

110TH CONGRESS
1ST SESSION

H. R. 4850

To amend the Consumer Product Safety Act to increase the civil penalties for certain violations relating to children's products containing lead.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 2007

Ms. JACKSON-LEE of Texas (for herself, Mr. LEWIS of Georgia, Ms. CLARKE, and Mr. MEEK of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Consumer Product Safety Act to increase the civil penalties for certain violations relating to children's products containing lead.

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 "Sanctions to Eliminate
5 Products Unsafe to the Public Act of 2007" or the "STEP
6 UP Act of 2007".

1 **SEC. 2. CERTIFICATION OF COMPLIANCE OF CHILDREN'S**
2 **PRODUCTS WITH CONSUMER PRODUCT SAFE-**
3 **TY RULES.**

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

7 (1) by redesignating paragraph (2) as para-
8 graph (5);

9 (2) in paragraph (1)—

10 (A) by striking “Every manufacturer” and
11 inserting “Except as provided in paragraph
12 (2),”; and

13 (B) by designating the second and third
14 sentences as paragraphs (3) and (4), respec-
15 tively, and indenting the margin of such para-
16 graphs, as so designated, 2 ems from the left
17 margin;

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

20 “(2) Every manufacturer of a children’s prod-
21 uct (and the private labeler of such product if it
22 bears a private label) which is subject to a consumer
23 product safety standard under this Act or a rule
24 under this or any other Act administered by the
25 Commission declaring a consumer product a banned
26 hazardous product shall issue a certificate which

1 shall certify that such product conforms to such con-
2 sumer product safety standard or is not a banned
3 hazardous product under such rule, and shall specify
4 such consumer product safety standard or such
5 rule.”;

6 (4) in paragraph (3), as redesignated by para-
7 graph (2)(B), by striking “Such certificate shall”
8 and inserting “A certificate required under this sub-
9 section shall”; and

10 (5) in paragraph (5), as redesignated by para-
11 graph (1)—

12 (A) by striking “required by paragraph (1)
13 of this subsection” and inserting “required by
14 paragraph (1) or (2) (as the case may be)”;
15 and

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

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

22 (1) by striking “The Commission may” and in-
23 serting “(1) The Commission may”;

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

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

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

8 “(3) In the case of a children’s product, any
9 test or testing program on the basis of which a cer-
10 tificate is issued under subsection (a)(2) shall be
11 conducted by a nongovernmental independent third
12 party qualified to perform such tests or testing pro-
13 grams.”.

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

18 “(d) DEFINITIONS.—In this section the following
19 definitions apply:

20 “(1) CHILDREN’S PRODUCT.—The term ‘chil-
21 dren’s product’ means a toy or other article intended
22 for use by a child under 60 months of age that is
23 introduced into the interstate stream of commerce.
24 In determining whether a toy or article is intended

1 for use by a child under 60 months of age, the fol-
2 lowing factors shall be considered:

3 “(A) A statement by a manufacturer about
4 the intended use of such toy or article, includ-
5 ing a label on such toy or article, if such state-
6 ment is reasonable.

7 “(B) The context and manner of the ad-
8 vertising, promotion, and marketing associated
9 with the toy or article.

10 “(C) Whether the toy or article is com-
11 monly recognized by consumers as being in-
12 tended for use by a child under 60 months of
13 age.

14 “(D) The Age Determination Guideline
15 issued by the Consumer Product Safety Com-
16 mission in September 2002 and any subsequent
17 version of such Guideline.

18 “(2) INDEPENDENT THIRD PARTY.—The term
19 ‘independent third party’, with respect to a testing
20 entity, means an independent testing entity that is
21 physically separate from any manufacturer or pri-
22 vate labeler whose product will be tested by such en-
23 tity, and is not owned, managed, controlled, or di-
24 rected by such manufacturer or private labeler.”.

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

8 **SEC. 3. PROHIBITION ON IMPORTS OF CHILDREN’S PROD-**
9 **UCTS WITHOUT THIRD-PARTY TESTING CER-**
10 **TIFICATION.**

11 Section 17(a) of the Consumer Product Safety Act
12 (15 U.S.C. 2066) is amended—

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

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

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

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

1 **SEC. 4. CIVIL PENALTIES FOR CHILDREN'S PRODUCTS CON-**
2 **TAINING LEAD.**

3 Section 20(a) of the Consumer Product Safety Act
4 (15 U.S.C. 2069(a)) is amended by adding at the end the
5 following:

6 “(4) Notwithstanding the civil penalties set forth in
7 paragraph (1), if the violations described in such para-
8 graph involve any children’s product (as defined in section
9 14(d)(1)) that contains lead in violation of an applicable
10 consumer product safety standard, the applicable civil pen-
11 alty shall be in an amount not to exceed \$20,000 for each
12 violation, and a maximum civil penalty not to exceed
13 \$10,000,000 for any related series of violations.”.

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