cell or coin batteries that are in compliance with the marking and packaging provisions of the ANSI Safety Standard for Portable Lithium Primary Cells and Batteries (ANSI C18.3M) from the standards promulgated by the CPSC pursuant to this Act.

Sec. 5. Definitions

Section 5 addresses how terms used in the bill are defined.

Sec. 6. Effective date

Section 6 establishes that the standard promulgated in section 2 shall only apply to a product that is manufactured or imported after the effective date of such standard.

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law made by the bill H.R. 5313.

