

their comments and their friendship. Justice Breyer extolled the “huge” savings to the public resulting from the Conference’s recommendations, while Justice Scalia likewise agreed that ACUS is “an enormous bargain.” Perhaps most importantly, ACUS can play a major role in helping agencies become even more efficient and effective, especially given the present budgetary constraints.

As reported by the Judiciary Committee, H.R. 2480, the Administrative Conference of the United States Reauthorization Act of 2011, authorizes \$2.9 million to be appropriated to the Conference for each of fiscal years 2012 through 2014. With this modest reauthorization, we will ensure that the Conference will continue to return to American taxpayers many multiples of that investment in the form of recommendations that will make Federal agencies more effective.

H.R. 2480 reflects a long history of bipartisan support for ACUS. Once again, I thank the chairman of the Judiciary Committee, LAMAR SMITH, a gentleman and a scholar, and the Courts, Commercial and Administrative Law Subcommittee Chairman HOWARD COBLE, a gentleman and a scholar as well, for working with me on this legislation, and I look forward to continuing to work with my colleagues on the other side of the aisle to secure final passage of H.R. 2480 by the other body. Accordingly, I urge all of my colleagues to support the legislation.

I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I have no 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 Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 2480, as amended.

The question was taken.

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

Mr. SMITH of Texas. Mr. 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, further proceedings on this question will be postponed.

#### PROVIDING GREATER AUTHORITY AND DISCRETION TO CONSUMER PRODUCT SAFETY COMMISSION

Mrs. BONO MACK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2715) to provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2715

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

#### SECTION 1. LIMITATION ON LEAD IN CHILDREN'S PRODUCTS.

(a) PROSPECTIVE APPLICATION OF LEAD LIMIT FOR CHILDREN'S PRODUCTS.—Section 101(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)) is amended by adding at the end the following:

“(3) APPLICATION.—Each limit set forth in paragraph (2) (except for the limit set forth in subparagraphs (A) and (B)) shall apply only to a children's product (as defined in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a))) that is manufactured after the effective date of such respective limit.”.

(b) ALTERNATIVE LIMITS AND EXCEPTIONS.—Section 101(b) of such Act (15 U.S.C. 1278a(b)(1)) is amended—

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

“(1) FUNCTIONAL PURPOSE EXCEPTION.—

“(A) IN GENERAL.—The Commission, on its own initiative or upon petition by an interested party, shall grant an exception to the limit in subsection (a) for a specific product, class of product, material, or component part if the Commission, after notice and a hearing, determines that—

“(i) the product, class of product, material, or component part requires the inclusion of lead because it is not practicable or not technologically feasible to manufacture such product, class of product, material, or component part, as the case may be, in accordance with subsection (a) by removing the excessive lead or by making the lead inaccessible;

“(ii) the product, class of product, material, or component part is not likely to be placed in the mouth or ingested, taking into account normal and reasonably foreseeable use and abuse of such product, class of product, material, or component part by a child; and

“(iii) an exception for the product, class of product, material, or component part will have no measurable adverse effect on public health or safety, taking into account normal and reasonably foreseeable use and abuse.

“(B) MEASUREMENT.—For purposes of subparagraph (A)(iii), there is no measurable adverse effect on public health or safety if the exception described in subparagraph (A) will result in no measurable increase in blood lead levels of a child. The Commission may adopt an alternative method of measurement other than blood lead levels if it determines, after notice and a hearing, that such alternative method is a better scientific method for measuring adverse effect on public health and safety.

“(C) PROCEDURES FOR GRANTING EXCEPTION.—

“(i) BURDEN OF PROOF.—A party seeking an exception under subparagraph (A) has the burden of demonstrating that it meets the requirements of such subparagraph.

“(ii) GROUNDS FOR DECISION.—In the case where a party has petitioned for an exception, in determining whether to grant the exception, the Commission may base its decision solely on the materials presented by the party seeking the exception and any materials received through notice and a hearing.

“(iii) ADMISSIBLE EVIDENCE.—In demonstrating that it meets the requirements of subparagraph (A), a party seeking an exception under such subparagraph may rely on any nonproprietary information submitted by any other party seeking such an exception and such information shall be considered part of the record presented by the party that relies on that information.

“(iv) SCOPE OF EXCEPTION.—If an exception is sought for an entire product, the burden is on the petitioning party to demonstrate that the criteria in subparagraph (A) are met

with respect to every accessible component or accessible material of the product.

“(D) LIMITATION ON EXCEPTION.—If the Commission grants an exception for a product, class of product, material, or component part under subparagraph (A), the Commission may, as necessary to protect public health or safety—

“(i) establish a lead limit that such product, class of product, material, or component part may not exceed; or

“(ii) place a manufacturing expiration date on such exception or establish a schedule after which the manufacturer of such product, class of product, material, or component part shall be in full compliance with the limit established under clause (i) or the limit set forth in subsection (a).

“(E) APPLICATION OF EXCEPTION.—An exception under subparagraph (A) for a product, class of product, material, or component part shall apply regardless of the date of manufacture unless the Commission expressly provides otherwise.

“(F) PREVIOUSLY SUBMITTED PETITIONS.—A party seeking an exception under this paragraph may rely on materials previously submitted in connection with a petition for exclusion under this section. In such cases, petitioners must notify the Commission of their intent to rely on materials previously submitted. Such reliance does not affect petitioners' obligation to demonstrate that they meet all requirements of this paragraph as required by subparagraph (C)(i).”;

(2) in paragraph (2)(A), by striking “include to,” and inserting “include”; and

(3) by redesignating paragraph (5) as paragraph (8) and inserting after paragraph (4) the following:

“(5) EXCEPTION FOR OFF-HIGHWAY VEHICLES.—

“(A) IN GENERAL.—Subsection (a) shall not apply to an off-highway vehicle.

“(B) OFF-HIGHWAY VEHICLE DEFINED.—For purposes of this section, the term ‘off-highway vehicle’—

“(i) means any motorized vehicle—

“(I) that is manufactured primarily for use off public streets, roads, and highways;

“(II) designed to travel on 2, 3, or 4 wheels; and

“(III) that has either—

“(aa) a seat designed to be straddled by the operator and handlebars for steering control; or

“(bb) a nonstraddle seat, steering wheel, seat belts, and roll-over protective structure; and

“(ii) includes a snowmobile.

“(6) BICYCLES AND RELATED PRODUCTS.—In lieu of the lead limits established in subsection (a)(2), the limits set forth for each respective material in the notice of the Commission entitled ‘Notice of Stay of Enforcement Pertaining to Bicycles and Related Products’, published June 30, 2009 (74 Fed. Reg. 31254), shall apply to any metal component part of the products to which the stay of enforcement described in such notice applies, except that after December 31, 2011, the limits set forth in such notice shall not be more than 300 parts per million total lead content by weight for any metal component part of the products to which such stay pertains.

“(7) EXCLUSION OF CERTAIN USED CHILDREN'S PRODUCTS.—

“(A) GENERAL EXCLUSION.—The lead limits established under subsection (a) shall not apply to a used children's product.

“(B) DEFINITION.—In this paragraph, the term ‘used children's product’ means a children's product (as defined in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a))) that was obtained by the seller for use and not for the purpose of resale or was

obtained by the seller, either directly or indirectly, from a person who obtained such children's product for use and not for the purpose of resale. Such term also includes a children's product that was donated to the seller for charitable distribution or resale to support charitable purposes. Such term shall not include—

- “(i) children's metal jewelry;
  - “(ii) any children's product for which the donating party or the seller has actual knowledge that the product is in violation of the lead limits in this section; or
  - “(iii) any other children's product or product category that the Commission determines, after notice and a hearing.
- For purposes of this definition, the term ‘seller’ includes a person who lends or donates a used children's product.”

## SEC. 2. APPLICATION OF THIRD PARTY TESTING REQUIREMENTS.

(a) IN GENERAL.—Section 14(d) of the Consumer Product Safety Act (15 U.S.C. 2063(d)) is amended—

- (1) in paragraph (2)(B)(ii), by striking “random” and inserting “representative”; and
- (2) by adding at the end the following:

### “(3) REDUCING THIRD PARTY TESTING BURDENS.—

“(A) ASSESSMENT.—Not later than 60 days after the date of enactment of this paragraph, the Commission shall seek public comment on opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation. The request for public comment shall include the following:

“(i) The extent to which the use of materials subject to regulations of another government agency that requires third party testing of those materials may provide sufficient assurance of conformity with an applicable consumer product safety rule, ban, standard, or regulation without further third party testing.

“(ii) The extent to which modification of the certification requirements may have the effect of reducing redundant third party testing by or on behalf of 2 or more importers of a product that is substantially similar or identical in all material respects.

“(iii) The extent to which products with a substantial number of different components subject to third party testing may be evaluated to show compliance with an applicable rule, ban, standard, or regulation by third party testing of a subset of such components selected by a third party conformity assessment body.

“(iv) The extent to which manufacturers with a substantial number of substantially similar products subject to third party testing may reasonably make use of sampling procedures that reduce the overall test burden without compromising the benefits of third party testing.

“(v) The extent to which evidence of conformity with other national or international governmental standards may provide assurance of conformity to consumer product safety rules, bans, standards, or regulations applicable under this Act.

“(vi) The extent to which technology, other than the technology already approved by the Commission, exists for third party conformity assessment bodies to test or to screen for testing consumer products subject to a third party testing requirement.

“(vii) Other techniques for lowering the cost of third party testing consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.

“(B) REGULATIONS.—Following the public comment period described in subparagraph (A), but not later than 1 year after the date of enactment of this paragraph, the Commis-

sion shall review the public comments and may prescribe new or revised third party testing regulations if it determines that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.

“(C) REPORT.—If the Commission determines that it lacks authority to implement an opportunity for reducing the costs of third-party testing consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations, it shall transmit a report to Congress reviewing those opportunities, along with any recommendations for any legislation to permit such implementation.

### “(4) SPECIAL RULES FOR SMALL BATCH MANUFACTURERS.—

“(A) SPECIAL CONSIDERATION; EXEMPTION.—

“(i) CONSIDERATION; ALTERNATIVE REQUIREMENTS.—Subject to subparagraph (C), in implementing third party testing requirements under this section, the Commission shall take into consideration any economic, administrative, or other limits on the ability of small batch manufacturers to comply with such requirements and shall, after notice and a hearing, provide alternative testing requirements for covered products manufactured by small batch manufacturers in lieu of those required under subsection (a) or (b). Any such alternative requirements shall provide for reasonable methods to assure compliance with any applicable consumer product safety rule, ban, standard, or regulation. The Commission may allow such alternative testing requirements for small batch manufacturers with respect to a specific product or product class or with respect to a specific safety rule, ban, standard, or regulation, or portion thereof.

“(ii) EXEMPTION.—If the Commission determines that no alternative testing requirement is available or economically practicable, it shall exempt small batch manufacturers from third party testing requirements under subsections (a) and (b).

“(iii) CERTIFICATION.—In lieu of or as part of any alternative testing requirements provided under clause (i), the Commission may allow certification of a product to an applicable consumer product safety rule, ban, standard, or regulation, or portion thereof, based on documentation that the product complies with another national or international governmental standard or safety requirement that the Commission determines is the same or more stringent than the consumer product safety rule, ban, standard, or regulation, or portion thereof. Any such certification shall only be allowed to the extent of the equivalency with a consumer product safety rule, ban, standard, or regulation and not to any other part of the consumer product safety rule, ban, standard, or regulation.

“(iv) RESTRICTION.—Except as provided in subparagraph (C), and except where the Commission determines that the manufacturer does not meet the definition of a small batch manufacturer, for any small batch manufacturer registered pursuant to subparagraph (B), the Commission may not require third party testing of a covered product by a third party conformity assessment body until the Commission has provided either an alternative testing requirement or an exemption in accordance with clause (i) or (ii), respectively.

“(B) REGISTRATION.—Any small batch manufacturer that utilizes alternative requirements or an exemption under this paragraph shall register with the Commission prior to using such alternative requirements or exemptions pursuant to any guidelines issued by the Commission to carry out this requirement.

“(C) LIMITATION.—The Commission shall not provide or permit to continue in effect any alternative requirements or exemption from third party testing requirements under this paragraph where it determines, based on notice and a hearing, that full compliance with subsection (a) or (b) is reasonably necessary to protect public health or safety. The Commission shall not provide any alternative requirements or exemption for—

“(i) any of the third party testing requirements described in clauses (i) through (v) of subsection (a)(3)(B); or

“(ii) durable infant or toddler products, as defined in section 104(f) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2056a(f)).

“(D) SUBSEQUENT MANUFACTURER.—Nothing in this paragraph shall be construed to affect third party testing or any other requirements with respect to a subsequent manufacturer or other entity that uses components provided by one or more small batch manufacturers.

“(E) DEFINITIONS.—For purposes of this paragraph—

“(i) the term ‘covered product’ means a consumer product manufactured by a small batch manufacturer where no more than 7,500 units of the same product were manufactured in the previous calendar year; and

“(ii) the term ‘small batch manufacturer’ means a manufacturer that had no more than \$1,000,000 in total gross revenue from sales of all consumer products in the previous calendar year. The dollar amount contained in this paragraph shall be adjusted annually by the percentage increase in the Consumer Price Index for all urban consumers published by the Department of Labor.

For purposes of determining the total gross revenue for all sales of all consumer products of a manufacturer under this subparagraph, such total gross revenue shall be considered to include all gross revenue from all sales of all consumer products of each entity that controls, is controlled by, or is under common control with such manufacturer. The Commission shall take steps to ensure that all relevant business affiliations are considered in determining whether or not a manufacturer meets this definition.

### “(5) EXCLUSION FROM THIRD PARTY TESTING.—

“(A) CERTAIN PRINTED MATERIALS.—

“(i) IN GENERAL.—The third party testing requirements established under subsection (a) shall not apply to ordinary books or ordinary paper-based printed materials.

“(ii) DEFINITIONS.—

“(I) ORDINARY BOOK.—The term ‘ordinary book’ means a book printed on paper or cardboard, printed with inks or toners, and bound and finished using a conventional method, and that is intended to be read or has educational value. Such term does not include books with inherent play value, books designed or intended for a child 3 years of age or younger, and does not include any toy or other article that is not a book that is sold or packaged with an ordinary book.

“(II) ORDINARY PAPER-BASED PRINTED MATERIALS.—The term ‘ordinary paper-based printed materials’ means materials printed on paper or cardboard, such as magazines, posters, greeting cards, and similar products, that are printed with inks or toners and bound and finished using a conventional method.

“(III) EXCLUSIONS.—Such terms do not include books or printed materials that contain components that are printed on material other than paper or cardboard or contain nonpaper-based components such as metal or plastic parts or accessories that are not part of the binding and finishing materials used in a conventional method.

“(B) METAL COMPONENT PARTS OF BICYCLES.—The third party testing requirements established under subsection (a) shall not apply to metal component parts of bicycles with respect to compliance with the lead content limits in place pursuant to section 101(b)(6) of the Consumer Product Safety Improvement Act of 2008.”.

(b) PROHIBITED ACT.—Section 19(a)(14) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(14)) is amended by striking the period and inserting “, or to subdivide the production of any children’s product into small quantities that have the effect of evading any third party testing requirements under section 14(a)(2);”.

### SEC. 3. APPLICATION OF AND PROCESS FOR UPDATING DURABLE NURSERY PRODUCTS STANDARDS.

(a) UPDATING STANDARD.—Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2056a(b)) is amended by adding at the end the following:

“(4) PROCESS FOR CONSIDERING SUBSEQUENT REVISIONS TO VOLUNTARY STANDARD.—

“(A) NOTICE OF ADOPTION OF VOLUNTARY STANDARD.—When the Commission promulgates a consumer product safety standard under this subsection that is based, in whole or in part, on a voluntary standard, the Commission shall notify the organization that issued the voluntary standard of the Commission’s action and shall provide a copy of the consumer product safety standard to the organization.

“(B) COMMISSION ACTION ON REVISED VOLUNTARY STANDARD.—If an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. The revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.”.

(b) APPLICATION OF STANDARD.—Section 104(c) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2056a(c)) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

“(3) APPLICATION OF ANY REVISION.—With respect to any revision of the standard promulgated under subsection (b)(1)(B) subsequent to the initial promulgation of a standard under such subsection, paragraph (1) shall apply only to a person that manufactures or imports cribs, unless the Commission determines that application to any other person described in paragraph (2) is necessary to protect against an unreasonable risk to health or safety. If the Commission determines that application to a person described in paragraph (2) is necessary, it shall provide not less than 12 months for such person to come into compliance.”.

### SEC. 4. APPLICATION OF SECTION 106 TO FDA-REGULATED PRODUCTS.

Section 106(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2056b(a)) is amended by inserting “or any provision that restates or incorporates a regulation promulgated by the Food and Drug Administration or any statute administered by the Food and Drug Administration” after “or by statute”.

### SEC. 5. APPLICATION OF PHTHALATES LIMIT.

(a) ACCESSIBLE, PLASTICIZED COMPONENT PARTS.—Section 108 of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2057c) is amended—

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

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

“(c) APPLICATION.—Effective on the date of enactment of this Act, subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) shall apply to any plasticized component part of a children’s toy or child care article or any other component part of a children’s toy or child care article that is made of other materials that may contain phthalates.

“(d) EXCLUSION FOR INACCESSIBLE COMPONENT PARTS.—

“(1) IN GENERAL.—The prohibitions established under subsections (a) and (b) shall not apply to any component part of a children’s toy or child care article 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. Reasonably foreseeable use and abuse shall include swallowing, mouthing, breaking, or other children’s activities, and the aging of the product.

“(2) LIMITATION.—The Commission may revoke an exclusion or all exclusions granted under paragraph (1) at any time and require that any or all component parts manufactured after such exclusion is revoked comply with the prohibitions established under subsections (a) and (b) if the Commission finds, based on scientific evidence, that such compliance is necessary to protect the public health or safety.

“(3) INACCESSIBILITY PROCEEDING.—Within 1 year after the date of enactment of this subsection, the Commission shall—

“(A) promulgate a rule providing guidance with respect to what product components, or classes of components, will be considered to be inaccessible for purposes of paragraph (1); or

“(B) adopt the same guidance with respect to inaccessibility that was adopted by the Commission with regards to accessibility of lead under section 101(b)(2)(B), with additional consideration, as appropriate, of whether such component can be placed in a child’s mouth.

“(4) APPLICATION PENDING COMMISSION GUIDANCE.—Until the Commission promulgates a rule pursuant to paragraph (3), the determination of whether a product component is inaccessible to a child shall be made in accordance with the requirements laid out in paragraph (1) for considering a component to be inaccessible to a child.”.

### SEC. 6. AUTHORITY TO MODIFY TRACKING LABELS REQUIREMENT.

Section 14(a)(5) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(5)) is amended—

(1) by striking “Effective 1 year” and inserting “(A) Effective 1 year”; and

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following:

“(B) The Commission may, by regulation, exclude a specific product or class of products from the requirements in subparagraph (A) if the Commission determines that it is not practicable for such product or class of products to bear the marks required by such subparagraph. The Commission may establish alternative requirements for any prod-

uct or class of products excluded under the preceding sentence consistent with the purposes described in clauses (i) and (ii) of subparagraph (A).”.

### SEC. 7. IMPROVED PRODUCT IDENTIFICATION FOR PUBLIC DATABASE.

Section 6A(c) of the Consumer Product Safety Act (15 U.S.C. 2055a(c)) is amended—

(1) in paragraph (3)(A), by inserting “or paragraph (5)” after “paragraph (4)(A)”; and

(2) in paragraph (4)(A), by striking “determines that the information in such report or comment is materially inaccurate, the Commission shall—” and inserting “receives notice that the information in such report or comment is materially inaccurate, the Commission shall stay the publication of the report on the database as required under paragraph (3) for a period of no more than 5 additional days. If the Commission determines that the information in such report or comment is materially inaccurate, the Commission shall—”; and

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

“(5) OBTAINING CERTAIN PRODUCT IDENTIFICATION INFORMATION.—

“(A) IN GENERAL.—If the Commission receives a report described in subsection (b)(1)(A) that does not include the model or serial number of the consumer product concerned, the Commission shall seek from the individual or entity submitting the report such model or serial number or, if such model or serial number is not available, a photograph of the product. If the Commission obtains information relating to the serial or model number of the product or a photograph of the product, it shall immediately forward such information to the manufacturer of the product. The Commission shall make the report available in the database on the 15th business day after the date on which the Commission transmits the report under paragraph (1) and shall include in the database any additional information about the product obtained under this paragraph.

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to—

“(i) permit the Commission to delay transmission of the report under paragraph (1) until the Commission has obtained the model or serial number or a photograph of the consumer product concerned; or

“(ii) make inclusion in the database of a report described in subsection (b)(1)(A) contingent on the availability of the model or serial number or a photograph of the consumer product concerned.”.

### SEC. 8. SUBPOENA AUTHORITY.

Section 27(b) of the Consumer Product Safety Act (15 U.S.C. 2076(b)) is amended—

(1) in paragraph (3), by inserting “and physical” after “documentary”; and

(2) in paragraph (8), by striking “and”; and

(3) by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following:

“(9) to delegate to the general counsel of the Commission the authority to issue subpoenas solely to Federal, State, or local government agencies for evidence described in paragraph (3); and”; and

(4) in paragraph (10) (as so redesignated), by inserting “(except as provided in paragraph (9))” after “paragraph (3)”.

### SEC. 9. DEADLINE FOR RULE BY CONSUMER PRODUCT SAFETY COMMISSION ON STANDARDS FOR ALL TERRAIN VEHICLES.

The Commission shall issue the final rule described in section 42(d) of the Consumer Product Safety Act (15 U.S.C. 2089(d)) not later than one year after the date of enactment of this Act.

**SEC. 10. TECHNICAL AMENDMENTS.**

(a) CPSC.—Section 14 of the Consumer Product Safety Act (15 U.S.C. 2063) is further amended by redesignating the second subsection (d) as subsection (i).

(b) CPSIA.—Section 101(a)(1) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)(1)) is amended by striking “(as defined in section 3(a)(16) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(16)))” and inserting “(as defined in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)))”.

**SEC. 11. EFFECTIVE DATE.**

Except as provided otherwise, the amendments made by this Act shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. BONO MACK) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

**GENERAL LEAVE**

Mrs. BONO MACK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

□ 1250

Mrs. BONO MACK. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 2715, a bill that modifies the Consumer Product Safety Improvement Act of 2008, also called CPSIA, and provides relief to address a number of unintended consequences that arose after CPSIA became law.

This bill is a win-win. It is good for American consumers and American businesses as well. It is also a bipartisan bill. And I want to thank Energy and Commerce Committee Chairman UPTON, as well as Ranking Member WAXMAN and my counterpart, Mr. BUTTERFIELD, for all of their hard work in getting this important bill to the floor today.

We passed CPSIA almost unanimously in 2008, and many of its features have advanced the cause of children's safety. But there also have been unintended consequences for many businesses, small and large alike. For 3 years now, we have heard the pleas of these businesses, asking for relief from the CPSIA mandates. We have also heard from the CPSC that it lacks the authority and flexibility to grant relief where needed.

On August 14, the last deadline looms, the final drop-down to the 0.01 percent lead content limit. Without swift action, we face empty store shelves that have been cleared of perfectly safe products because of what I believe was simply a drafting oversight. The bill makes the August 14 limit prospective in nature, permitting

retailers to sell their existing inventory so long as it was made prior to August 14 and is compliant with the current lead limit of 0.03 percent, which was specifically approved by Congress for the last 2 years.

In a true spirit of bipartisanship, Ranking Members WAXMAN and BUTTERFIELD agreed to act swiftly to address this situation. While we don't necessarily agree on the best way to address all of the unintended consequences of CPSIA, we move the bill in response to the enormous threat facing stakeholders in the children's product industry in just less than 2 weeks.

In addition to addressing the immediate deadline, this bill goes a little farther to address the pain so many of our constituents are facing. ATVs, bikes, books, things that were never intended to be covered by the law but were ensnared by its wide reach nonetheless, will no longer face an uncertain future and are exempted from testing requirements.

Used children's products were also banned for sale as a result of the 2008 law. Thrift stores and charity retail outlets such as Goodwill Industries and even the local church bazaars were forced to toss anything made for a child under the age of 12 because it is impossible to tell whether an item was made in compliance with the law without its original packing or a dated sales receipt. As a result, the law essentially made all used children's products contraband. This wasteful result removed perfectly safe products from the reach of individuals who rely on the value and savings such stores provide in order to provide decent clothing for their children.

Manufacturers of other products will also see some relief from the most costly mandate of the CPSIA—third-party testing and the continuing compliance testing. This bill directs CPSC to seek comments within 60 days on how the current third-party testing regime can be altered to reduce costs.

Small batch manufacturers, who were among the hardest hit by CPSIA, will also find some relief in this bill. These manufacturers are generally stay-at-home moms with an entrepreneurial spirit or mom-and-pop retail outlets that handpick unique toys and other items for sale in their community. Almost universally, these small businesses got into business because they wanted to ensure their own children had safe toys. Almost universally, these small businesses have either closed shop or are on the verge of closing shop because of the onerous requirements of the CPSIA and the costs imposed.

The bill directs the Consumer Product Safety Commission to address the special situation of these businesses by finding alternative, more affordable testing methods or by exempting these businesses from testing altogether if no such alternative exists.

The bill creates a functional purpose exception process that we hope will

give the CPSC more flexibility to exempt products from lead limits where there is no health risk. The exception process created in the original CPSIA has failed to permit a single exception for any children's product from the statutory lead limits established in the CPSIA, even in cases where the CPSC determined that such products pose no risk to children.

We have a narrow window of opportunity to address those mandates that threaten the survival of scores of businesses and the livelihoods of the individuals and families those businesses support. And I would like to thank the ranking member of the subcommittee, Mr. BUTTERFIELD, as well as the ranking member of the Energy and Commerce Committee, Mr. WAXMAN, as well as their staffs for working throughout the weekend to find a compromise that we both can support.

I urge my colleagues to support this bill, and I reserve the balance of my time.

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

I rise today in strong support of this very important bill. Almost 3 years ago, President Bush signed H.R. 4040, the Consumer Product Safety Improvement Act, into law. While that bill passed this House by a vote of 424 to 1, it soon became evident to all of us that providing some of the extraordinary protections for children in that bill would be a challenge for some businesses, especially our smallest manufacturers. Many of them testified before our subcommittee, and we heard their concerns.

So I have worked very closely with Chairman BONO MACK in crafting this compromise to provide targeted and sensible relief for businesses from some of CPSIA's requirements without sacrificing the health and safety of our children. I am pleased that we are able to present it to the House today for immediate consideration. The bill is a marked change from where we started with H.R. 1939, and I am pleased with the bipartisan changes reflected in today's bill.

Businesses are provided with relief through prospective application of the 100 parts per million lead content limits. That means, Mr. Speaker, businesses won't have to pull products from store shelves that meet the current legal limit of 300 parts per million on the effective date of the 100 parts per million limit. We also include an exemption for off-road vehicles, like ATVs, snowmobiles, and dirt bikes, from meeting the lead content limit. The safety of our young people is paramount when designing and building off-road vehicles, and constructing strong, rigid parts for these vehicles often requires more lead than CPSIA would otherwise allow.

Further, the bill codifies a stay of enforcement by the CPSC with respect to the lead content limit of bicycles until

December 31, 2011, and relaxes the ultimate lead content of bicycles to 300 parts per million.

This bill, Mr. Speaker, provides significant relief for small batch manufacturers. I have a tremendous amount of respect for America's small businesses and believe we must do all we can to protect them from overly burdensome regulations. At the same time, though, we have an obligation to protect America's children from potentially dangerous products. The only way to know if those products are safe is to test them.

Taking the unique circumstances of small batch manufacturers, the bill requires CPSC, the Consumer Product Safety Commission, to consider potential economic and administrative burdens to small batch manufacturers when developing third-party testing requirements. It further permits the CPSC to provide alternative testing requirements. After notice and a hearing, if the commission determines there is no economically practicable alternative, they can exempt the product from third-party testing altogether.

I am pleased that this bill provides specific relief from testing for ordinary books and magazines. Our colleague, Mr. EDOLPHUS TOWNS from New York, has been concerned about ordinary books becoming an unintended consequence of the Consumer Product Safety Improvement Act. Manufacturers of ordinary books and magazines should not be subject to third-party testing. Still subject to testing will be books that have plastic parts, like pop-up books, those with nonpaper-based accessories, or anything else that has inherent play value.

I strongly support the consumer product safety information database created by H.R. 4040, and that has been somewhat controversial. But I support the database creation. It went live earlier this year and has been extremely successful in helping to educate the public about potentially unsafe products. This bill takes some sensible steps to make the database even more effective.

The bill requires the commission, the Consumer Product Safety Commission, to seek out more information about the products reported by consumers to the database, like a product's serial number, a model number, or a photograph of the product in question. I think the more information that is provided, the better and more effective the database will be for consumers and businesses alike.

Mr. Speaker, as I said earlier, I support this bill. I believe it provides a strong compromise that will reduce burdens on businesses and continue to protect American consumers.

□ 1300

Again, I want to thank our distinguished chairman of the subcommittee, Chairwoman BONO MACK, for working with me in a bipartisan fashion to find solutions, commonsense, practical solutions for the American people.

I thank the chairman of the subcommittee, the chairman of the full committee, the ranking member of the full committee, all of the stakeholders who had a part in crafting this compromise.

I reserve the balance of my time.

Mrs. BONO MACK. Mr. Speaker, I yield 3 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. First of all, Madam Chairman, thank you for the fine work on this piece of legislation, something that's truly overdue.

Mr. Speaker, the difficulty we had was a number of years ago, a piece of legislation went through this Congress with all the right things attached. We wanted to address lead in children's toys. True to Washington, D.C., form, the bureaucrats carried it to the extent that no longer made any kind of a common sense.

When it came to time for the regulations to be crafted, I started receiving phone calls from my motorized vehicle dealers around the State of Montana, those that sold youth motorcycles, snowmobiles and ATVs, and they were being told that they had to take those units out of their showroom, eat the inventory, and could no longer sell their parts for repairs. Why? Because there was lead in some of the repair parts or on the units themselves.

Now, I don't know if there is anybody in America that allows their children to chew on battery cables and valve stems, but they were determined to be toys, and it doesn't make sense. I come from a ranching family, and on my place we allow our children the opportunity to be trained on the smaller units to herd our livestock for the specific purpose that we don't want them on the larger vehicles. Try as we might to get the administration to change their regulations, they were not willing to do that.

Today we are dealing with H.R. 2715, and it addresses a very important issue, kids just want to ride. They want the opportunity to ride the motorized vehicles, whether it is a snowmobile, a 4-wheeler or an ATV, for the specific purpose not just of recreation, but in a work setting as well.

Because we could not make this change, we had to do it legislatively. We were successful in putting on riders on the appropriations bill year after year that said no money could be spent on the enforcement of this particular piece of legislation and the rules and regulations that were crafted thereafter. We will no longer have to do that with the passage of this bill.

So it's with a great deal of appreciation that I say to Mrs. BONO MACK, thank you for bringing this piece of legislation forward; for the minority, thank you for your kind support as well in helping to move this forward and ultimately we can make the right commonsense decision, and that is to remove this aspect of this onerous regulation so once again, a kid, children, can ride the right vehicles so they

won't be on the larger 4-wheel units, the larger snowmobiles and the larger motorcycles.

Mr. BUTTERFIELD. I want to thank the gentleman from Montana for working with us in crafting this compromise, and I hope he is satisfied with the ATV component. He has worked very hard and his staff has worked very hard to bring it to our attention.

Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of our full committee, the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I rise in support of this bipartisan bill to amend the Consumer Product Safety Improvement Act of 2008.

The 2008 act was a historic piece of legislation, both because of the landmark health and safety protections in that bill for young children and because of the near unanimous support for that legislation from Democrats and Republicans. And it has been a success.

Because of the Consumer Product Safety Act, we now have in place basic safety standards for keeping toxic lead and phthalates out of children's products. The CPSC has made long overdue revisions to safety standards for cribs. Manufacturers and retailers have begun the process of testing to make sure children's products are proven safe before they have been put on the store shelves and into the hands of children.

The Consumer Product Safety Commission, after years of atrophy due to budget cuts and neglect, has been reinvigorated and become proactive, rather than reactive. As a result, we have seen a decline in the number of children's products that have to be pulled from homes and store shelves. The agency is intercepting more dangerous products at the border.

And, finally, the American public has since March had access to consumer product safety information in a database that they can review about injuries from consumer products. Consumers now have free and open access to information that for too long remained hidden inside the CPSC.

But like any law, the 2008 act had some rough edges that needed to be smoothed out.

For example, there are some products that require a small amount of lead to maintain their strength and durability and don't pose a serious threat to public health or safety. ATVs and bicycles are examples of these.

Some businesses expressed concern that they could find themselves with inventory that meets the current legal limit of 300 parts per million that can no longer be sold when the limit drops to 100 parts per million on August 14, just 2 weeks away.

The smallest of small businesses are worried that they can't bear the cost of complying with these requirements in the way that larger businesses can.

This bill addresses these concerns without jeopardizing our children's

safety. It is a compromise bill in the best sense.

Some Members on the other side wanted bigger changes to the 2008 act and some Members on our side do not believe every provision in the bill is needed. But thanks to the hard work of my colleagues, Mrs. BONO MACK, Mr. BUTTERFIELD, Mr. BARTON and Mr. DINGELL, and the leadership of Chairman UPTON, we have arrived at a bill that I can support and urge my colleagues to join in supporting as well.

I think we have struck the right balance. We have fixed valid problems and keep in place valuable health and safety protections for children. That has been my primary goal throughout this process.

It was a long road to get to this place and after many hours and many months of tough negotiating, what we have here is a compromise that epitomizes bipartisanship. Neither side got everything it wanted, but both sides gave up enough that we were able to come up with something that was sensible and reasonable and that we can move quickly through this body. I hope the Senate sees it that way and can move quickly on this bill.

We all share the belief that American businesses should be able to grow and flourish. I also think we all share the belief that consumers, especially children, deserve safe products.

Again, I commend Chairwoman BONO MACK and Chairman UPTON for their willingness to hear us out and to work with us. I thank Mr. BUTTERFIELD for fighting for a balanced approach that keeps large and small businesses competitive and continues to keep our children safe from potentially dangerous products.

I also want to thank the other members of the Energy and Commerce Committee that have been active and helped us to get to today, including Mr. DINGELL, Mr. RUSH, Ms. SCHAKOWSKY, Mr. MARKEY, Mr. TOWNS, Ms. DEGETTE, and Ms. ESHOO.

Mrs. BONO MACK. I reserve the balance of my time.

Mr. BUTTERFIELD. Mr. Speaker, it doesn't appear that I have any other speakers on this side. I think their attention might be directed in another direction today; so I am prepared to close.

Again, Mr. Speaker, I want to thank all of the individuals, all of the Members, all of the staff who have played a part in crafting this compromise. It's a good bipartisan compromise that we can all live with. I look forward to the President signing it into law after the Senate passes it, hopefully very soon, and hopefully our small businesses will be able to continue to be profitable.

I yield back the balance of my time.

Mrs. BONO MACK. Mr. Speaker, I also just want to echo the sentiments of both my colleagues who just spoke about the importance of this bill and thank them for their cooperation and the hard work that they put into this over the weekend. Again, I would like

to thank the staffs of both the minority and the majority side.

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

Mr. DINGELL. Mr. Speaker, I rise as an original co-sponsor and in strong support of H.R. 2715, a bill that will fix many of the unintended consequences of the Consumer Product Safety Improvement Act (CPSIA) of 2008. I, along with my colleagues, Messrs. RUSH, BARTON, WHITFIELD, and WAXMAN, helped write CPSIA in response to the massive influx of dangerous and tainted Chinese imports during what some have termed "the summer of recalls" in 2007. The House's bill was negotiated in a bipartisan manner. It was reported favorably by the Committee on Energy and Commerce through a unanimous vote and then passed by the full House, 407-1. Then our dear friends in the Senate got hold of the bill, and we have been trying to fix the mess ever since.

Although this process has taken over two-and-a-half years, I am pleased that H.R. 2715 will solve in great measure the problems CPSIA has caused. This bill will ensure that CPSIA's lead limits are prospective. It will put in place a waiver process to exempt from CPSIA's lead limits products that do not pose a danger to children's health and safety. H.R. 2715 will make the common-sense clarification that CPSIA's lead limits do not apply to bicycles, all-terrain vehicles (ATVs), and books. Finally, the bill will allow the Commission discretion to prescribe alternative third-party testing requirements with a view toward helping smaller businesses with more finite resources comply with the law. It bears mentioning that all of these changes will not undo the strict protections built into CPSIA to keep kids safe from dangerous products.

H.R. 2715's significant improvements to CPSIA come as a result of bipartisan negotiation and cooperation. Despite the turmoil and rancor in Congress over the past few months, this bill shows that the House of Representatives can still legislate and do so in a manner befitting our Founding Fathers' vision of representative government. I would like to thank my friends and colleagues, Messrs. UPTON, WAXMAN, and BUTTERFIELD for their fine work on H.R. 2715. Mrs. BONO MACK, in particular, deserves praise and congratulations for her success on this bill, her first as Chairman of the Energy and Commerce Subcommittee on Commerce, Manufacturing, and Trade. Although often overlooked, the work of staff on H.R. 2715 demands deserved recognition, especially that of Gib Mullan and Michelle Ash, Republican and Democratic counsels, respectively. Their steadfast determination and hard work have made this bill a reality.

Mr. Speaker, I urge all of my colleagues to vote in support of H.R. 2715 and in so doing help put CPSIA's long and storied legislative saga to rest. We should all support this bill with the knowledge that it—in a manner pleasing to Hippocrates—will do no harm. I pray our colleagues in the other body will adhere to this principle in their expeditious consideration of H.R. 2715.

Mr. TOWNS. Mr. Speaker, I rise today in strong support of this bi-partisan legislation that will help protect consumers against dangerous products that may do them harm. This legislation affects a broad spectrum of our economy, from the manufacturers of toys to

the children that play with them. I am truly delighted that Democrats and Republicans were able to come together to support a plan to increase the safety of all children's products manufactured in this country. I am also pleased that this bipartisan agreement addresses some of the unintended consequences of the original legislation without sacrificing the safety requirements that I believe are necessary to protect our children.

Our committee has had several months of consultation with industry officials to alleviate the burden placed on them by the Consumer Product Safety Improvement Act's (CPSIA) new standards and regulations. These common sense reforms such as allowing flexibility for the CPSC to exempt specific products and exclude certain used children's products were supported by many of the stakeholders that will be affected by the legislation we are considering today.

I again want to commend Chairman BONO MACK and Ranking Member BUTTERFIELD for coming together and bringing this improved legislation to the floor. I encourage my colleagues to vote yes on this legislation, I also urge my colleagues to continue to work together in the spirit of bi-partisanship to protect the standards of safety that our constituents demand of us.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. BONO MACK) that the House suspend the rules and pass the bill, H.R. 2715.

The question was taken.

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

Mrs. BONO MACK. Mr. 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, further proceedings on this question will be postponed.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 10 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1400

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DENHAM) at 2 o'clock and 2 minutes p.m.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 2715, by the yeas and nays;

H.R. 398, by the yeas and nays;

H.R. 1933, by the yeas and nays.