

of commonsense legislation, bipartisan approach to regulating an industry and adequately protecting our people and our children.

I want to commend Representative SCHAKOWSKY and Senator CLINTON for working with me and with the able and distinguished chairman of the subcommittee, Mr. RUSH, in achieving this compromise.

I cannot praise too highly the cooperation and the assistance of our good friends on the other side of the aisle, Ranking Members BARTON and STEARNS, for their fine support and for the very cooperative way in which they have worked with us, and I thank them and salute them for that.

The legislation requires the Department of Transportation to issue regulations to reduce injury and death for nontraffic accidents involving automobiles, particularly to protect children. This is the right thing to do, and it must be, and under this legislation will be, implemented in a responsible manner.

The bill has the support of safety advocates, including Public Citizen and the Advocates for Auto and Highway Safety, as well as the automobile manufacturers.

This is an important bill for our children, including Franklin Dean Beedle Atizado whose mother worked on this legislation.

I urge its swift passage, and I do again commend its author, Representative SCHAKOWSKY, for her remarkable leadership in this matter.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Madam Speaker, I thank the gentleman for yielding, and this issue is so important, H.R. 1216, and I certainly rise to support it.

Madam Speaker, I thank Ranking Member BARTON from Texas and Chairman DINGELL, chairman of the Energy and Commerce Committee, Mr. RUSH and others for bringing it forward.

Madam Speaker, when I was in the Georgia general assembly serving in the State senate several years back, I became so involved in teen driving issues. I was an OB/GYN physician, and some of the youngsters that I had delivered, all of the sudden, they were 15, 16 years old, and some of them killed tragically in automobile accidents just simply because they weren't safe. They didn't have the proper training, and so these issues are so hugely important.

I became aware of this bill when a couple from my district came to me in Washington several months ago, and their son, their 4-year-old son, had been tragically killed by a vehicle backing over him. And you know, you can't bring these lives back, of course we can't, but this kind of legislation and bringing this kind of safety to help prevent maybe my grandchildren, somebody else's child from going through a tragic situation like that, from which the family never recovers.

So, again, to be here today to offer a few words of support for H.R. 1216, the

things like automatic power window reversal, rearward visibility, this bill addresses safety risks which have already resulted in the deaths of so many children in this country. So we can't bring them back, but we can help protect our young people in the future, and I strongly support it.

Mr. RUSH. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I have no more speakers. I urge the adoption of the bill, and I yield back the balance of our time, also.

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The SPEAKER pro tempore (Ms. LEE). The question is on the motion offered by the gentleman from Illinois (Mr. RUSH) that the House suspend the rules and pass the bill, H.R. 1216, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONSUMER PRODUCT SAFETY MODERNIZATION ACT

Mr. RUSH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4040) to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission, as amended.

The Clerk read the title of the bill.
The text of the bill is as follows:

H.R. 4040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Consumer Product Safety Modernization Act”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References.

Sec. 3. Authority to issue implementing regulations.

TITLE I—CHILDREN'S PRODUCT SAFETY

Sec. 101. Ban on children's products containing lead; lead paint rule.

Sec. 102. Mandatory third-party testing for certain children's products.

Sec. 103. Tracking labels for children's products.

Sec. 104. Standards and consumer registration of durable nursery products.

Sec. 105. Labeling requirement for certain internet and catalogue advertising of toys and games.

Sec. 106. Study of preventable injuries and deaths in minority children related to consumer products.

Sec. 107. Review of generally-applicable standards for toys.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

Sec. 201. Reauthorization of the Commission.

Sec. 202. Structure and quorum.

Sec. 203. Submission of copy of certain documents to Congress.

Sec. 204. Expedited rulemaking.

Sec. 205. Public disclosure of information.

Sec. 206. Publicly available information on incidents involving injury or death.

Sec. 207. Prohibition on stockpiling under other Commission-enforced statutes.

Sec. 208. Notification of noncompliance with any Commission-enforced statute.

Sec. 209. Enhanced recall authority and corrective action plans.

Sec. 210. Website notice, notice to third party internet sellers, and radio and television notice.

Sec. 211. Inspection of certified proprietary laboratories.

Sec. 212. Identification of manufacturer, importers, retailers, and distributors.

Sec. 213. Export of recalled and non-conforming products.

Sec. 214. Prohibition on sale of recalled products.

Sec. 215. Increased civil penalty.

Sec. 216. Criminal penalties to include asset forfeiture.

Sec. 217. Enforcement by State attorneys general.

Sec. 218. Effect of rules on preemption.

Sec. 219. Sharing of information with Federal, State, local, and foreign government agencies.

Sec. 220. Inspector General authority and accessibility.

Sec. 221. Repeal.

Sec. 222. Industry-sponsored travel ban.

Sec. 223. Annual reporting requirement.

Sec. 224. Study on the effectiveness of authority relating to imported products.

SEC. 2. REFERENCES.

(a) *COMMISSION.*—As used in this Act, the term “Commission” means the Consumer Product Safety Commission.

(b) *CONSUMER PRODUCT SAFETY ACT.*—Except as otherwise expressly provided, whenever in this Act an amendment is expressed as an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(c) *RULE.*—In this Act and the amendments made by this Act, a reference to any rule under any Act enforced by the Commission shall be considered a reference to any rule, standard, ban, or order under any such Act.

SEC. 3. AUTHORITY TO ISSUE IMPLEMENTING REGULATIONS.

The Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.

TITLE I—CHILDREN'S PRODUCT SAFETY

SEC. 101. BAN ON CHILDREN'S PRODUCTS CONTAINING LEAD; LEAD PAINT RULE.

(a) *CHILDREN'S PRODUCTS CONTAINING LEAD.*—

(1) *BANNED HAZARDOUS SUBSTANCE.*—Effective 180 days after the date of enactment of this Act, any children's product containing more than the amounts of lead set forth in paragraph (2) shall be a banned hazardous substance within the meaning of section 2(q)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)).

(2) *STANDARD FOR AMOUNT OF LEAD.*—The amounts of lead referred to in paragraph (1) shall be—

(A) 600 parts per million total lead content by weight for any part of the product;

(B) 300 parts per million total lead content by weight for any part of the product, effective 2 years after the date of enactment of this Act; and

(C) 100 parts per million total lead content by weight for any part of the product, effective 4 years after the date of enactment of this Act, unless the Commission determines, after notice and a hearing, that a standard of 100 parts per million is not feasible, in which case the Commission shall require the lowest amount of lead that the Commission determines is feasible to achieve.

(3) COMMISSION REVISION TO MORE PROTECTIVE STANDARD.—

(A) MORE PROTECTIVE STANDARD.—The Commission may, by rule, revise the standard set forth in paragraph (2)(C) for any class of children's products to any level and form that the Commission determines is—

- (i) more protective of human health; and
- (ii) feasible to achieve.

(B) PERIODIC REVIEW.—The Commission shall, based on the best available scientific and technical information, periodically review and revise the standard set forth in this section to require the lowest amount of lead that the Commission determines is feasible to achieve.

(4) COMMISSION AUTHORITY TO EXCLUDE CERTAIN MATERIALS.—The Commission may, by rule, exclude certain products and materials from the prohibition in paragraph (1) if the Commission determines that the lead content in such products and materials will not result in the absorption of lead in the human body or does not have any adverse impact on public health or safety.

(5) DEFINITION OF CHILDREN'S PRODUCT.—

(A) IN GENERAL.—As used in this subsection, the term "children's product" means a consumer product as defined in section 3(1) of the Consumer Product Safety Act (15 U.S.C. 2052(1)) designed or intended primarily for children 12 years of age or younger.

(B) FACTORS TO BE CONSIDERED.—In determining whether a product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

(i) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

(ii) Whether the product is represented in its packaging, display or advertising as appropriate for use by children 12 years of age or younger.

(iii) Whether the product is commonly recognized by consumers as being intended for use by child 12 years of age or younger.

(iv) The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor thereto.

(6) EXCEPTION FOR INACCESSIBLE COMPONENT PARTS.—The standards established under paragraph (2) shall not apply to any component part of a children's product that is not accessible to a child through normal and reasonably foreseeable use and abuse of such product, as determined by the Commission. A component part is not accessible under this paragraph if such component part is not physically exposed by reason of a sealed covering or casing and does not become physically exposed through reasonably foreseeable use and abuse of the product. The Commission may require that certain electronic devices be equipped with a child-resistant cover or casing that prevents exposure of and accessibility to the parts of the product containing lead if the Commission determines that it is not feasible for such products to otherwise meet such standards.

(b) PAINT STANDARD.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall modify section 1303.1 of title 16, Code of Federal Regulations, to—

(A) reduce the standard applicable to lead paint by substituting "0.009 percent" for "0.06 percent" in subsection (a) of that section;

(B) apply the standard to all children's products as defined in subsection (a)(5); and

(C) reduce the standard for paint and other surface coating on children's products and furniture to 0.009 milligrams per centimeter squared.

(2) MORE PROTECTIVE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Commission shall, by rule, revise the standard established under paragraph (1)(C) to a more protective standard if the Commission determines such a standard to be feasible.

(c) AUTHORITY TO EXTEND IMPLEMENTATION PERIODS.—The Commission may extend, by rule, the effective dates in subsections (a) and (b) by

an additional period not to exceed 180 days if the Commission determines that—

(1) there is no impact on public health or safety from extending the implementation period; and

(2)(A) the complete implementation of the new standards by manufacturers subject to such standards is not feasible within 180 days;

(B) the cost of such implementation, particularly on small and medium sized enterprises, is excessive; or

(C) the Commission requires additional time to implement such standards and determine the required testing methodologies and appropriate exceptions in order to enforce such standards.

SEC. 102. MANDATORY THIRD-PARTY TESTING FOR CERTAIN CHILDREN'S PRODUCTS.

(a) MANDATORY AND THIRD-PARTY TESTING.—Section 14(a) (15 U.S.C. 2063(a)) is amended—

(1) in paragraph (1)—

(A) by striking "Every manufacturer" and inserting "Except as provided in paragraph (2), every manufacturer"; and

(B) by striking "standard under this Act" and inserting "rule under this Act or similar rule under any other Act enforced by the Commission";

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

"(2) Effective 1 year after the date of enactment of the Consumer Product Safety Modernization Act, every manufacturer of a children's product (and the private labeler of such children's product if such product bears a private label) which is subject to a consumer product safety rule under this Act or a similar rule or standard under any other Act enforced by the Commission, shall—

"(A) have the product tested by a independent third party qualified to perform such tests or a proprietary laboratory certified by the Commission under subsection (e); and

"(B) issue a certificate which shall—

"(i) certify that such product conforms to such standards or rules; and

"(ii) specify the applicable consumer product safety standards or other similar rules."; and

(3) in paragraph (3) (as so redesignated)—

(A) by striking "required by paragraph (1) of this subsection" and inserting "required by paragraph (1) or (2) (as the case may be)"; and

(B) by striking "requirement under paragraph (1)" and inserting "requirement under paragraph (1) or (2) (as the case may be)".

(b) DEFINITION OF CHILDREN'S PRODUCTS AND INDEPENDENT THIRD PARTY.—Section 14 (15 U.S.C. 2063) is amended by adding at the end the following:

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) The term 'children's product' means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

"(A) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

"(B) Whether the product is represented in its packaging, display or advertising as appropriate for use by children 12 years of age or younger.

"(C) Whether the product is commonly recognized by consumers as being intended for use by child 12 years of age or younger.

"(D) The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor thereto.

"(2) The term 'independent third party', means an independent testing entity that is not owned, managed, controlled, or directed by such manufacturer or private labeler, and that is accredited in accordance with an accreditation process established or recognized by the Commission. In the case of certification of art material or art material products required under this sec-

tion or under regulations issued under the Federal Hazardous Substances Act, such term includes a certifying organization, as such term is defined in appendix A to section 1500.14(b)(8) of title 16, Code of Federal Regulations."

(c) CERTIFICATION OF PROPRIETARY LABORATORIES.—Section 14 (15 U.S.C. 2063) is further amended by adding at the end the following:

"(e) CERTIFICATION OF PROPRIETARY LABORATORIES FOR MANDATORY TESTING.—

"(1) CERTIFICATION.—Upon request, the Commission, or an independent standard-setting organization to which the Commission has delegated such authority, may certify a laboratory that is owned, managed, controlled, or directed by the manufacturer or private labeler for purposes of testing required under this section if the Commission determines that—

"(A) certification of the laboratory would provide equal or greater consumer safety protection than the manufacturer's use of an independent third party laboratory;

"(B) the laboratory has established procedures to ensure that the laboratory is protected from undue influence, including pressure to modify or hide test results, by the manufacturer or private labeler; and

"(C) the laboratory has established procedures for confidential reporting of allegations of undue influence to the Commission.

"(2) DECERTIFICATION.—The Commission, or an independent standard-setting organization to which the Commission has delegated such authority, may decertify any laboratory certified under paragraph (1) if the Commission finds, after notice and investigation, that a manufacturer or private labeler has exerted undue influence on the laboratory."

(d) CONFORMING AMENDMENTS.—Section 14(b) (15 U.S.C. 2063(b)) is amended—

(1) by striking "standards under this Act" and inserting "rules under this Act or similar rules under any other Act enforced by the Commission"; and

(2) by striking "at the option of the person required to certify the product," and inserting "be required by the Commission to".

SEC. 103. TRACKING LABELS FOR CHILDREN'S PRODUCTS.

Section 14(a) (15 U.S.C. 2063(a)) is further amended by adding at the end the following:

"(4) Effective 1 year after the date of enactment of the Consumer Product Safety Modernization Act, the manufacturer of a children's product shall, to the extent feasible, place distinguishing marks on the product and its packaging that will enable the manufacturer and the ultimate purchaser to ascertain the location and date of production of the product, and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks."

SEC. 104. STANDARDS AND CONSUMER REGISTRATION OF DURABLE NURSERY PRODUCTS.

(a) SHORT TITLE.—This section may be cited as the "Danny Keysar Child Product Safety Notification Act".

(b) SAFETY STANDARDS.—

(1) IN GENERAL.—The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler product; and

(B) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety rules that—

(i) are substantially the same as such voluntary standards; or

(ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

(2) TIMETABLE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this

Act, the Commission shall commence the rulemaking required under paragraph (1) and shall promulgate rules for no fewer than 2 categories of durable nursery products every 6 months thereafter, beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the rules set forth under this subsection to ensure that such rules provide the highest level of safety for such products that is feasible.

(c) CONSUMER REGISTRATION REQUIREMENT.—

(1) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall, pursuant to its authority under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)), promulgate a final consumer product safety rule to require manufacturers of durable infant or toddler products—

(A) to provide consumers with a postage-paid consumer registration form with each such product;

(B) to maintain a record of the names, addresses, email addresses, and other contact information of consumers who register their ownership of such products with the manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and

(C) to permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.

(2) REQUIREMENTS FOR REGISTRATION FORM.—The registration form required to be provided to consumers under subsection (a) shall—

(A) include spaces for a consumer to provide their name, address, telephone number, and email address;

(B) include space sufficiently large to permit easy, legible recording of all desired information;

(C) be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

(D) include the manufacturer's name, model name and number for the product, and the date of manufacture;

(E) include a message explaining the purpose of the registration and designed to encourage consumers to complete the registration;

(F) include an option for consumers to register through the Internet; and

(G) include a statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

In issuing regulations under this section, the Commission may prescribe the exact text and format of the required registration form.

(3) RECORD KEEPING AND NOTIFICATION REQUIREMENTS.—The standard required under this section shall require each manufacturer of a durable infant or toddler product to maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered, and to use such information to notify such consumers in the event of a voluntary or involuntary recall of or safety alert regarding such product. Each manufacturer shall maintain such a record for a period of not less than 6 years after the date of manufacture of the product. Consumer information collected by a manufacturer under this Act may not be used by the manufacturer, nor disseminated by such manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

(4) STUDY.—The Commission shall conduct a study at such time as it considers appropriate on the effectiveness of the consumer registration forms in facilitating product recalls and whether such registration forms should be required for other children's products. Not later than 4 years

after the date of enactment of this Act, the Commission shall report its findings to Congress.

(d) DEFINITION OF DURABLE INFANT OR TODDLER PRODUCT.—As used in this section, the term "durable infant or toddler product"—

(1) means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(2) shall include—

(A) full-size cribs and nonfull-size cribs;

(B) toddler beds;

(C) high chairs, booster chairs, and hook-on chairs;

(D) bath seats;

(E) gates and other enclosures for confining a child;

(F) play yards;

(G) stationary activity centers;

(H) infant carriers;

(I) strollers;

(J) walkers;

(K) swings; and

(L) bassinets and cradles.

SEC. 105. LABELING REQUIREMENT FOR CERTAIN INTERNET AND CATALOGUE ADVERTISING OF TOYS AND GAMES.

Section 24 of the Federal Hazardous Substances Act (15 U.S.C. 1278) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following:

“(c) INTERNET, CATALOGUE, AND OTHER ADVERTISING.—

“(1) REQUIREMENT.—Effective 180 days after the Consumer Product Safety Modernization Act, any advertisement of a retailer, manufacturer, importer, distributor, private labeler, or licensor that provides a direct means for the purchase or ordering of any toy, game, balloon, small ball, or marble that requires a cautionary statement under subsections (a) and (b), including advertisement on Internet websites or in catalogues or other distributed materials, shall include the appropriate cautionary statement required under such subsections in its entirety displayed on or immediately adjacent to such advertisement. Such cautionary statement shall be displayed in the language that is primarily used in the advertisement, catalogue, or Internet website, and in a clear and conspicuous manner consistent with part 1500 of title 16, Code of Federal Regulations (or a successor regulation thereto).

“(2) ENFORCEMENT.—The requirement in paragraph (1) shall be treated as a consumer product safety rule promulgated under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) and the publication or distribution of any advertisement that is not in compliance with the requirements of paragraph (1) shall be treated as a prohibited act under section 19 of such Act (15 U.S.C. 2068).

“(3) RULEMAKING.—Not later than 180 days after the date of enactment of Consumer Product Safety Modernization Act, the Commission shall, by rule, modify the requirement under paragraph (1) with regard to catalogues or other printed materials concerning the size and placement of the cautionary statement required under such paragraph as appropriate relative to the size and placement of the advertisements in such printed materials. The Commission may, under such rule, provide a grace period for catalogues and printed materials printed prior to the effective date in paragraph (1) during which time distribution of such printed materials shall not be considered a violation of such paragraph.”.

SEC. 106. STUDY OF PREVENTABLE INJURIES AND DEATHS IN MINORITY CHILDREN RELATED TO CONSUMER PRODUCTS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General shall initiate a study to assess disparities in the risks and incidence of preventable injuries and deaths among children of minority populations, including Black, Hispanic,

American Indian, Alaskan native, and Asian/Pacific Islander children in the United States. The Comptroller General shall consult with the Commission as necessary.

(b) REQUIREMENTS.—The study shall examine the racial disparities of the rates of preventable injuries and deaths related to suffocation, poisonings, and drownings associated with the use of cribs, mattresses and bedding materials, swimming pools and spas, and toys and other products intended for use by children.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report the findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The report shall include—

(1) the Comptroller General's findings on the incidence of preventable risks of injuries and deaths among children of minority populations and recommendations for minimizing such risks;

(2) recommendations for public outreach, awareness, and prevention campaigns specifically aimed at racial minority populations; and

(3) recommendations for education initiatives that may reduce statistical disparities.

SEC. 107. REVIEW OF GENERALLY-APPLICABLE STANDARDS FOR TOYS.

(a) ASSESSMENT.—The Commission shall examine and assess the effectiveness of the safety standard for toys, ASTM-International standard F963-07, or its successor standard, to determine—

(1) the scope of such standards, including the number and type of toys to which such standards apply;

(2) the degree of adherence to such standards on the part of manufacturers; and

(3) the adequacy of such standards in protecting children from safety hazards.

(b) SPECIAL FOCUS ON MAGNETS.—In conducting the assessment required under subsection (a), the Commission shall first examine the effectiveness of the F963-07 standard as it relates to intestinal blockage and perforation hazards caused by ingestion of magnets. If the Commission determines based on the review that there is substantial noncompliance with such standard that creates an unreasonable risk of injury or hazard to children, the Commission shall expedite a rulemaking to consider the adoption, as a consumer product safety rule, of the voluntary safety standards contained within the ASTM F963-07, or its successor standard, that relate to intestinal blockage and perforation hazards caused by ingestion of magnets.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall report to Congress the findings of the study conducted pursuant to subsection (a). Such report shall include the Commission's opinion regarding—

(1) the feasibility of requiring manufacturer testing of all toys to such standards; and

(2) whether promulgating consumer product safety rules that are substantially similar or more stringent than the standards described in such subsection would be beneficial to public health and safety.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

SEC. 201. REAUTHORIZATION OF THE COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsections (a) and (b) of section 32 (15 U.S.C. 2081) are amended to read as follows:

“(a) There are authorized to be appropriated to the Commission for the purpose of carrying out the provisions of this Act and any other provision of law the Commission is authorized or directed to carry out—

“(1) \$80,000,000 for fiscal year 2009;

“(2) \$90,000,000 for fiscal year 2010; and

“(3) \$100,000,000 for fiscal year 2011.

“(b) In addition to the amounts specified in subsection (a), there are authorized to be appropriated \$20,000,000 to the Commission for fiscal

years 2009 through 2011, for the purpose of renovation, repair, reconstruction, re-equipping, and making other necessary capital improvements to the Commission's research, development, and testing facility (including bringing the facility into compliance with applicable environmental, safety, and accessibility standards)."

(b) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Commission shall transmit to Congress a report of its plans to allocate the funding authorized by subsection (a). Such report shall include—

(1) the number of full-time inspectors and other full-time equivalents the Commission intends to employ;

(2) the plan of the Commission for risk assessment and inspection of imported consumer products;

(3) an assessment of the feasibility of mandating bonds for serious hazards and repeat offenders and Commission inspection and certification of foreign third-party and proprietary testing facilities; and

(4) the efforts of the Commission to reach and educate retailers of second-hand products and informal sellers, such as thrift shops and yard sales, concerning consumer product safety standards and product recalls, especially those relating to durable nursery products, in order to prevent the resale of any products that have been recalled, including the development of educational materials for distribution not later than 1 year after the date of enactment of this Act.

SEC. 202. STRUCTURE AND QUORUM.

(a) **EXTENSION OF TEMPORARY QUORUM.**—Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the Commission, if they are not affiliated with the same political party, shall constitute a quorum for the transaction of business for the period beginning on the date of enactment of this Act through—

(1) August 3, 2008, if the President nominates a person to fill a vacancy on the Commission prior to such date; or

(2) the earlier of—

(A) 3 months after the date on which the President nominates a person to fill a vacancy on the Commission after such date; or

(B) February 3, 2009.

(b) **REPEAL OF LIMITATION.**—The first proviso in the account under the heading "CONSUMER PRODUCT SAFETY COMMISSION, SALARIES AND EXPENSES" in title III of Public Law 102-389 (15 U.S.C. 2053 note) shall cease to be in effect after fiscal year 2010.

SEC. 203. SUBMISSION OF COPY OF CERTAIN DOCUMENTS TO CONGRESS.

(a) **IN GENERAL.**—Notwithstanding any rule, regulation, or order to the contrary, the Commission shall comply with the requirements of section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076) with respect to budget recommendations, legislative recommendations, testimony, and comments on legislation submitted by the Commission to the President or the Office of Management and Budget after the date of enactment of this Act.

(b) **REINSTATEMENT OF REQUIREMENT.**—Section 3003(d) of Public Law 104-66 (31 U.S.C. 1113 note) is amended—

(1) by striking "or" after the semicolon in paragraph (31);

(2) by redesignating paragraph (32) as (33); and

(3) by inserting after paragraph (31) the following:

"(32) section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)); or".

SEC. 204. EXPEDITED RULEMAKING.

(a) **RULEMAKING UNDER THE CONSUMER PRODUCT SAFETY ACT.**—

(1) **ADVANCE NOTICE OF PROPOSED RULEMAKING REQUIREMENT.**—Section 9 (15 U.S.C. 2058) is amended—

(A) by striking "shall be commenced" in subsection (a) and inserting "may be commenced";

(B) by striking "in the notice" in subsection (b) and inserting "in a notice";

(C) by striking "unless, not less than 60 days after publication of the notice required in subsection (a), the" in subsection (c) and inserting "unless the";

(D) by inserting "or notice of proposed rulemaking" after "advance notice of proposed rulemaking" in subsection (c); and

(E) by striking "an advance notice of proposed rulemaking under subsection (a) relating to the product involved," in the third sentence of subsection (c) and inserting "the notice".

(2) **CONFORMING AMENDMENT.**—Section 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by striking "an advance notice of proposed rulemaking or".

(b) **RULEMAKING UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.**—

(1) **IN GENERAL.**—Section 3(a)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1262(a)(1)) is amended to read as follows:

"(1) Whenever in the judgment of the Commission such action will promote the objectives of this Act by avoiding or resolving uncertainty as to its application, the Commission may by regulation declare to be a hazardous substance, for the purposes of this Act, any substance or mixture of substances, which the Commission finds meets the requirements section 2(f)(1)(A)."

(2) **PROCEDURE.**—

(A) Section 2(q)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(2)) is amended by striking "Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of sections 701(e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act: Provided, That if" and inserting "Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of subsections (f) through (i) of section 3 of this Act, except that if".

(B) Section 3(a)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1262(a)(2)) is amended to read as follows:

"(2) Proceedings for the issuance, amendment, or repeal of regulations under this subsection and the admissibility of the record of such proceedings in other proceedings, shall be governed by the provisions of subsections (f) through (i) of this section."

(3) **ADVANCE NOTICE OF PROPOSED RULEMAKING REQUIREMENT.**—Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended—

(A) by striking "shall be commenced" in subsection (f) and inserting "may be commenced";

(B) by striking "in the notice" in subsection (g)(1) and inserting "in a notice"; and

(C) by striking "unless, not less than 60 days after publication of the notice required in subsection (f), the" in subsection (h) and inserting "unless the".

(4) **CONFORMING AMENDMENTS.**—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended—

(A) by striking subsection (d) of section 2 and inserting the following:

"(d) The term 'Commission' means the Consumer Product Safety Commission."

(B) by striking "Secretary" each place it appears and inserting "Commission" except—

(i) in section 10(b) (15 U.S.C. 1269(b));

(ii) in section 14 (15 U.S.C. 1273); and

(iii) in section 21(a) (15 U.S.C. 1276(a));

(C) by striking "Department" each place it appears, except in section 14(b), and inserting "Commission";

(D) by striking "he" and "his" each place they appear in reference to the Secretary and inserting "it" and "its", respectively;

(E) by striking "Secretary of Health, Education, and Welfare" each place it appears in section 10(b) (15 U.S.C. 1269(b)) and inserting "Commission";

(F) by striking "Secretary of Health, Education, and Welfare" each place it appears in

section 14 (15 U.S.C. 1273) and inserting "Commission";

(G) by striking "Department of Health, Education, and Welfare" in section 14(b) (15 U.S.C. 1273(b)) and inserting "Commission";

(H) by striking "Consumer Product Safety Commission" each place it appears and inserting "Commission"; and

(I) by striking "(hereinafter in this section referred to as the 'Commission'))" in section 20(a)(1) (15 U.S.C. 1275(a)(1)).

(c) **RULEMAKING UNDER THE FLAMMABLE FABRICS ACT.**—

(1) **IN GENERAL.**—Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended—

(A) by striking "shall be commenced" and inserting "may be commenced by a notice of proposed rulemaking or";

(B) in subsection (i), by striking "unless, not less than 60 days after publication of the notice required in subsection (g), the" and inserting "unless the".

(2) **OTHER CONFORMING AMENDMENTS.**—The Flammable Fabrics Act (15 U.S.C. 1193 et seq.) is further amended—

(A) by striking subsection (i) of section 2 and inserting the following:

"(i) The term 'Commission' means the Consumer Product Safety Commission."

(B) by striking "Secretary of Commerce" each place it appears and inserting "the Commission";

(C) by striking "Secretary" each place it appears, except in sections 9 and 14, and inserting "Commission";

(D) by striking "he" and "his" each place either term appears in reference to the secretary and insert "it" and "its", respectively;

(E) in section 4(e), by striking paragraph (5) and redesignating paragraph (6) as paragraph (5);

(F) in section 15, by striking "Consumer Product Safety Commission (hereinafter referred to as the 'Commission'))" and inserting "Commission";

(G) by striking section 16(d) and inserting the following:

"(d) In this section, a reference to a flammability standard or other regulation for a fabric, related materials, or product in effect under this Act includes a standard of flammability continued in effect by section 11 of the Act of December 14, 1967 (Public Law 90-189)."; and

(H) in section 17, by striking "Consumer Product Safety Commission" and inserting "Commission".

SEC. 205. PUBLIC DISCLOSURE OF INFORMATION.

Section 6(b) (15 U.S.C. 2055(b)) is amended—

(1) in paragraph (1)—

(A) by striking "30 days" and inserting "15 days";

(B) by striking "finds that the public" and inserting "publishes a finding that the public"; and

(C) by striking "and publishes such a finding in the Federal Register";

(2) in paragraph (2)—

(A) by striking "10 days" and inserting "5 days";

(B) by striking "finds that the public" and inserting "publishes a finding that the public"; and

(C) by striking "and publishes such a finding in the Federal Register";

(3) in paragraph (4), by striking "section 19 (related to prohibited acts)" and inserting "any consumer product safety rule under or provision of this Act or similar rule under or provision of any other Act administered by the Commission"; and

(4) in paragraph (5)—

(A) in subparagraph (B), by striking "or" and inserting a semicolon;

(B) in subparagraph (C), by striking the period and inserting "or";

(C) by adding at the end the following:

"(D) the Commission publishes a finding that the public health and safety require public disclosure with a lesser period of notice than is required under paragraph (1)."; and

(D) in the matter following such subparagraph (as added by subparagraph (C)), by striking “section 19(a)” and inserting “any consumer product safety rule under this Act or similar rule under or provision of any other Act administered by the Commission”.

SEC. 206. PUBLICLY AVAILABLE INFORMATION ON INCIDENTS INVOLVING INJURY OR DEATH.

(a) **EVALUATION.**—The Commission shall examine and assess the efficacy of the Injury Information Clearinghouse maintained by the Commission pursuant to section 5(a) of the Consumer Product Safety Act (15 U.S.C. 2054(a)). The Commission shall determine the volume and types of publicly available information on incidents involving consumer products that result in injury, illness, or death and the ease and manner in which consumers can access such information.

(b) **IMPROVEMENT PLAN.**—As a result of the study conducted under subsection (a), the Commission shall transmit to Congress, not later than 180 days after the date of enactment of this Act, a detailed plan for maintaining and categorizing such information on a searchable Internet database to make the information more easily available and beneficial to consumers, with due regard for the protection of personal information. Such plan shall include the views of the Commission regarding whether additional information, such as consumer complaints, hospital or other medical reports, and warranty claims, should be included in the database. The plan submitted under this subsection shall include a detailed implementation schedule for the database, recommendations for any necessary legislation, and plans for a public awareness campaign to be conducted by the Commission to increase consumer awareness of the database.

SEC. 207. PROHIBITION ON STOCKPILING UNDER OTHER COMMISSION-ENFORCED STATUTES.

Section 9(g)(2) (15 U.S.C. 2058(g)(2)) is amended—

(1) by inserting “or to which a rule under any other law enforced by the Commission applies,” after “applies,”; and

(2) by striking “consumer product safety” the second, third, and fourth places it appears.

SEC. 208. NOTIFICATION OF NONCOMPLIANCE WITH ANY COMMISSION-ENFORCED STATUTE.

Section 15(b) (15 U.S.C. 2064(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following:

“(2) fails to comply with any other rule affecting health and safety promulgated by the Commission under the Federal Hazardous Substances Act, the Flammable Fabrics Act, or the Poison Prevention Packaging Act;”;

(3) by adding at the end the following sentence: “A report provided under this paragraph (2) may not be used as the basis for criminal prosecution under section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264), except for offenses which require a showing of intent to defraud or mislead.”.

SEC. 209. ENHANCED RECALL AUTHORITY AND CORRECTIVE ACTION PLANS.

(a) **ENHANCED RECALL AUTHORITY.**—Section 15 (15 U.S.C. 2064) is amended—

(1) in subsection (c)—

(A) by striking “if the Commission” and inserting “(1) If the Commission”;

(B) by inserting “or if the Commission, after notifying the manufacturer, determines a product to be an imminently hazardous consumer product and has filed an action under section 12,” after “from such substantial product hazard,”;

(C) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively;

(D) by inserting after “the following actions:” the following:

“(A) To cease distribution of the product.

“(B) To notify all persons that transport, store, distribute, or otherwise handle the product, or to which the product has been transported, sold, distributed, or otherwise handled, to cease immediately distribution of the product.

“(C) To notify appropriate State and local public health officials.”; and

(E) by adding at the end the following:

“(2) If a district court determines, in an action filed under section 12, that the product that is the subject of such action is not an imminently hazardous consumer product, the Commission shall rescind any order issued under this subsection with respect to such product.”.

(2) in subsection (f)—

(A) by striking “An order” and inserting “(1) Except as provided in paragraph (2), an order”;

and

(B) by inserting at the end the following:

“(2) The requirement for a hearing in paragraph (1) shall not apply to an order issued under subsection (c) relating to an imminently hazardous consumer product with regard to which the Commission has filed an action under section 12.”.

(b) **CORRECTIVE ACTION PLANS.**—Section 15(d) (15 U.S.C. 2064(d)) is amended—

(1) by inserting “(1)” after the subsection designation;

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C);

(3) by striking “more (A)” in subparagraph (C), as redesignated, and inserting “more (i)”;

(4) by striking “or (B)” in subparagraph (C), as redesignated, and inserting “or (ii)”;

(5) by striking “An order under this subsection may” and inserting:

“(2) An order under this subsection shall”;

(6) by striking “, satisfactory to the Commission,” and inserting “, as promptly as practicable under the circumstances, as determined by the Commission, for approval by the Commission,”; and

(7) by adding at the end the following:

“(3)(A) If the Commission approves an action plan, it shall indicate its approval in writing.

“(B) If the Commission finds that an approved action plan is not effective or appropriate under the circumstances, or that the manufacturer, retailer, or distributor is not executing an approved action plan effectively, the Commission may, by order, amend, or require amendment of, the action plan. In determining whether an approved plan is effective or appropriate under the circumstances, the Commission shall consider whether a repair or replacement changes the intended functionality of the product.

“(C) If the Commission determines, after notice and opportunity for comment, that a manufacturer, retailer, or distributor has failed to comply substantially with its obligations under its action plan, the Commission may revoke its approval of the action plan.”.

(c) **CONTENT OF NOTICE.**—Section 15 is further amended by adding at the end the following:

“(i) Not later than 180 days after the date of enactment of this Act, the Commission shall, by rule, establish guidelines setting forth a uniform class of information to be included in any notice required under an order under subsection (c) or (d) of this section or under section 12. Such guidelines shall include any information that the Commission determines would be helpful to consumers in—

“(1) identifying the specific product that is subject to such an order;

“(2) understanding the hazard that has been identified with such product (including information regarding incidents or injuries known to have occurred involving such product); and

“(3) understanding what remedy, if any, is available to a consumer who has purchased the product.”.

SEC. 210. WEBSITE NOTICE, NOTICE TO THIRD PARTY INTERNET SELLERS, AND RADIO AND TELEVISION NOTICE.

Section 15(c)(1) (15 U.S.C. 2064(c)(1)) is amended by inserting “, including posting clear

and conspicuous notice on its Internet website, providing notice to any third party Internet website on which such manufacturer, retailer, or distributor has placed the product for sale, and announcements in languages other than English and on radio and television where the Commission determines that a substantial number of consumers to whom the recall is directed may not be reached by other notice” after “comply”.

SEC. 211. INSPECTION OF CERTIFIED PROPRIETARY LABORATORIES.

Section 16(a)(1) is amended by striking “or (B)” and inserting “(B) any proprietary laboratories certified under section 14(e), or (C)”.

SEC. 212. IDENTIFICATION OF MANUFACTURER, IMPORTERS, RETAILERS, AND DISTRIBUTORS.

(a) **IN GENERAL.**—Section 16 (15 U.S.C. 2065) is further amended by adding at the end thereof the following:

“(c) Upon request by an officer or employee duly designated by the Commission—

“(1) every importer, retailer, or distributor of a consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act) shall identify the manufacturer of that product by name, address, or such other identifying information as the officer or employee may request, to the extent that such information is in the possession of the importer, retailer, or distributor; and

“(2) every manufacturer shall identify by name, address, or such other identifying information as the officer or employee may request—

“(A) each retailer or distributor to which the manufacturer directly supplied a given consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act);

“(B) each subcontractor involved in the production or fabrication of such product or substance; and

“(C) each subcontractor from which the manufacturer obtained a component thereof.”.

(b) **COMPLIANCE REQUIRED FOR IMPORTATION.**—Section 17 (15 U.S.C. 2066) is amended—

(1) in subsection (g), by striking “may” and inserting “shall”; and

(2) in subsection (h)(2), by striking “may” and inserting “shall, consistent with section 6.”.

SEC. 213. EXPORT OF RECALLED AND NON-CORRECTING PRODUCTS.

(a) **IN GENERAL.**—Section 18 (15 U.S.C. 2067) is amended by adding at the end the following:

“(c) Notwithstanding any other provision of this section, the Commission may prohibit, by order, a person from exporting from the United States for purpose of sale any consumer product, or other product or substance that is regulated under any Act enforced by the Commission, that the Commission determines, after notice to the manufacturer—

“(1) is not in conformity with an applicable consumer product safety rule under this Act or a similar rule under any such other Act;

“(2) is subject to an order issued under section 12 or 15 of this Act or designated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.); or

“(3) is subject to a voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public and that would have been subject to a mandatory corrective action under this or another Act enforced by the Commission if voluntary action had not been taken by the manufacturer,

unless the importing country has notified the Commission that such country accepts the importation of such product, provided that if the importing country has not so notified the Commission within 30 days after the Commission has provided notice to the importing country of the impending shipment, the Commission may take such action as is appropriate with respect to the

disposition of the product under the circumstances.”.

(b) **PROHIBITED ACT.**—Section 19(a)(10) (15 U.S.C. 2068(a)(10)) is amended by striking the period at the end and inserting “ or violate an order of the Commission issued under section 18(c); or”.

(c) **CONFORMING AMENDMENTS TO OTHER ACTS.**—

(1) **FEDERAL HAZARDOUS SUBSTANCES ACT.**—Section 5(b)(3) of the Federal Hazardous Substances Act (15 U.S.C. 1264(b)(3)) is amended by striking “substance presents an unreasonable risk of injury to persons residing in the United States” and inserting “substance is prohibited under section 18(c) of the Consumer Product Safety Act.”.

(2) **FLAMMABLE FABRICS ACT.**—Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended by adding at the end the following:

“(d) Notwithstanding any other provision of this section, the Consumer Product Safety Commission may prohibit, by order, a person from exporting from the United States for purpose of sale any fabric, related material, or product that the Commission determines, after notice to the manufacturer—

“(1) is not in conformity with an applicable consumer product safety rule under the Consumer Product Safety Act or with a rule under this Act;

“(2) is subject to an order issued under section 12 or 15 of the Consumer Product Safety Act or designated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.); or

“(3) is subject to a voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public and that would have been subject to a mandatory corrective action under this or another Act enforced by the Commission if voluntary action had not been taken by the manufacturer,

unless the importing country has notified the Commission that such country accepts the importation of such product, provided that if the importing country has not so notified the Commission within 30 days after the Commission has provided notice to the importing country of the impending shipment, the Commission may take such action as is appropriate with respect to the disposition of the product under the circumstances.”.

SEC. 214. PROHIBITION ON SALE OF RECALLED PRODUCTS.

Section 19(a) (as amended by section 210) (15 U.S.C. 2068(a)) is further amended—

(1) by striking paragraph (1) and inserting the following:

“(1) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under any other Act enforced by the Commission, that is—

“(A) not in conformity with an applicable consumer product safety standard under this Act, or any similar rule under any such other Act;

“(B) subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public;

“(C) subject to an order issued under section 12 or 15 of this Act; or

“(D) designated a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.);”;

(2) by striking “or” after the semicolon in paragraph (7);

(3) by striking “and” after the semicolon in paragraph (8); and

(4) by striking “insulation.” in paragraph (9) and inserting “insulation);”.

SEC. 215. INCREASED CIVIL PENALTY.

(a) **MAXIMUM CIVIL PENALTIES OF THE CONSUMER PRODUCT SAFETY COMMISSION.**—

(1) **INITIAL INCREASE IN MAXIMUM CIVIL PENALTIES.**—

(A) **TEMPORARY INCREASE.**—Notwithstanding the dollar amounts specified for maximum civil penalties specified in section 20(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2069(a)(1)), section 5(c)(1) of the Federal Hazardous Substances Act, and section 5(e)(1) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(1)), the maximum civil penalties for any violation specified in such sections shall be \$5,000,000, beginning on the date that is the earlier of the date on which final regulations are issued under section 3(b) or 360 days after the date of enactment of this Act.

(B) **EFFECTIVE DATE.**—Paragraph (1) shall cease to be in effect on the date on which the amendments made by subsection (b)(1) shall take effect.

(2) **PERMANENT INCREASE IN MAXIMUM CIVIL PENALTIES.**—

(A) **AMENDMENTS.**—

(i) **CONSUMER PRODUCT SAFETY ACT.**—Section 20(a)(1) (15 U.S.C. 2069(a)(1)) is amended by striking “\$1,250,000” both places it appears and inserting “\$10,000,000”.

(ii) **FEDERAL HAZARDOUS SUBSTANCES ACT.**—Section 5(c)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(1)) is amended by striking “\$1,250,000” both places it appears and inserting “\$10,000,000”.

(iii) **FLAMMABLE FABRICS ACT.**—Section 5(e)(1) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(1)) is amended by striking “\$1,250,000” and inserting “\$10,000,000”.

(B) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall take effect on the date that is 1 year after the earlier of—

(i) the date on which final regulations are issued pursuant to section 3(b); or

(ii) 360 days after the date of enactment of this Act.

(b) **DETERMINATION OF PENALTIES BY THE CONSUMER PRODUCT SAFETY COMMISSION.**—

(1) **FACTORS TO BE CONSIDERED.**—

(A) **CONSUMER PRODUCT SAFETY ACT.**—Section 20(b) (15 U.S.C. 2069(b)) is amended—

(i) by inserting “the nature, circumstances, extent, and gravity of the violation, including” after “shall consider”;

(ii) by striking “products distributed, and” and inserting “products distributed,”; and

(iii) by inserting “, and such other factors as appropriate” before the period.

(B) **FEDERAL HAZARDOUS SUBSTANCES ACT.**—Section 5(c)(3) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(3)) is amended—

(i) by inserting “the nature, circumstances, extent, and gravity of the violation, including” after “shall consider”;

(ii) by striking “substance distributed, and” and inserting “substance distributed,”; and

(iii) by inserting “, and such other factors as appropriate” before the period.

(C) **FLAMMABLE FABRICS ACT.**—Section 5(e)(2) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(2)) is amended—

(i) by striking “nature and number” and inserting “nature, circumstances, extent, and gravity”;

(ii) by striking “absence of injury, and” and inserting “absence of injury,”; and

(iii) by inserting “, and such other factors as appropriate” before the period.

(2) **REGULATIONS.**—Not later than 1 year after the date of enactment of this Act, and in accordance with the procedures of section 553 of title 5, United States Code, the Commission shall issue a final regulation providing its interpretation of the penalty factors described in section 20(b) of the Consumer Product Safety Act (15 U.S.C. 2069(b)), section 5(c)(3) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(3)), and section 5(e)(2) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(2)), as amended by subsection (a).

SEC. 216. CRIMINAL PENALTIES TO INCLUDE ASSET FORFEITURE.

Section 21 (15 U.S.C. 2070) is amended by adding at the end thereof the following:

“(c)(1) In addition to the penalty provided by subsection (a), the penalty for a criminal violation of this Act or any other Act enforced by the Commission may include the forfeiture of assets associated with the violation.

“(2) In this subsection, the term ‘criminal violation’ means a violation of this Act of any other Act enforced by the Commission for which the violator is sentenced under this section, section 5(a) of the Federal Hazardous Substances Act (15 U.S.C. 2064(a)), or section 7 of the Flammable Fabrics Act (15 U.S.C. 1196).”.

SEC. 217. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

Section 24 (15 U.S.C. 2073) is amended—

(1) in the section heading, by striking “PRIVATE” and inserting “ADDITIONAL”;

(2) by striking “Any interested person” and inserting “(a) Any interested person”; and

(3) by striking “No separate suit” and all that follows and inserting the following:

“(b)(1) The attorney general of a State, alleging a violation of section 19(a) that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief.

“(2) Not less than thirty days prior to the commencement of such action, the attorney general shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. The Commission shall have the right—

“(A) to intervene in the action;

“(B) upon so intervening, to be heard on all matters arising therein;

“(C) and to file petitions for appeal.

“(c) No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys’ fees (determined in accordance with section 11(f)) and reasonable expert witnesses’ fees.”.

SEC. 218. EFFECT OF RULES ON PREEMPTION.

In issuing any rule or regulation in accordance with its statutory authority, the Commission shall not seek to expand or contract the scope, or limit, modify, interpret, or extend the application of sections 25 and 26 of the Consumer Products Safety Act (15 U.S.C. 2074 and 2075, respectively), section 18 of the Federal Hazardous Substances Act (15 U.S.C. 1261), section 7 of the Poison Prevention Packaging Act (15 U.S.C. 1476), or section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) with regard to the extent to which each such Act preempts, limits, or otherwise affects any other Federal, State, or local law, or limits or otherwise affects any cause of action under State or local law.

SEC. 219. SHARING OF INFORMATION WITH FEDERAL, STATE, LOCAL, AND FOREIGN GOVERNMENT AGENCIES.

Section 29 (15 U.S.C. 2078) is amended by adding at the end the following:

“(f)(1) The Commission may make information obtained by the Commission under this Act available (consistent with the requirements of section 6) to any Federal, State, local, or foreign government agency upon the prior certification of an appropriate official of any such agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement or consumer protection purposes, if—

“(A) the agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

“(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

“(i) laws regulating the manufacture, importation, distribution, or sale of defective or unsafe consumer products, or other practices substantially similar to practices prohibited by any law administered by the Commission;

“(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

“(iii) with respect to a foreign law enforcement agency, with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency’s government; and

“(C) in the case of a foreign government agency, such agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(f) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

“(2) The Commission may abrogate any agreement or memorandum of understanding entered into under paragraph (1) if the Commission determines that the agency with which such agreement or memorandum of understanding was entered into has failed to maintain in confidence any information provided under such agreement or memorandum of understanding, or has used any such information for purposes other than those set forth in such agreement or memorandum of understanding.

“(3)(A) Except as provided in subparagraph (B) of this paragraph, the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

“(i) any material obtained from a foreign government agency, if the foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

“(ii) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

“(iii) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign government agencies.

“(B) Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.

“(4) In this subsection, the term ‘foreign government agency’ means—

“(A) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

“(B) any multinational organization, to the extent that it is acting on behalf of an entity described in subparagraph (A).

“(g) Whenever the Commission is notified of any voluntary recall of any consumer product self-initiated by a manufacturer (or a retailer in the case of a retailer selling a product under its own label), or issues an order under section 15(c) or (d) with respect to any product, the Commission shall notify each State’s health department or other agency designated by the State of the recall or order.”.

SEC. 220. INSPECTOR GENERAL AUTHORITY AND ACCESSIBILITY.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Inspector General of the Commission shall transmit a report to Congress on the activities of the Inspector General, any structural barriers which prevent the Inspector General from providing robust oversight of the activities of the Commission, and any additional authority or resources that would facilitate more effective oversight.

(b) EMPLOYEE COMPLAINTS.—

(1) IN GENERAL.—The Inspector General of the Commission shall conduct a review of—

(A) complaints received by the Inspector General from employees of the Commission about violations of rules, regulations, or the provisions of any Act enforced by the Commission; and

(B) the process by which corrective action plans are negotiated with such employees by the Commission, including an assessment of the length of time for these negotiations and the effectiveness of the plans.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall transmit a report to the Commission and to Congress setting forth the Inspector General’s findings, conclusions, actions taken in response to employee complaints, and recommendations.

(c) COMPLAINT PROCEDURE.—Not later than 30 days after the date of enactment of this Act the Commission shall establish and maintain on the homepage of the Commission’s Internet website a mechanism by which individuals may anonymously report incidents of waste, fraud, or abuse with respect to the Commission.

SEC. 221. REPEAL.

Section 30 (15 U.S.C. 2079) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 222. INDUSTRY-SPONSORED TRAVEL BAN.

The Consumer Product Safety Act (15 U.S.C. 1251 et seq.) is amended by adding at the end the following new section:

“SEC. 38. PROHIBITION ON INDUSTRY-SPONSORED TRAVEL.

“(a) PROHIBITION.—Notwithstanding section 1353 of title 31, United States Code, no Commissioner or employee of the Commission shall accept travel, subsistence, and related expenses with respect to attendance by a Commissioner or employee at any meeting or similar function relating to official duties of a Commissioner or an employee, from a person—

“(1) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

“(2) whose interests may be substantially affected by the performance or nonperformance of the Commissioner’s or employee’s official duties.

“(b) AUTHORIZATION OF APPROPRIATIONS FOR OFFICIAL TRAVEL.—There are authorized to be appropriated, for each of fiscal years 2009 through 2011, \$1,200,000 to the Commission for certain travel and lodging expenses necessary in furtherance of the official duties of Commissioners and employees.”.

SEC. 223. ANNUAL REPORTING REQUIREMENT.

Section 27(j) (15 U.S.C. 2076(j)) is amended—

(1) in the matter preceding paragraph (1), by striking “The Commission” and inserting “Notwithstanding section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note), the Commission”; and

(2) by redesignating paragraphs (5) through (11) as paragraphs (6) through (12), respectively and inserting after paragraph (4) the following:

“(5) the number and summary of recall orders issued under section 12 or 15 during such year and a summary of voluntary actions taken by manufacturers of which the Commission has notified the public, and an assessment of such orders and actions;”.

SEC. 224. STUDY ON THE EFFECTIVENESS OF AUTHORITY RELATING TO IMPORTED PRODUCTS.

The Commission shall study the effectiveness of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)), specifically paragraphs (3) and (4) of such section, to determine a specific strategy to increase the effectiveness of the Commission’s ability to stop unsafe products from entering the United States. The Commission shall submit a report to Congress not later than 9 months after enactment of this Act, which shall include recommendations regarding additional authority the Commission needs to implement such strategy, including any necessary legislation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. RUSH) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. RUSH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. RUSH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today is indeed a grand day. Today is a day that we show the American people that this Congress, this House of Representatives, gets things done. Today the House will vote on sweeping bipartisan legislation that will protect our children from defective and dangerous toys and comprehensively reforms the Consumer Product Safety Commission.

The bill before us today, H.R. 4040, the Consumer Product Safety Modernization Act of 2007, was introduced by Chairman DINGELL, Ranking Member BARTON, Ranking Member STEARNS, and myself. This historic bill authorizes desperately needed resources to the commission and dramatically rewrites the Consumer Product Safety Act as well as the Federal Hazardous Substances Act, both of which are administered by the CPSC. After decades of neglect, H.R. 4040 finally restores the CPSC to its rightful place of prominence and gives it the necessary tools to grapple with the global marketplace and protect America’s consumers, particularly our children, from dangerous and defective products.

This bill represents 8 months of work, five hearings, a subcommittee markup, and a full committee markup in which the final vote was 51–0. As chairman of the Subcommittee on Commerce, Trade, and Consumer Protection, I am extremely proud of our collective efforts during this entire process.

H.R. 4040 has two titles. Title I specifically addresses children’s products by establishing the strictest lead standards in the world for children’s products and requiring certification

and testing. Title II overhauls the CPSC itself, giving the beleaguered agency much-needed resources and strengthening its underlying organic statute. At both the subcommittee and full committee markups, the bill underwent significant changes: We strengthened the lead standard, raised the age requirement for mandatory testing to 12 years of age, required CPSC to appropriately tailor their corrective action plans to fit consumer needs, bestowed enforcement authority to State attorneys general, banned corporate-sponsored travel for CPSC employees, and preserved State common law rights of action.

All of these excellent changes were made at the behest of the members of the Energy and Commerce Committee who offered their valuable input on how to make this underlying bill even better.

Madam Speaker, I cannot emphasize enough the bipartisan nature of this bill. From the very beginning, we drafted this bill in consultation with the Consumer Product Safety Commission, consumer groups, and industry. Madam Speaker, I want to sincerely thank the distinguished chairman of the full Committee on Energy and Commerce, my dear friend from Michigan, Mr. JOHN DINGELL, for his unparalleled leadership. This bill simply would not be possible without Chairman DINGELL's guidance. Of course, I want to thank my friends, the distinguished ranking member of the committee, Mr. BARTON; and the ranking member of the subcommittee, Mr. STEARNS, for their incredible leadership and unwavering cooperation.

I urge my colleagues to vote "yes" on this historic bill.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, I want to start off by congratulating Chairman JOHN DINGELL. I have with me today's Congress Daily, one of the news periodicals that tracks what we do. And on page 7 the headline is "House Panel Easily Passes Consumer Safety Legislation." It goes on to say that DINGELL said he plans to approach the Speaker and ask her to put the bill on the Suspension Calendar because it passed committee 51-0, and in the next paragraph it says that a leadership aide said it is unlikely that the bill could come to the floor before Congress adjourns for the year.

Well, I just want to congratulate the chairman for going to Speaker PELOSI and getting her to agree to put this bill on the floor before we go home because this bill shows how the Congress should work. It didn't pass 51-0 because of serendipity. It passed 51-0 yesterday in the Energy and Commerce Committee because staffs on both sides of the aisle of both the full committee and the subcommittee met for countless hours to negotiate the many compromises necessary to put the bill together. I want to especially compliment Consuela

Washington, the majority counsel, Chairman DINGELL's counsel, who has worked so hard on this bill. If President Washington were still alive today, he would be very proud of her for the work that she's done because she has not only had to work with the minority staffers and members, she has also had to diligently work with the majority staffers and members as sometimes each side was pulling her in different directions. It's good to know that she's all in one piece and doing well.

This bill will strengthen the Consumer Product Safety Commission. This bill will create a state-of-the-art testing laboratory to test the products and the toys that we sell to the American public. This bill will enhance the recall ability of the Consumer Product Safety Commission. This bill will expand the number of commissioners so that we have a full commission again. This bill increases the fines that the Consumer Product Safety Commission can levy against recalcitrant companies that sell defective products. And this bill has the toughest lead standard in the world for products.

I wish it were my line, but it's not. Chairman RUSH's line on the lead standard, in response to an amendment in committee to make it even tougher, said that God himself at Mount Horeb where He gave the Ten Commandments to Moses, that may have been the only holy ground in the world that would have met this standard. I thought that was just priceless in terms of trying to put in context how tough this standard is that the Lord Himself would have difficulty meeting the standard in the bill.

So this is a good work product. It was done the right way. Negotiations with the stakeholders, negotiations with members, negotiations with the staff; an open markup at subcommittee; adequate time between subcommittee and full committee; a manager's amendment that was circulated so all members had a chance to see it; a full committee markup that lasted 2 days; numerous amendments that were offered, some withdrawn, some accepted, some modified. And the result was a 51-0 vote that occurred in full committee yesterday. And then again, thanks to Chairman DINGELL's ability to get things done in the House, a Suspension Calendar vote today so that Members on both sides of the aisle have an attempt to put their stamp of approval on this very important piece of legislation.

I'm very proud to have played a small part in this process, and I cannot urge in stronger language that we should pass this and send it to the other body so that they may also reciprocate.

I predicted at the press conference 6 weeks ago or 2 months ago that something very close to this bill will be on the President's desk. We will have a bill signing ceremony in the Oval Office or the Rose Garden on this legislation later in this Congress.

So I'm very pleased to endorse it. I again thank all Members for their hard work, and a special commendation to CLIFF STEARNS, the former ranking member of the subcommittee, for his hard work.

Madam Speaker, I reserve the balance of my time.

Mr. RUSH. Madam Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. I want to thank the distinguished chairman of the subcommittee, Mr. RUSH, for yielding me this time, and I want to congratulate him and my distinguished chairman, Mr. DINGELL, for bringing this strong consumer protection bill to the floor so quickly. I also want to thank Congresswoman DELAURO, whom I have been working with on this legislation for a number of years, and I am so thrilled to see it on the floor.

Madam Speaker, this year we have seen the number of children's product and toy recalls rise dramatically. Many of these recalls were because of the excessive amounts of lead, which is a very dangerous compound for children. As if parents didn't have enough to worry about this season, they're faced with another dilemma. Are the toys that they are buying safe? Today in the House we will act to make sure the answer to that question in the future is a resounding "yes."

Back in September, with Congresswoman DELAURO, I introduced a bill to address this issue. I want to commend the good work of the Energy and Commerce Committee for incorporating many of the provisions of our bill, most of the provisions, into H.R. 4040 as it sits before us today.

This bill takes a number of steps to protect kids under 12. For example, it almost doubles the funding for the Consumer Product Safety Commission, which has been woefully underfunded and staffed. It bans lead in children's products and toys. It requires independent third-party testing. And it bans industry-sponsored travel, which has been a scandal at the Consumer Product Safety Commission.

Passing H.R. 4040 today is a crucial first step in making sure that children are safe from dangerous products. As parents like us are rushing to finish their holiday shopping this weekend, they can rest assured that the U.S. House of Representatives is on their side.

I look forward to working with my colleagues early in the next session to make sure that the food parents are putting on their table is also safe.

Mr. BARTON of Texas. Madam Speaker, I want to yield 5 minutes to the former chairman of the subcommittee and then the ranking member of the subcommittee, who is now the ranking member of the Telecommunications Subcommittee, the gentleman from Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, I rise in support of this bill. As Chairman BARTON has pointed out, it has been bipartisan, with 51 people voting for it and no one voting against it. We had a conscientious markup, particularly on several amendments. These amendments were defeated so that we had a little compromise involved.

A lot of Americans should realize that the Consumer Product Safety Commission came into existence in 1973 as the agency to ensure consumer products, including toys, not to pose risks of injuries to our families, illness or death to consumers. Lots of times products are not used properly, and that causes a problem.

□ 1400

The Consumer Product Safety Commission cannot guarantee safety if the consumers don't use their products properly.

They have 15,000 different products that they have to promulgate with standards. Fortunately, the Commission rarely has had to promulgate mandatory standards for all these products and can rely on voluntary standards that are simply developed by the industry itself.

This bill, as Mr. BARTON pointed out, is going to be signed in very short order after we pass this under suspension.

Many of the Members on both sides talked about the growing compliance shortfalls with toys that are manufactured outside the United States, particularly in China. Specifically, our attention was focused on the spate of recalls which increased dramatically for toys with lead-based paints exceeding the United States limit. This was a problem we have rarely seen in 30 years since we passed the Federal ban on lead-based paint. I am pleased to report that manufacturers and retailers have stepped up to the plate in testing in response to these problems, and that's good.

Nevertheless, my colleagues, toys have not been the only problem this year, as imports of every type of product increasingly account for our supply of goods, particularly from China. As our imports have risen over the years, so have the number of problems that have been associated with these products that come in. But the Consumer Product Safety Commission has met this daunting challenge and, as you can imagine, with 15,000 different kinds of products, they have issued more recalls over the last 2 years than any other time in our history. Despite this, we recognized the need to provide the Commission with additional resources, which we are doing today. We authorize significant increases in their budget so that the Commission may fulfill their mission to keep defective products that can cause injury, or worse, out of the stream of commerce.

So, I'm pleased to report that the omnibus bill we passed this week includes increased appropriations for the

Commission, so they're getting new resources.

This bill is good public policy that not only provides the Commission with new resources, but, as was pointed out, much, much more. It provides for new standards regarding lead paint and implements the most stringent standard ever for lead content in children's products. The bill requires testing and certification of children's products before they are ever shipped to store shelves, and provides increased penalties for companies that violate the law.

New laboring requirements will help facilitate effective recalls, and the bill provides greater authority for the Commission to recall harmful products and notify the public of these dangers. Very important; they have this extra recall authority.

We have worked with the consumer groups, industry, and the Commission to make this a bipartisan, sound bill that works effectively. So I commend Chairman RUSH, I commend, obviously, Mr. DINGELL, and I commend our ranking member, Chairman BARTON, on their willingness to make this an open process. We talked about it, and the result is what we see today, a bipartisan bill that has the support of the House.

So, I urge my colleagues to support it, and I look forward to its implementation into law.

Mr. RUSH. Madam Speaker, I yield 2½ minutes to the gentlelady from Connecticut, the vice chairman of the Democratic Caucus, Ms. DELAURO.

Ms. DELAURO. Madam Speaker, when the toys our children play with are no longer safe, government must respond. Today's bill represents a first step forward, an active response to an agency which has failed to take its regulatory responsibilities seriously for far too long, an agency that does not understand its regulatory function. We are addressing the Consumer Product Safety Commission's mandate, and trying to reform it in a meaningful way.

I have been proud to work with my colleague, Congresswoman DEGETTE, and other colleagues from the Energy and Commerce Committee to hone, to strengthen this bill. We all recognize that the American people must be able to depend on the system responsible for protecting them.

I especially want to thank Congresswoman ANNA ESHOO who fought to strengthen the mandatory recall provision governing products that pose an imminent hazard. This new authority will allow the CPSC to provide notice and halt distribution without protracted legal proceedings.

I am pleased that I could partner with my colleagues to strengthen this bill in other ways as well, requiring tracking labels and product registration cards for durable and nursery products, providing the additional resources the CPSC needs to get its act together, instituting a ban on industry-sponsored travel, and providing for protections for children under the age of 12.

I do not believe that we have gone far enough and that we must go further. I look forward to making this bill stronger still, working through the conference to address its shortcomings.

Under this bill, we must make it clear that States will not be preempted. Attorneys General should not be limited when pursuing remedies or penalties. At a time when the number of dangerous products entering our markets are skyrocketing, this is a problem we need to fix now. We should be bringing more allies to our fight, not fewer.

Also, we are still not tough enough on third-party testing. There are still loopholes that leave manufacturers to conduct their own tests. The days of industry self-policing must come to an end. And I believe the current provision banning lead, although long overdue, has problematic exemptions. Health advocacy experts have testified to the need to place its threshold at 40 parts per million and urge more timely implementation. With our children's health at stake, we should listen to the experts.

Government has an obligation to its citizens; it's that simple. This bill represents a first step forward in meeting that obligation, striving to make sure dangerous toys and products do not slip through the cracks and into our children's hands.

During this holiday season, we cannot afford to wait any longer. I urge a "yes" vote on this legislation.

Mr. BARTON of Texas. May I inquire as to the time I have remaining, Madam Speaker?

The SPEAKER pro tempore (Mrs. TAUSCHER). The gentleman from Texas has 11 minutes remaining. The gentleman from Illinois has 11½ minutes remaining.

Mr. BARTON of Texas. I ask unanimous consent to yield 6 of my 11 minutes to Mr. RUSH for him to control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois now has 17½ minutes remaining.

Mr. RUSH. I want to thank the gentleman.

Mr. BARTON of Texas. And of the 5 minutes I still control, I want to yield two of those minutes to the new ranking member of the Consumer Protection and Trade Subcommittee, Mr. WHITFIELD.

Mr. WHITFIELD. Madam Speaker, I certainly want to congratulate Chairman DINGELL, Ranking Member BARTON, Chairman RUSH and Ranking Member STEARNS.

Recently, we've read many articles about products coming out of China, whether it be wheat gluten, whether it be contaminated toothpaste, whether it be excessive lead in the paints of toys, and all of us are quite excited about this legislation, H.R. 4040, for the reformation that it makes in the Consumer Product Safety Commission.

One thing that I would point out, and other people have already said it, but the new standards regarding lead paints implements the most stringent standard ever for lead content in children's products in this legislation. So, this is an exciting day for the American people. I think it shows that Congress does have the ability to meet very important problems facing our country.

I look forward to the passage of this legislation today, and certainly want to thank the staff for the hard work that they did on both sides of the aisle.

Mr. RUSH. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I rise in support of the Consumer Protection Safety Modernization Act, of which I am a cosponsor. There is no better time to pass this legislation than right now before the holidays when parents are buying toys for their children.

After months of recalls of Chinese-manufactured toys, it is evident that the Consumer Protection Safety Commission lacks strong authority and needs additional resources to protect the safety of our children and loved ones.

This legislation will implement a graduated reduction of lead standards, reducing 100 parts per million, a level unmatched anywhere in the world.

The bill will also require manufacturers to include tracking labels to aid in the event of a recall on all toys intended for children 12 and younger, and mandate third-party testing of toys for lead by labs accredited by the CPSC.

This legislation strengthens the commission by authorizing significant increases in funding levels over the next 3 years, allowing the Product Safety Commission to hire additional employees, which has been at an all-time low since their inception. Furthermore, this legislation provides an additional \$20 million to modernize CPSC's testing laboratory to ensure safe products.

Madam Speaker, I applaud Chairman DINGELL, Chairman RUSH, Mr. BARTON and Mr. STEARNS for bringing this bill to the floor. I urge my colleagues to join me in voting in favor of this bill.

Mr. BARTON of Texas. I yield 1½ minutes to a distinguished member of the full committee, Dr. MURPHY of Pennsylvania.

Mr. TIM MURPHY of Pennsylvania. I thank my distinguished ranking member.

In 2007, there have been 61 toy recalls, which translates to about 25 million toys. This number is up significantly from the 40 recalls of 5 million toys we had last year. And this is what we caught.

This bill will help protect consumers. The real culprits remain, however, the trading partners who refuse to abide by international standards, countries like China and others who have lax over-

sight, who happen to be the leading countries that are involved with these appalling rates. That's why this bill is so important, because it is up to us to set sound and safe standards and enforce them.

In addition, I am pleased the committee will be looking at further research to look at the issue of pet toys, pet toys that may themselves have lead and other toxic metals that are unregulated. Not only is this a concern in exposure for the family pet, but also because many of these toys themselves are inviting to children. Young children themselves may pick them up, put them in their mouth, and get these toxic substances on their hands.

As people do their shopping this holiday season, perhaps what we should be doing as a Nation, before this bill is signed by the President and goes into effect, instead of judging products by cheap prices, we should all be looking for quality and safety that comes from buying American products.

With that, I thank the committee.

Mr. RUSH. Madam Speaker, I yield 2 minutes to the gentlelady from California (Ms. HARMAN).

Ms. HARMAN. I thank the gentleman for yielding.

Madam Speaker, I am enjoying my return to the Commerce Committee, where I serve under a great chairman, JOHN DINGELL.

Our committee has a history of producing strong bipartisan legislation. The regular order works, and we do good work when we follow it.

As a grandmother and grandmother-to-be, I watched in horror this summer as millions of toys were pulled off of American store shelves due to lead-tainted paint, detached magnets, and other hazards. I was further dismayed because Mattel, one of the companies responsible, is headquartered in my congressional district and employs 2,000 of my constituents to design and market its toys. I am pleased to say that Mattel has worked hard to fix its problems, though I will continue to recommend that it move some of or all of its manufacturing back to this country, where quality can be carefully monitored.

Madam Speaker, for all the reasons my colleagues have mentioned, H.R. 4040 is a landmark bill. It sets a high bar for toy manufacturers like Mattel, and strengthens government scrutiny of industry. H.R. 4040 was written the right way, the bipartisan way, and through the regular order of the House. In terms of process, it is a model for Congress at its best, and grandmothers, grandmothers-to-be, children, and our committee will be better for it.

I urge passage of this bill.

Mr. BARTON of Texas. Madam Speaker, I reserve the balance of my time.

Mr. RUSH. Madam Speaker, it is my pleasure now to yield 2½ minutes to the gentlelady from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Thank you, Mr. Chairman, for yielding to me. And I

thank you, Chairman DINGELL, Ranking Member BARTON and vice chairman of the subcommittee, Mr. STEARNS, for bringing this bill to fruition.

This is the season of giving, but parents today are worrying about whether the toys they buy for their children will be safe or a potentially lethal hazard.

The Chicago Tribune recently tested 800 toys and found a wooden butterfly in an Oak Park toy store with 85,000 parts per million of lead, 142 times the legal limit.

□ 1415

A Superman figurine contained 33,000 parts per million. The Associated Press followed up with their own tests, and 35 percent of the toys they looked at were contaminated with lead levels above the legal limit.

We should have a Consumer Product Safety Commission that is aggressive in protecting our children, our most precious resource. We should, but we don't. Unfortunately, the CPSC acting chairwoman seems content with the status quo.

H.R. 4040, the Consumer Product Safety Modernization Act, recognizes that the status quo of daily recalls, injuries and deaths is not acceptable. I support this bill because it provides new authority and resources to make products, particularly children's products, safe.

There are many important provisions in this bill. It would virtually ban lead in products intended for children age 12 and younger. It will mandate independent third-party testing for hazards in children's products and improve the recall process. It includes provisions from legislation I introduced to require long-overdue mandatory safety standards for durable infant and toddler products and strengthen recall effectiveness by requiring them to include recall registration cards.

I hope we can make this bill even stronger. Even with added resources authorized from the bill, a major improvement from the levels requested by President Bush, we could do better, particularly when it comes to monitoring imports. I support measures to add mandatory premarketing testing and other important things. But ultimately, we need to pass this legislation.

I support measures to add mandatory premarketing testing, tough whistleblower protections and the assurance that injured consumers will have full rights to hold wrongdoers accountable. And while I support provisions to encourage manufacturers to report dangerous products, I remain concerned about the effect those provisions would have on criminal liability and hope we can take a further look at this.

Ultimately no legislation will be successful if the CPSC continues to shirk its mandate of protecting consumers. I want to thank Chairman DINGELL and Chairman RUSH for their hard work on this bill and for their commitment to

holding vigorous oversight of CPSC's activities. I look forward to working with them to make this bill even stronger.

Mr. BARTON of Texas. I continue to reserve my time.

Mr. RUSH. Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. CARNEY).

Mr. CARNEY. Thank you, Mr. Chairman.

Madam Speaker, like so many before me, I rise today in support of the Consumer Product Safety Modernization Act, H.R. 4040. As the father of five, I am very concerned about our children's safety. This legislation creates the toughest lead standard in the world for children's products, and I could not be prouder to support it.

I have held town hall meetings all across my district in Pennsylvania, and lead in children's toys remains a constant concern for parents. We need to know that our children are not playing with hazardous toys. We all know that lead poisoning can be extremely dangerous. According to the U.S. Consumer Product Safety Commission, lead poisoning in children is associated with behavioral problems, learning disabilities, growth retardation and even death.

As the holidays approach, this legislation is even more urgent. Requiring mandatory safety standards for nursery products and mandatory third-party testing of children's products will help stop the problem of lead toys before they hit the shelf. In addition, this legislation requires tracking labels to aid in recalls. I have been working with the CPSC to ensure that recalled items are removed from store shelves as quickly and as safely as possible.

My office has worked to make sure the public knows when there is a recall and how to take action. This holiday season, I urge all parents to check where the toy has been made and keep up to date with the recall e-mail notices provided by the CPSC. I am proud to offer my strong support for this critical legislation.

Mr. RUSH. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Madam Speaker, today the House will take up legislation that, in the great tradition of the Energy and Commerce Committee, was reported out of the committee unanimously. I would have voted for it as well had I not been on the House floor presenting another piece of legislation. I want to commend Chairman DINGELL, Subcommittee Chairman RUSH, and Ranking Members BARTON and STEARNS for their great accomplishment.

This bill will develop a standard that will protect children from the dangers associated with lead exposure. It will create a national standard that is one of the strongest in the world and ensure that our toys are as safe as possible. This is an accomplishment that

we all can be proud of. But let me point out that no one piece of legislation can make all the changes that we need at the Consumer Product Safety Commission. What we need to continue to look for are ways to further improve the CPSC.

We must ensure that the Consumer Product Safety Commission and the public get, and can appropriately use, information from manufacturers about the safety of their products. We must also ensure that the States have all the tools they need to permit them to fully assist the CPSC in its task because they will continue to be vitally important partners in enforcing the law.

Every day, Americans rely on the Consumer Product Safety Commission to protect them from dangerous products. To date, frankly, it has not done its job. This bill is the first step in changing direction and in making the CPSC the effective agency the American people expect and deserve. I know this will be a continuing effort on the part of the committee, and I look forward to working with my colleagues on that committee in a bipartisan way, I hope, to ensure that we achieve this goal.

Mr. RUSH. Madam Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman.

Madam Speaker, this is the holiday season. For many of us, this is Christmas. And I believe we owe a debt of gratitude to the Energy and Commerce Committee, Mr. RUSH; the chairman of the full committee, Mr. DINGELL; all of the people who worked so hard; Ms. DELAURO who is not on the committee but who worked hard on this issue; and my good friend from Texas (Mr. BARTON) who today declared an enormous Christmas gift. He said the President is going to sign this in near order. Maybe it will be tonight or tomorrow, and we will come back with our Santa Claus hats on. I chair the Congressional Children's Caucus, and this is a mighty important step going forward.

I am delighted to be an original co-sponsor of H.R. 4040, and I am really pleased that we responded immediately in an emergency posture. Can you imagine, Mr. RUSH, listening to a member of the Consumer Product Safety Commission saying, "We need no more resources, everything is well." And can you imagine parents as they push the wee hours of the morning, of course not them, working with Santa, to get toys for their children, to be able to have to question whether these toys are safe? In fact, in my own district, I am hearing that parents are questioning, and the purchases of gifts are down, toys are down because they just don't know what is safe.

This is a good bill. It instructs those who are dealing with children that there has to be important oversight. I

am working, as well, and hope that as we move forward to expand the responsibilities of the Consumer Product Safety Commission that we will also look to language that I have in legislation that I have filed, or will be filing, dealing with the prohibition of imports of children's products without third-party testing for certification.

This kind of oversight is crucial. Lead kills. So many times we have fought against lead in housing and fought against various, if you will, owners of apartments. Many times we have waged a battle against lead in our public housing, section 8 housing or dilapidated housing that many poor Americans have to live in. We have fought against that. Lead kills. Lead is poison. But can you imagine that right under our very noses we had goods and toys that, in fact, our children bought or their family members bought and they played with that would kill?

H.R. 4040, I believe, will save lives. It is an important statement. It is a holiday statement. It is an important statement to indicate that children of America are first. I ask my colleagues to support it.

Mr. RUSH. Madam Speaker, I yield myself 15 seconds.

Madam Speaker, I just want to take a moment to commend the work of the staffs on both sides of the aisle. We have a dedicated, hardworking staff that has done tremendous work over the weekends and into the wee hours of the morning. They have made it possible for this outstanding bill to come before this Congress for the American people. I want to commend them for their outstanding work.

Mr. BARTON of Texas. I continue to reserve my time.

Mr. RUSH. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. SERRANO).

(Mr. SERRANO asked and was given permission to revise and extend his remarks.)

Mr. SERRANO. I want to thank the gentlemen, both the chairman and the ranking member of the subcommittee and the ranking member of the full committee, for this very important legislation.

My reason for speaking is simply to inform you of what you may already know has taken place on the bill that we voted on the other night. The commission had a budget of \$62 million. The President's request was \$63 million. During our hearing process, our subcommittee oversees the agency, we were shocked to hear from them that they didn't need any more money. In the middle of such a crisis, they were the only agency in the Federal Government saying, "Don't give us any more money."

Well, understanding the need and within the limited resources, we went from this year's \$62 million to a full \$80 million, and I wish it could have been \$280 million. The purpose of my comments is to remind both sides that since we increased the dollars by \$18

□ 1430

million, it was a message that we were all sending that we understand the need to take care of these issues and to react in a very positive way. And so it falls on us now to be very vigilant to make sure that they do the work that they are supposed to do.

There is nothing more important in my opinion at this present moment than to ensure the American people that products that are coming into this country and products that are being produced in this country are safe and proper for their children, for their families. We can do it through this bill. We can do it through the appropriations that we had the other night. I thank all of you again for being very vigilant in this kind of work.

Mr. BARTON of Texas. Madam Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mrs. TAUSCHER). The gentleman is recognized for 3 minutes.

Mr. BARTON of Texas. Madam Speaker, I already complimented the majority on their process. I also want to compliment the majority and the minority on both sides on the policy. This bill has the toughest lead standards in the world for children's products. Let me repeat that. The bill before us has the toughest lead standards in the world for children's products.

It is phased in. The timetable may not be quite as aggressive as some of our consumer advocates would like it to be, but it is a fact that if this bill gets through the Senate, and I hope it will, the President signs it, and I know he will, we will have the toughest lead standards in the world for children's products.

It has a premarket approval process that is a major reform over the current practice, so that no product will be put into the marketplace until it has been adequately and aggressively tested before it goes to market. That is another major change from the current law.

The Consumer Product Safety Commission is a small agency. I believe it has less than 500 employees. But it is a very important agency. And I think it is important for the authorizing committees to do due diligence in their oversight and to also do due diligence in reauthorizing their agencies. I was very proud in the last Congress that for the first time in 14 years we reauthorized the National Institutes of Health and put in several major reforms.

I am glad in this Congress that we are working on a bipartisan basis to reauthorize the Consumer Product Safety Commission. I look forward, once we pass this piece of legislation, to work with the majority to take a look at the Federal Communications Commission. I believe it could use some reforms, too, and I know Chairman DINGELL and Subcommittee Chairman MARKEY have some of those same concerns that I have.

I urge a strong "yes" vote on this legislation.

With that, Madam Speaker, I would yield back the balance of my time.

Mr. RUSH. Madam Speaker, it is my pleasure and my privilege to yield such time as we have remaining to the chairman of the full committee, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Speaker, I thank my distinguished friend for yielding to me.

I want to express my commendations to the chairman of the subcommittee, Mr. RUSH, for his outstanding leadership in this. I am proud, indeed, of your work here. I also want to say a word of praise to my dear friend, the chairman and the ranking member of the Commerce Committee, Mr. BARTON, and also Mr. STEARNS, who have served so well. Working with them has been a privilege and a pleasure. I want to salute them for what they have accomplished.

I also want to salute the staff. We have on this committee, on both sides of the aisle, a superb staff. I will not mention all of their names, but I do want to express my appreciation to Consuela Washington for the outstanding leadership she showed in the very difficult work that was done here. But that doesn't demean any member of the staff on either side of the aisle. They are superb, dedicated, wonderful public servants, and we owe them a great debt of thanks.

H.R. 4040 is a superb piece of legislation. Is it perfect? No. But it's as good as can ever be achieved in this place. It shows that the House of Representatives can work together, and in a 51-0 vote we have established that the Commerce Committee still carries forward its traditions of working well together and moving forward the business of the House in a proper, bipartisan fashion. In that, we may all, indeed, be proud. It shows a real vigorous collaborative effort by all members of the committee to craft a commonsense solution to the consumer safety problems that have received so much public attention in the past year.

We have developed, with input from government, consumer advocate groups and industry stakeholders, a bill which represents a comprehensive approach to improving consumer safety. Most importantly, the bill contains a very significant reauthorization, the first in 15 years at CPSC, and it gives that agency remarkably enhanced tools to enforce the compliance of both domestic and imported consumer products with laws and regulations that will enable the CPSC to do a much better job of protecting our Nation's people and our children.

I want to conclude, again, by thanking my good friends and colleagues who have worked so hard on this. I want to comment on the fine works of Representative DEGETTE, Representative SCHAKOWSKY, Representative CAPPS, and Representative HARMAN, who provided extraordinarily fine leadership to us as this matter went through the committee.

Again, I want to stress what a pleasure it has been to work with the chairman of the subcommittee, the ranking minority member of both the full committee and the subcommittee, and my gratitude to all of the members for the extraordinary way in which they have put together a piece of legislation in which this body may indeed be proud.

There will be some carping about the legislation, but I remind all that the perfect good is oft times the enemy of the good. We are moving forward speedily and well to protect our consumers in a proper fashion and to do so in a timely fashion and in a way which ensures not only the protection of the people, but the protection of the people in a timely and speedy fashion and a proper response to the concerns that all have set forward. I, again, thank my colleagues.

Mr. MARKEY. Madam Speaker, I commend Chairman DINGELL and Subcommittee Chairman RUSH for their intensive efforts to produce bipartisan legislation to overhaul a beleaguered agency, the Consumer Product Safety Commission, CPSC. As a tsunami of toxic toys flooded into our country and onto store shelves earlier this year, it became clear that the CPSC was unequipped to perform its vital mission—protecting the public from significant risks of serious injury or death from toys and other consumer products under the agency's jurisdiction. Chairman DINGELL and Chairman RUSH moved swiftly to respond to this crisis of confidence in the CPSC, holding important hearings that exposed major weaknesses at the agency, including an under-resourced and demoralized staff, a lead standard that enabled unsafe lead content in children's products, weak leadership provided by Acting Chairman Nancy Nord and other problems that made the CPSC the "Can't Protect the Safety of Children" agency. I congratulate my distinguished colleagues for their work.

When the Energy and Commerce Committee considered this legislation yesterday, I voted for it. H.R. 4040 mandates many important improvements at the CPSC and includes much-needed increases in resources for the Commission. Specifically, the bill:

Bans lead beyond a minute amount in products intended for children under 12.

Requires mandatory safety standards for nursery products, such as cribs and high chairs.

Mandates that the CPSC examine the current voluntary safety standards for toys, starting with dangerous magnets, and if found to be inadequate, requires mandatory standards to be adopted.

Significantly increases CPSC resources to hire additional staff and for laboratory renovations, including \$20 million to modernize the testing lab. The bill allots \$80 million for FY2009, \$90 million for FY2010 and \$100 million for FY2011.

Prohibits the export of products that violate U.S. consumer product safety rules, are subject to mandatory or voluntary recalls, are designated an imminent hazard to public health and safety, or are designated as a banned hazardous substance. Similarly, the bill makes the domestic sale of such products a prohibited act.

Bans CPSC commissioners and staff from accepting trips paid for by an organization regulated by the CPSC.

While this legislation contains urgently needed reforms, I hope that additional enhancements can be made as the bill moves through the legislative process. During committee consideration, I offered two amendments that I believe would have further strengthened this legislation. My first amendment would have created a "Public Right To Know" at the CPSC. In 2000 and again in 2003, the CPSC documented cases of children suffering intestinal injuries after swallowing small but powerful magnets that had fallen out of toys. The public didn't know, and the CPSC did nothing. By mid-2005, after more reports of safety concerns associated with the magnets and two reports of life-threatening injuries, the public still didn't know, and the CPSC still did nothing. On Thanksgiving Day 2005, Kenny Sweet died after swallowing magnets that had fallen out of Magnetix toys. And it was only then that the CPSC finally started to pay attention—but it wasn't until the following March and an additional 4 children were hospitalized with injuries that CPSC reached an agreement with the manufacturer to issue a partial recall, and the public finally got an inkling of what was going on.

The fundamental problem, even with the positive changes made by Section 206 of this bill—Publicly Available Information on Incidents Involving Injury or Death—is that right now, the only product information one can find on the CPSC Web site is information about products that CPSC has been both able to investigate and get manufacturers' approval to release, or information that does not identify which specific products are causing problems and is therefore of no real use to consumers.

My amendment was very simple. It required the CPSC to create a publicly searchable database that would allow consumers to access specific reports CPSC obtains from doctors, hospitals or other individuals of serious injury or death, or risk of serious injury or death that may be due to a faulty or unsafe product. In addition, manufacturers were required to send similar allegations they receive to the CPSC for publication in the database. The language also required CPSC to include a disclaimer that states that each report is provided for informational purposes only and that the commission has not investigated the report and cannot vouch for its accuracy, so that no one would confuse a single report from a consumer with a formal recall by the CPSC.

My amendment was developed to empower the public by enabling mothers and fathers to find out whether a product they might buy for their child might pose a risk—without waiting the months or years it could take for CPSC to take action. Although the committee did not approve this amendment, I hope that such protections can be added as this legislation moves forward.

My second amendment would have restored the CPSC's authority to investigate accidents occurring on rides located at amusement parks. While CPSC has the authority to investigate rides that are transported to carnivals and county fairs—and 15,000 other categories of consumer products that can endanger consumers—there is no Federal regulation of rides located at amusement parks.

A recent Washington Post report contained an extensive, front page investigation of the dangerous consequences of this regulatory black hole. It is entitled "On Thrill Rides, Safety Is Optional—No Federal Oversight of

Theme Parks." I recommend this important article to my colleagues.

My amendment was developed to put an end to a special interest loophole that prevents Federal consumer safety experts from investigating serious and sometimes fatal accidents even when they believe action is merited. As a result of this loophole, children and other ride enthusiasts are put at risk of serious injury and even death due to the absence of any Federal regulation. States are left to monitor the safety of these rides, and 23 States do not even permit State authorities to investigate accidents that occur at fixed-site amusement park rides within the State.

Some argued that State regulation is sufficient. I disagree. I received a letter from a former senior executive in the amusement park industry who also served as a board member for the International Association of Amusement Parks and Attractions, IAAPA—the amusement park industry's trade association. This individual was closely involved in the effort in 1981 to carve out the loophole for fixed-site rides that my amendment would have closed. In his letter, he wrote: "Insurance programs mandated by States or maintained by the operating amusement park companies are often touted as assuring ride safety but many of these programs have gaping holes rendering the programs essentially meaningless. Some State licensing or inspection programs were created to serve not the public, but the industry, providing an illusory aura of safety. I now believe that I was wrong 25 years ago and that the industry should be regulated."

As this industry insider has now admitted to himself, the time has come to stop using the good intentions and vigorous safety efforts of a few—be they an active State, a particularly attentive company, or even a past board member of the industry's trade association—to cover up the negligence, unsafe practices, and manufacturing defects that are routinely maiming and killing children and adults on rides. Thousands of people are injured every year on these rides, and people die on them every year.

My amendment did not mandate the creation of a new fleet of CPSC amusement park inspectors who would be required to fan out across the country to check every amusement park ride. My amendment merely permitted the CPSC—whenever it believed that the public safety would be served—to investigate accidents at amusement parks, share information with operators of rides across State lines, compile statistics that help inform consumers about safety risks and take similar actions to protect the public. Under current law, the hands of CPSC inspectors are tied when it comes to rides at amusement parks, which are off limits to Federal safety regulators. My amendment simply would have freed these inspectors to investigate these rides, when CPSC believes it is warranted. There are now about 90 safety inspectors, some of whom currently investigate accidents at carnival rides—these inspectors and others to be added under this bill—should be permitted to check the safety and investigate accidents at amusement parks.

I am pleased that Chairman RUSH committed to holding a hearing on this important issue, and I hope that we will soon close the roller coaster loophole, which continues to put children at risk when they board rides at amusement parks around our country.

As this bill proceeds, I also hope that there will be advancements in several other areas, including raising the cap on civil penalties for safety violations, improving pre-market testing of toys and other consumer products, and eliminating industry's ability to prevent disclosure to the public of significant safety risks by tying the commission up in Federal court.

Madam Speaker, I again commend Chairman DINGELL and Chairman RUSH for their work on this important bill, and I look forward to working with them in the future on the important consumer protection issues facing our country.

Mr. VAN HOLLEN. Madam Speaker, I rise in support of the Consumer Product Safety Modernization Act, H.R. 4040. Like all products of compromise, it does not contain everything all of us would have liked. But it is a positive step forward in an area of public policy crying out for reform, and I am glad we are able to make this progress today.

Given recent press reports about unsafe levels of lead in children's toys, this legislation appropriately establishes the toughest lead standard in the world when it comes to children's products. Additionally, while not going as far as it ultimately should, H.R. 4040 subjects a much broader range of products to independent, third-party review.

I am also pleased that the Consumer Product Safety Modernization Act reverses the recent underfunding of the Consumer Product Safety Commission, CPSC, by increasing its authorization to \$100 million by FY 2011—including an additional \$20 million to modernize the CPSC's testing lab. It is neither reasonable nor responsible to task an agency with a job as important as protecting the public health without providing the resources necessary to accomplish that task.

Finally, this bill takes concrete steps to improve public notice of product recalls and strengthen enforcement against bad actors in the consumer market.

As we begin discussions aimed at finalizing this legislation with the Senate, I hope we will be able to make additional improvements to this bill by broadening the scope of mandatory product testing, enhancing families' right to know, and including robust whistleblower protections for those courageous enough to bring serious safety hazards to light.

Madam Speaker, the Consumer Product Safety Modernization Act is a good start. I look forward to working with my colleagues to achieve the strongest possible consumer protection legislation in the months ahead.

Ms. MATSUI. Madam Speaker, I rise today in strong support of H.R. 4040—the Consumer Product Safety Modernization Act of 2007, not only as a Member of Congress, but as a grandmother as well. As I prepare to spend the holidays with my grandchildren, Anna and Robby, it makes me pause to consider how this legislation will benefit them and the children and grandchildren across the country. This year we have witnessed an unprecedented number of dangerous toys and products make their way to the shelves of American stores, resulting in thousands of recalls and Safety warnings. We cannot allow this trend of unsafe products in our homes to continue. Congress must act.

The bill before us today, which I am proud to co-sponsor, will improve the ability for the Consumer Product Safety Commission, CPSC, to protect the American public from unsafe products. The CPSC has the enormous

task of monitoring approximately 15,000 types of products. Over 27,000 deaths and 33 million injuries are associated with consumer products each year. We must ensure that the CPSC has the resources and authority necessary to ensure that the toys and products that we buy for our loved ones are safe. This legislation does precisely that.

The Consumer Product Safety Modernization Act takes a number of important steps to keep our children and grandchildren safe. For the first time, we will have a standard set for levels of lead in children's products. This will be one of the most rigorous standards in the world. It will also increase civil penalties against manufacturers of hazardous products, and establish a third-party certification and testing system for children's products. These and the many other provisions contained within H.R. 4040 will provide the CPSC with the tools required to monitor the evergrowing number of products under its jurisdiction.

Created in 1973 during the height of the consumer movement, the CSC was unfortunately downsized during the 1980s. It has never recovered from those changes, and has not been updated since 1990. Today's legislation will also expand the authority of the CPSC to ensure that only safe toys and products are in our stores and homes.

The CPSC exists to protect Americans from harmful products. We expect that consumer products have been adequately screened and deemed safe before they hit the shelves of our stores. Only by updating the CPSC and expanding its authority can its mission be accomplished in today's globalized market. Public safety must always trump other concerns. The generations of lawmakers that have gone before us had the wisdom to invest in this agency, and it is now our responsibility to modernize and make long overdue improvements to the CPSC that will keep American families safe and restore faith in the agency.

I want to congratulate Chairman DINGELL and the rest of the Energy and Commerce Committee for their hard work on this bill. The legislation that we are considering today has enjoyed strong bipartisan support, clearly demonstrated by its unanimous approval by the full committee. I hope that the House will come together in a similar bipartisan way to advance this important bill.

Ms. ESHOO. Madam Speaker, I rise today in support of H.R. 4040, the Consumer Product Safety Modernization Act.

This has been called the "Year of the Recall" because there's been a complete failure by the Consumer Product Safety Commission to keep harmful and sometimes lethal products from getting on the shelves. Red tape, lax enforcement, and a shortage of resources at the CPSC have contributed to the recent recalls. It's not a coincidence that 25.6 million toys were recalled from stores in fiscal year 2007, compared with only 5 million toys in 2006. Things are falling through the cracks at the CPSC, and it's the American consumers, especially children, who are suffering.

It's become glaringly obvious that we can't rely on manufacturers to police themselves, we need to give our chief consumer regulatory agency the authority and the resources to get unsafe products off the shelves.

This bill is a significant improvement in product safety from the way we're operating now. It provides additional funding to the CPSC and bolsters the commission's ability to

test and identify dangerous products. It also authorizes State Attorneys General to bring action on behalf of their residents to enforce federal consumer safety rules.

H.R. 4040 reduces lead levels in children's products, but in my view it doesn't go far enough. The amendment I offered in committee would have brought lead levels to 40 parts per million, the standard recommended by the American Academy of Pediatrics. It's my hope that the CPSC will take seriously its authority to adopt a more protective standard if it makes the determination that it is feasible and protective of human health.

I'm proud that my amendment to give the CPSC mandatory recall authority is included in the bill. This is an important tool for the CPSC to wield against the most nefarious companies who resist a recall of their faulty products.

I support this bipartisan bill to protect American consumers, especially children, and ask my colleagues to support it as well.

Mr. CUMMINGS. Madam Speaker, I rise today to share my strong support of H.R. 4040, the Consumer Product Safety Modernization Act. As we near the end of the holiday shopping season, the critical nature of this legislation cannot be overstated.

2007 truly has been the Year of Toxic Toys, and I join my colleagues, as well as parents across the nation in expressing extreme alarm at not only the number—more than 2 million—of toys that have been recalled, but also at the names that have been associated with them—Toys 'R Us, Fisher Price, and Mattel.

Madam Speaker, these are not just random toys being picked up at some dime store; these are toys being produced by popular, long-established companies whose names parents trust. Sadly, it appears that this trust may be misplaced.

Toxic levels of lead in the paint have been detected on the popular Thomas the Tank Engine. GHB—the date rape drug—was found in the popular Aqua Dots, at levels high enough to put children in comas. I could offer seemingly endless examples of the atrocities that have been lining the shelves of our toy stores—and of our children's bedrooms—with more regard being placed on profit over protecting children's health. But, Madam Speaker, I will focus instead on something more alarming than these toys themselves: how they are getting into the market in the first place.

Madam Speaker, we have an agency called the Consumer Product Safety Commission. Let me re-emphasize this—the Consumer Product Safety Commission.

Its name alone suggests protection against hazardous products, so how is it possible that parents are purchasing toys with 200 times the legal level of lead?

How is it possible, that more than two million toys were able to slip past this agency, which by definition is charged with being a watchdog for our—and our children's—safety?

The answer, Madam Speaker, is that under the current administration and the previous leadership in Congress, the CPSC has seen drastic cuts in funding. More disturbing than the lax oversight of safety is the chairwoman of the CPSC, Nancy Nord, voicing opposition to increased funding or authority.

I cannot say that I have met anyone who is opposed to getting more money—especially when the person in question is charged with an agency whose mission is so critical—and especially when this agency has one person—one person—assigned to testing toys.

Madam Speaker, only 15 inspectors are policing the hundreds of points of entry for our imported toys—and I might add that 80 percent of toys in the U.S. are imported from China. The CPSC has only 85 percent of the employees it had in 2004, and only half of the employees it had 30 years ago.

This is shocking to the conscience and completely unacceptable. If Ms. Nord and the CPSC are unwilling to do what they ought to do, we must step in and do it ourselves. Our young people's health and futures depend on it. With H.R. 4040, we are taking steps to protect our most vulnerable consumer: our children.

This legislation bans all but trace amounts of lead in toys and children's jewelry. It strengthens the CPSC's ability to notify consumers about dangerous products more quickly and more widely. It bans the importation of toys or other children's products that have not been tested and do not conform to U.S. standards—meaning no more toys containing the date rape drug.

And, although Ms. Nord did not want any monetary gifts, we will be stuffing the CPSC's stockings with much needed supplemental funding this holiday season.

In closing, I thank my friend and colleague, Representative RUSH for understanding the current crisis and for introducing this much needed legislation.

Madam Speaker, I encourage all of my colleagues to join me in supporting H.R. 4040. Let's come together to ensure that 2009 is the Year of Safe Consumerism.

Mr. RUSH. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. RUSH) that the House suspend the rules and pass the bill, H.R. 4040, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. RUSH. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 2764, THE DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2008 (CONSOLIDATED APPROPRIATIONS ACT, 2008) AND FOR CONSIDERATION OF H.J. RES. 72, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2008

Mr. McGOVERN. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 893 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 893

Resolved, That upon adoption of this resolution it shall be in order to take from the