

110TH CONGRESS
1ST SESSION

H. R. 3716

To amend the Consumer Product Safety Act to require independent safety certification of children’s products, to increase the Consumer Product Safety Commission’s inspection capability for imported products, and to prohibit hazardous imports based on manufacturing site, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 2007

Mr. WALSH of New York introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Consumer Product Safety Act to require independent safety certification of children’s products, to increase the Consumer Product Safety Commission’s inspection capability for imported products, and to prohibit hazardous imports based on manufacturing site, 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 the “Safe Toys for Kids
5 Act”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act and the amendments made
3 by this Act is to prevent the introduction of dangerous
4 toys and other products used by children into the market-
5 place by requiring independent third-party testing and cer-
6 tification that toys and other products intended for use
7 by children comply with consumer product safety stand-
8 ards and rules before they enter the interstate stream of
9 commerce.

10 **SEC. 3. CERTIFICATION OF COMPLIANCE OF CHILDREN'S**
11 **PRODUCTS WITH CONSUMER PRODUCT SAFE-**
12 **TY RULES.**

13 (a) EXPANSION OF CERTIFICATION REQUIRE-
14 MENT.—Subsection (a) of section 14 of the Consumer
15 Product Safety Act (15 U.S.C. 2063) is amended—

16 (1) by redesignating paragraph (2) as para-
17 graph (5);

18 (2) in paragraph (1)—

19 (A) by striking “Every manufacturer” and
20 inserting “Except as provided in paragraph (2),
21 every manufacturer”; and

22 (B) by designating the second and third
23 sentences as paragraphs (3) and (4), respec-
24 tively, and indenting the margin of such para-
25 graphs, as so designated, 2 ems from the left
26 margin;

1 (3) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2) Every manufacturer of a children’s prod-
4 uct (and the private labeler of such product if it
5 bears a private label) which is subject to a consumer
6 product safety standard under this Act or a rule
7 under this or any other Act administered by the
8 Commission declaring a consumer product a banned
9 hazardous product shall issue a certificate which
10 shall certify that such product conforms to such con-
11 sumer product safety standard or is not a banned
12 hazardous product under such rule, and shall specify
13 such consumer product safety standard or such
14 rule.”;

15 (4) in paragraph (3), as redesignated by para-
16 graph (2)(B), by striking “Such certificate shall”
17 and inserting “A certificate required under this sub-
18 section shall”; and

19 (5) in paragraph (5), as redesignated by para-
20 graph (1)—

21 (A) by striking “required by paragraph (1)
22 of this subsection” and inserting “required by
23 paragraph (1) or (2) (as the case may be)”;
24 and

1 (B) by striking “requirement under para-
2 graph (1)” and inserting “requirement under
3 paragraph (1) or (2) (as the case may be)”.

4 (b) THIRD-PARTY CERTIFICATION REQUIRED.—Sub-
5 section 14(b) of the Consumer Product Safety Act (15
6 U.S.C. 2063(b)) is amended—

7 (1) by striking “The Commission may” and in-
8 serting “(1) The Commission may”;

9 (2) by designating the second sentence as para-
10 graph (2) and indenting the margin of such para-
11 graph, as so designated, 2 ems from the left margin;

12 (3) in paragraph (2), as so designated, by strik-
13 ing “Any test or” and inserting “Except as provided
14 in paragraph (3), any test or”; and

15 (4) by adding at the end the following:

16 “(3) In the case of a children’s product, any
17 test or testing program on the basis of which a cer-
18 tificate is issued under subsection (a)(2) shall be
19 conducted by a nongovernmental independent third
20 party qualified to perform such tests or testing pro-
21 grams.”.

22 (c) DEFINITION OF CHILDREN’S PRODUCTS AND
23 INDEPENDENT THIRD PARTY.—Section 14 of the Con-
24 sumer Product Safety Act (15 U.S.C. 2063) is amended
25 by adding at the end the following:

1 “(d) DEFINITIONS.—In this section:

2 “(1) CHILDREN’S PRODUCT.—The term ‘chil-
3 dren’s product’ means a toy or other article intended
4 for use by a child under 60 months of age that is
5 introduced into the interstate stream of commerce.
6 In determining whether a toy or article is intended
7 for use by a child under 60 months of age, the fol-
8 lowing factors shall be considered:

9 “(A) A statement by a manufacturer about
10 the intended use of such toy or article, includ-
11 ing a label on such toy or article, if such state-
12 ment is reasonable.

13 “(B) The context and manner of the ad-
14 vertising, promotion, and marketing associated
15 with the toy or article.

16 “(C) Whether the toy or article is com-
17 monly recognized by consumers as being in-
18 tended for use by a child under 60 months of
19 age.

20 “(D) The Age Determination Guideline
21 issued by the Consumer Product Safety Com-
22 mission in September 2002 and any subsequent
23 version of such Guideline.

24 “(2) INDEPENDENT THIRD PARTY.—The term
25 ‘independent third party’, with respect to a testing

1 entity, means an independent testing entity that is
 2 physically separate from any manufacturer or pri-
 3 vate labeler whose product will be tested by such en-
 4 tity, and is not owned, managed, controlled, or di-
 5 rected by such manufacturer or private labeler.”.

6 (d) LABEL AND CERTIFICATION.—Not later than 180
 7 days after the date of the enactment of this Act, the Con-
 8 sumer Product Safety Commission shall prescribe a rule
 9 in accordance with subsection (c) of section 14 of the Con-
 10 sumer Product Safety Act (15 U.S.C. 2063) for children’s
 11 products described in subsection (d)(1) of such section, as
 12 added by subsection (c) of this section.

13 (e) WEBSITE LISTING OF CERTIFIED PRODUCTS.—
 14 The Consumer Product Safety Commission shall post and
 15 maintain current in a clear and conspicuous location on
 16 its Internet website a list of all children’s products for
 17 which certificates have been issued under section 14(a)(2)
 18 of the Consumer Product Safety Act (15 U.S.C. 2063).

19 **SEC. 4. PROHIBITION ON IMPORTS OF CHILDREN’S PROD-**
 20 **UCTS WITHOUT THIRD-PARTY TESTING CER-**
 21 **TIFICATION.**

22 Section 17(a) of the Consumer Product Safety Act
 23 (15 U.S.C. 2066) is amended—

24 (1) in paragraph (4), by striking “or” at the
 25 end;

1 (2) in paragraph (5), by striking the period at
 2 the end and inserting a semicolon and “or”; and

3 (3) by adding at the end the following:

4 “(6) is a children’s product, as that term is de-
 5 fined in section 14(d), that is not accompanied by a
 6 certificate from a third-party verification entity re-
 7 quired by section 14(a)(2).”.

8 **SEC. 5. PROHIBITED IMPORTS BASED ON MANUFACTURING**
 9 **SITE.**

10 Section 17 of the Consumer Product Safety Commis-
 11 sion (15 U.S.C. 2066) is amended—

12 (1) in subsection (a)—

13 (A) in paragraph (4), by striking “or”;

14 (B) in paragraph (5), by striking the pe-
 15 riod and inserting “; or”; and

16 (C) by adding at the end the following:

17 “(6) is a product that was manufactured in a
 18 facility that the Commission has designated under
 19 subsection (i) a ‘banned manufacturing site’.”; and

20 (2) by adding at the end the following:

21 “(i)(1) The Commission may, by rule, designate as
 22 a banned manufacturing site any factory, warehouse, or
 23 other facility in which consumer products are manufac-
 24 tured, if the Commission determines—

1 “(A) such factory, warehouse, or other fa-
 2 cility has regularly produced consumer products
 3 which fail to comply with any applicable con-
 4 sumer product safety standard; or

5 “(B) upon inspection by the Commission,
 6 that such factory, warehouse, or other facility
 7 engages in acts or practices which are likely to
 8 result in the production of imminently haz-
 9 ardous consumer products.

10 “(2) The designation under paragraph (1) shall be
 11 for such period of time as the Commission shall determine.

12 “(3) The Commission shall post in a clear and con-
 13 spicuous location on its Internet website—

14 “(A) the names and location of each factory,
 15 warehouse, or other facility that the Commission
 16 designates a banned manufacturing site; and

17 “(B) the names of all products produced at
 18 each factory, warehouse, or other facility.”.

19 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR CPSC.**

20 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
 21 32(a) of the Consumer Product Safety Commission (15
 22 U.S.C. 2081(a)) is amended by striking “, not to exceed”
 23 and all that follows through paragraph (2) and inserting
 24 “such sums as may be necessary”.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) the Consumer Product Safety Commission
4 should have at least 1 full-time inspector at each
5 port of entry to the United States;

6 (2) that such inspectors should work closely
7 with Customs officials and other Federal officials
8 who monitor imported products; and

9 (3) that sufficient amounts should be appro-
10 priated to the Commission to enable the Commission
11 to increase the number of full time inspectors to at
12 least 340.

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