

Public Law 103-267
103d Congress

An Act

June 16, 1994
[H.R. 965]

To provide for toy safety and for other purposes.

Child Safety
Protection Act.
15 USC 1261
note.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Safety Protection Act".

TITLE I—TOY LABELING REQUIREMENTS

SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

(a) **REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.**—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:

15 USC 1278.

"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

"(a) **TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.**—

"(1) **REQUIREMENT.**—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) **LABEL.**—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:



WARNING:

**CHOKING HAZARD—Small parts.
Not for children under 3 yrs.**

"(b) **BALLOONS, SMALL BALLS, AND MARBLES.**—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(B) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed, shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:



WARNING:

CHOKING HAZARD—Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.

**Keep uninflated balloons from children.
Discard broken balloons at once.**

"(B) BALLS.—In the case of balls, the following cautionary statement applies:



WARNING:

**CHOKING HAZARD—This toy is a small ball.
Not for children under 3 yrs.**

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

**WARNING:**

**CHOKING HAZARD—This toy is a marble.
Not for children under 3 yrs.**

“(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

**WARNING:**

**CHOKING HAZARD—Toy contains a small ball.
Not for children under 3 yrs.**

In the case of toys or games containing marbles, the following cautionary statement applies:

**WARNING:**

**CHOKING HAZARD—Toy contains a marble.
Not for children under 3 yrs.**

“(c) GENERAL LABELING REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

“(A) displayed in its entirety on the principal display panel of the product’s package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

“(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

“(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product

may fail to bear the required statement if other accompanying material shipped with the product bears such statement.

“(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product’s package, be displayed on another panel of the package if—

“(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

“(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

“(B)(i) In the case of a product to which subsection (a), subsection (b)(2)(B), subsection (b)(2)(C), or subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:



SAFETY WARNING

“(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:



WARNING—CHOKING HAZARD

“(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this subsection shall be considered a misbranded hazardous substance under section 2(p).”

(b) OTHER SMALL BALLS.—A small ball—

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less, shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).

(c) REGULATIONS.—The Consumer Product Safety Commission (hereinafter referred to as the “Commission”) shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section and section 24 of the Federal Hazardous Substances Act by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuance of regulations under this subsection.

(d) EFFECTIVE DATE; APPLICABILITY.—Subsections (a) and (b) shall take effect January 1, 1995, and section 24 of the Federal Hazardous Substances Act shall apply only to products entered into commerce on or after January 1, 1995.

(e) PREEMPTION.—

15 USC 1261
note.

15 USC 1278
note.

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note.

15 USC 1278
note.

(1) **IN GENERAL.**—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act or by regulations promulgated by the Commission.

(2) **EXCEPTION.**—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

15 USC 2064
note.

SEC. 102. REPORTING REQUIREMENTS.

(a) **REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.**—

(1) **REQUIREMENT TO REPORT.**—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) **TREATMENT UNDER CPSA.**—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) **EFFECT ON LIABILITY.**—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) **CONFIDENTIALITY PROTECTIONS.**—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

Children's
Bicycle
Helmet Safety
Act of 1994.

TITLE II—CHILDREN'S BICYCLE HELMET SAFETY

15 USC 6001
note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Bicycle Helmet Safety Act of 1994".

15 USC 6001.

SEC. 202. ESTABLISHMENT OF PROGRAM.

(a) **IN GENERAL.**—The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 203, make grants to States, political subdivisions of States, and nonprofit

organizations for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

(b) **FEDERAL SHARE.**—The amount provided by a grant under this section shall not exceed 80 percent of the cost of the program for which the grant is made. In crediting the recipient State, political subdivision, or nonprofit organization for the non-Federal share of the cost of such a program (other than planning and administration), the aggregate of all expenditures made by such State, political subdivision, or nonprofit organization (exclusive of Federal funds) for the purposes described in section 203 (other than expenditures for planning and administration) shall be available for such crediting, without regard to whether such expenditures were actually made in connection with such program.

SEC. 203. PURPOSES FOR GRANTS.

15 USC 6002.

A grant made under section 202 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) provide assistance, to individuals under the age of 16 who may not be able to afford approved bicycle helmets, to enable such individuals to acquire such helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

The Administrator shall review grant applications for compliance with this section prior to awarding grants.

SEC. 204. REPORT TO CONGRESS.

15 USC 6003.

Not later than May 1, 1997, the Administrator of the National Highway Traffic Safety Administration shall report to Congress on the effectiveness of the grant program established by section 202. The report shall include a list of grant recipients, a summary of the types of programs implemented by the grantees, and any recommendation by the Administrator regarding how the program should be changed in the future.

SEC. 205. STANDARDS.

15 USC 6004.

(a) **IN GENERAL.**—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) **INTERIM STANDARDS.**—The interim standards are as follows:

(1) The American National Standards Institute standard designated as “Z90.4–1984”.

(2) The Snell Memorial Foundation standard designated as “B-90”.

(3) The American Society for Testing and Materials (ASTM) standard designated as "F 1447".

(4) Any other standard that the Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) FAILURE TO MEET STANDARDS.—

(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

Effective date.

15 USC 6005.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

For the National Highway Traffic Safety Administration to carry out the grant program authorized by this title, there are authorized to be appropriated \$2,000,000 for fiscal year 1995, \$3,000,000 for fiscal year 1996, and \$4,000,000 for fiscal year 1997.

15 USC 6006.

SEC. 207. DEFINITION.

In this title, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 205(b), pending establishment of a final standard under section 205(c); and

(2) the final standard, once it is established under section 205(c).

Approved June 16, 1994.

LEGISLATIVE HISTORY—H.R. 965 (S. 680):

HOUSE REPORTS: Nos. 103-29 (Comm. on Energy and Commerce) and 103-500 (Comm. of Conference).

SENATE REPORTS: No. 103-195 accompanying S. 680 (Comm. on Commerce, Science and Transportation).

CONGRESSIONAL RECORD:

Vol. 139 (1993): Mar. 16, considered and passed House.
Nov. 20, considered and passed Senate, amended, in lieu of S. 680.

Vol. 140 (1994): Mar. 9, House concurred in Senate amendment with an amendment.

May 23, House agreed to conference report.
May 25, Senate agreed to conference report.