CONSUMER PRODUCT SAFETY COMMISSION REFORM ACT OF 2007

Ms. KLOBUCHAR. Mr. President, for months, news of recalled toys has dominated our headlines. As a mom and as a former prosecutor and now as a Senator, I find it totally unacceptable that toxic toys are on our shores and in our stores. As my 12-year-old daughter said when her favorite Barbies were recalled: Mom, this is getting serious.

Today, the Senate Commerce Committee on which I serve took action to stem the tide of recalls, to finally take lead out of children's products, to establish real third party verification, to simplify the recall process, to finally make it illegal to sell a recalled product, and to get the Consumer Product Safety Commission more resources. Our bill is the Consumer Product Safety Commission Reform Act of 2007, and it is some of the most sweeping reform we have seen in years and years and years of this agency, which is really now a shadow of its former self.

I would like to thank the Commerce Committee chairman, Senator INOUYE, for his work on this bill, as well as Commerce Consumer Subcommittee chair, Senator PRYOR, for his work, as well as Senator DURBIN and Senator BILL NELSON. We all worked together to put together a very strong bill. To me, the focus is simple. We need to get these toxic toys out of our children's hands.

Today's action by the Commerce Committee sends to the Senate floor our opportunity to effectively ban lead from all children's products—not just voluntarily, not just as a guideline, but with the force of law. I think it is shocking for most parents when they realize that we never had a mandatory ban on lead in children's products. We never had that in this country. It was a voluntary guideline, and it takes a long time, and there are delays and delays and all kinds of loopholes and requirements that have led us to the situation that we are in now.

As millions of toys are being pulled from store shelves for fear of lead contamination, it is time to make crystal clear that lead has no place in children's products.

The need for this ban for me is crystallized from a case that happened in Minnesota. Any parent can tell you the first place a new toy goes is in a little child's mouth, but that shouldn't be our first test for lead, as you will see with what happened in this case in Minnesota.

Last year, 4-year-old Jarnell Brown got a pair of tennis shoes at the store with his mom, and with that pair of tennis shoes came a free charm. His mom didn't buy that charm, he didn't buy that charm, but they brought it home, and he swallowed that charm. He didn't die from ingesting the charm. He didn't choke on it. It wasn't that his airway was blocked. He just swallowed this little charm and it went into his stomach and over a period of days, the lead in that charm went into his system, went into his bloodstream, slowly, slowly, over a period of days, and he died. When they tested him, his lead level was three times the accepted level. When they tested that charm, that charm, which was from China, was 99 percent lead.

What is most tragic about this little boy's death is that it could have been prevented. He should have never been given that toy in the first place. It shouldn't take a child's death to alert us to this problem, but that is what we have seen across this country. Parents should have the right to expect that toys are tested and that problems are found before they reach a toy box.

The legislation I originally introduced to address this problem, the lead ban, is what is included in this bill that we passed through the committee today. It basically says that lead in any children's product shall be treated as a hazardous substance. It sets a ceiling for trace levels of lead, and it empowers the Consumer Product Safety Commission to lower the ceiling even further through rulemaking as science and technology allow. It sets the level at .04, which is slightly below the voluntary guideline they have been using at the CPSC—.06. Several other States have levels around .06.

It also sets a lower level for jewelry at .02 parts per million, which is basically the level that is taking effect in California. The reason for that is not just little kids, 4-year-olds swallowing charms like the sad, tragic case in Minnesota, but also actually junior high and high school girls chewing on jewelry. It is the most direct way to get lead into their system, and that is why we set the trace lead level lower for jewelry. That was what we proposed in my bill, and that is the standard that is now included in the Commerce bill which is headed to the floor.

Just yesterday, Consumer Reports released the results of 4 months of laboratory testing for lead in children's products, and what they found was alarming: high levels of lead in items ranging from toys to jewelry to vinyl backpacks, to lunch boxes. According to a poll released by Consumer Reports, 36 percent of consumers say they will be buying fewer toys this holiday season, and 70 percent said they will be checking product labels. It is clear that consumer confidence in the safety of our toys has been shaken.

For 30 years, we have been aware of the dangers posed to children by lead paint. It shouldn't have taken us this long to take lead out of their hands and out of their mouths, and it is the Consumer Product Safety Commission's job to do just that.

In recent months, it has become all too obvious that this commission needs much reform and that it is long overdue. As we all know, the Consumer Product Safety Commission's last authorization expired in 1992, and its statutes have not been updated since 1990. Not surprisingly, the marketplace for consumer products has changed significantly in the last 15 years, and this summer we saw firsthand how ill-equipped the Commission is to protect our most vulnerable consumers—our children.

Today, the Commission is a shadow of its former self, although the number of imports has tripled—tripled in recent years, and as my colleagues know, all of these recalls recently have been toys from China, literally millions and millions of toys. The number of the Commission's staff and inspectors has been reduced by more than half, dropping from a high in 1980 of 978 to just over 400 today. In total, the Consumer Product Safety Commission has only about 100 field investigators and compliance personnel nationwide.

Even worse, we now know the Commission has only one toy inspector. His name is Bob. He worked in kind of a makeshift laboratory, and he is retiring at the end of this year.

Repeatedly this year, we have seen that the Consumer Product Safety Commission's recall process can be very slow. In some cases, such as the recalls of the Simplicity cribs and the Magnetix toys, years passed between when the Consumer Product Safety Commission was first alerted to the problem and when it acted to recall the product in question—the result of an outdated provision that places the interests of manufacturers before the interests and safety of consumers.

The legislation passed by our Commerce Committee today goes a long way in modernizing the Commission. This legislation more than doubles the CPSC's budget authorization by the year 2015—a dramatic change—and it provides the Commission with the tools it needs to enforce our consumer protection laws.

Today's legislation will also make it illegal to sell a recalled toy, finally taking action against those bad actors out there who are knowingly leaving recalled products on their shelves or placing them for sale online.

I do at this moment thank some of the retailers that have been working with us on this bill, including Target from our State of Minnesota, as well as Toys ''R'' Us, whose CEO testified before our Appropriations Committee and was positive about moving forward and understood the need to beef up the tools for the CPSC, as well as increase resources for that agency.

Finally, I was pleased to see incorporated into our bill today the idea that we need to make it easier for parents to identify the toys when a recall happens. First of all, when a recall happens, we need to make it easier to get the information. I have talked to parents who have neighbors who put an e-mail under their door, and that is how they found out about it.

The other way is to make it easier. When they know there is a recall, currently, there is no requirement for a batch number or a date on these toys. When Thomas the Train Set is recalled,

the parents are going through the caboose, the green car, and the yellow car, trying to figure out do they have the car that was recalled. Obviously, they don't always remember the date they bought it. This can be easily fixed by putting a batch number on the toy. Obviously, you cannot do it on things such as Pick Up Stix, on individual sticks. We are reasonable about this. The bill says ''when practicable.'' You can put it on the toy where you can read it. It also requires that the batch number be put on the package. The reason it has to be put on the package is not for the parents. Except for my mother-in-law, I think most people throw the packaging away.

It needs to alert smaller retailers and people selling things on eBay. The major outlets, such as Target, are able to, once they find out what the batch number is, close down their register so those toys cannot get through. If you are selling it on eBay or if you are in a smaller store, you may have to look at the batch number to find out, such as a parent would, what is recalled.

That is why our legislation asked for the batch number to be both on the toy, when practicable, and on the packaging. We have seen too many headlines this summer to sit around and think this problem is going to solve itself.

As a Senator, I feel strongly that it is important to take this step to protect the safety of our children. When I think of that 4-year-old boy's parents back in Minnesota and about all these other children who have been hurt by these toys that they had no control over—they are little kids—we can do better in this country. We can beef up this agency that has been languishing for years, and we can put the rules in place that make it easier for them to do their job.

We cannot sit around bemoaning the results anymore. We have to act. We have our opportunity, and I hope we do it quickly.

I thank the Chair.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAN

Mr. DURBIN. Mr. President, we are now more than halfway through our fifth year in this war in Iraq. We find ourselves stuck as an occupier in a Middle East civil war. Thousands of our sons and daughters have been killed or injured. The total financial cost may be well over $1 trillion—money, I might add, that this administration has borrowed against our children's future.

America's reputation internationally has been severely damaged and critical military, diplomatic, and intelligence resources have been diverted from the war in Afghanistan—a war I supported, and a country this administration has increasingly neglected. And now, after so many errors, so many lives, and so much damage, this administration is again raising the prospect of yet another war in the Middle East—this time a war with Iran.

I fear this administration has learned nothing from the colossal error, colossal misjudgment in the invasion of Iraq. Let me be clear: I am gravely concerned about Iran's activities in the region and its nuclear agenda. But any offensive action against Iran must be approved by Congress. The Constitution is very clear: Article 1, section 8 vests in Congress the power to declare a war. Our Founding Fathers did this for an important reason. Taking a nation into war is a serious decision and must be decided with the consent of the people. The Framers wisely gave Congress this power based on experience in other nations in which their executives too easily took nations to war in the pursuit of glory, ambition, treasure, or revenge.

In fact, as my colleague Senator BYRD of West Virginia has eloquently said in the past, it is exactly during the time of war or emergency that our constitutional principles—checks and balances, separations of powers—are the most critical.

Recent statements by this administration give me concern that this administration is considering just this—an offensive military action against Iran without the consent of Congress. Both President Bush and Vice President CHENEY have made public remarks about Iran that suggest an administration readying for military aggression. We know Vice President CHENEY's historic views on fundamental checks and balances in our constitution. They are disturbing.

For example, in 1996, the PBS documentary series, ''Frontline,'' ran an episode on the fifth anniversary of the gulf war. It included a troubling interview with DICK CHENEY, who was Secretary of Defense during the first Bush administration. In it, Secretary CHENEY said:

> I argued in public session before the Congress that we did not need the congressional authorization. I was not enthusiastic about going to Congress for an additional grant of authority. I was concerned that they might well vote no, and that would make life more difficult for us.

President George H. W. Bush, nonetheless, wisely sought, and received, congressional approval. Yet incredibly, Secretary of Defense CHENEY said at the time:

> If we had lost the vote in Congress, I would certainly have recommended to the President that we go forward anyway.

Those were his words as Secretary of Defense. Now, not only a heartbeat away from the President but also the closest counsel to the President, we know what his views are in terms of the role of Congress and our constitution. He is not alone. President George W. Bush has shown similar disregard for the role of Congress and the law with his regular use of signing statements. Let me read an excerpt from his signing statement from the 2002 Iraq war resolution. President Bush wrote that while he appreciated receiving congressional support,

> My request for it did not, and my signing this resolution does not, constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use force to deter, prevent, or respond to aggression or other threats to U.S. interests or on the constitutionality of the War Powers Resolution.

The President was appreciative that Congress, the majority of Congress, gave their support for his war in Iraq. He made it abundantly clear at his signing statement he didn't believe it was necessary.

And in October 2005, when asked by members of the Senate Committee on Foreign Relations whether the President would circumvent congressional authorization if the White House chose military action against Iran or Syria, Secretary of State Condoleezza Rice replied:

> I will not say anything that constrains his authority as Commander in Chief.

So now we know. Not only the President but the Vice President and the Secretary of State view the Constitution, when it comes to the declaration of war, as an annoyance, not to be taken seriously, if it would in any way stand in the path of a commander in chief's agenda. Apparently, the President, the Vice President, and the Secretary of State see congressional approval for war as an option, not a fundamental requirement under the Constitution. This should trouble every American.

Let me also be clear that nothing this Congress has previously said or done authorizes offensive military action against Iran. Nothing.

Following the attacks of September 11, Congress passed Senate Joint Resolution 23 on September 18, 2001. It authorized the President to use armed forces

> against those nations, organizations, or persons against those he determines planned, authorized, committed or aided the terrorist attacks that occurred on September 11.

This language was certainly never intended to allow this President to initiate offensive military action against Iran.

Later, in October 2002, Congress passed the Authorization for Use of Military Force Against Iraq Resolution. It authorized the President to use armed forces

> to defend the national security of the United States against the continuing threat posed by Iraq.

Again, that resolution was never intended to allow military action against Iran.