I

112TH CONGRESS
1ST SESSION

H. R. 1939

To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2011

Mrs. BONO MACK (for herself and Mr. UPTON) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes.

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 ''Enhancing CPSC Authority and Discretion Act of 2011''.

SEC. 2. DEFINITION OF CHILDREN'S PRODUCT.

(a) DEFINITION.—Section 3(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(2)) is amended in the matter preceding subparagraph (A)—

(1) by striking ''intended primarily for children'' and inserting ''primarily intended for use by children''; and

(2) by striking ''intended for a child'' and inserting ''intended for use by a child''.

(b) TECHNICAL AMENDMENT.—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. 3. CHILDREN'S PRODUCTS CONTAINING LEAD.

(a) IN GENERAL.—Section 101(a)(2) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)(2)) is amended—

(1) in subparagraph (A), by striking ''600 parts per million'' both places it appears and inserting ''0.06 percent'';

(2) by striking subparagraphs (B) and (C) and inserting the following:

''(B) 0.03 PERCENT BY WEIGHT.—Except as provided in subparagraphs (C), (D), (F) and (G), beginning August 14, 2009, the lead limit referred to in paragraph (1) is 0.03 percent

total lead content by weight for any part of a children's product.

''(C) 0.01 PERCENT BY WEIGHT.—Except as provided in subparagraphs (D) and (G), beginning on the date that is 4 years after the date of enactment of this Act, the lead limit referred to in paragraph (1) is 0.01 percent total lead content by weight for any part of a children's product that—

''(i) is designed or intended primarily for use by a child 6 years of age or younger; and

''(ii) can be placed in a child's mouth.'';

(3) in subparagraph (D)—

(A) by striking ''100 parts per million'' and inserting ''0.01 percent'';

(B) by inserting ''described in such subparagraph'' after ''product category'';

(C) by striking ''300 parts per million'' both places it appears and inserting ''0.03 percent''; and

(D) by striking ''3 years'' and inserting ''4 years'';

(4) by redesignating subparagraph (E) as subparagraph (G) and inserting after subparagraph (D) the following:

''(E) DETERMINATION GUIDELINES.—For purposes of subparagraphs (C)(ii) and (D) and subsection (b)(1)(A)(ii), a children's product can be placed in a child's mouth if any part of the children's product can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the children's product can only be licked, it is not regarded as able to be placed in the mouth. If a toy or part of a toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth.

''(F) APPLICATION OF MORE STRINGENT LIMIT TO OTHER CHILDREN'S PRODUCTS.—The Commission may, by regulation, apply the limit set forth in subparagraph (C) or (D) to any children's product or class of products if it determines after a hearing that the lead content in such product or class of products, as limited by subparagraph (B), presents an unreasonable risk to children's health.''; and

(5) in subparagraph (G) (as so redesignated), by striking ''or (D)'' and inserting ''(D), or (F)''.

(b) 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 further amended by adding at the end the following:

''(3) APPLICATION.—Each limit set forth in paragraph (2) (except for the limit set forth in subparagraph (A)) 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.''.

(c) 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 prohibition in subsection (a) for a specific product, material, or component part if the Commission,

after notice and comment in accordance with subparagraph (B), determines that—

"(i) the product, material, or component part requires the inclusion of lead because it is not practicable or not technologically feasible to manufacture such 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, 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, material, or component part by a child; and

"(iii) an exception for the 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.

For purposes of clause (iii), there is no measurable adverse effect on public health or safety if the exception described in this subparagraph

will result in no measurable increase in blood lead levels.

''(B) PROCEDURES FOR GRANTING EXCEPTION.—

''(i) NOTICE AND COMMENT PERIOD.—Before granting an exception under subparagraph (A), the Commission shall allow not fewer than 60 days for public comment after publishing the notice of the proposed exception.

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

''(iii) 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 comment.

''(iv) ADMISSIBLE EVIDENCE.—In demonstrating that it meets the require-

ments 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.

''(v) 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.

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

''(i) require each manufacturer of such product, material, or component part to reduce the level of lead in such product, material, or component part; or

''(ii) place a manufacturing expiration date on such exception or establish a schedule after which the manufacturer of such product, material, or component part shall be in full compliance with the limits in subsection (a).

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

''(E) 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 (B)(ii).'';

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

(3) by redesignating paragraph (5) as paragraph (7) and inserting after paragraph (4) the following:

''(5) CERTAIN OUTDOOR RECREATIONAL PRODUCTS.—

''(A) METAL COMPONENT PARTS.—In lieu of the lead limits established in subsection (a)(2), the limits set forth for each respective material in section 1500.88 of title 16, Code of Federal Regulations (as in effect on January 20, 2010) shall apply to metal component parts made of such materials in children's products, other than apparel, intended primarily for outdoor recreational use, regardless of the date on which such products were manufactured.

''(B) BATTERY TERMINALS.—The lead limits established in subsection (a)(2) shall not apply to battery terminals in children's products intended primarily for outdoor recreational use.

''(6) 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.—The term 'used children's product' means a children's product 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; or

''(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.

For purposes of this definition, the term 'seller' includes a person who lends or donates a used children's product.''; and

(4) in paragraph (7) (as so redesignated)—

(A) by inserting ''the alternative limits set forth in this subsection and'' after ''review and revise''; and

(B) by striking ''the first promulgation of a of a regulation under this subsection'' and in-

serting ''the date of enactment of the Enhancing CPSC Authority and Discretion Act of 2011,''.

SEC. 4. APPLICATION OF THIRD-PARTY TESTING REQUIREMENTS.

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

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''described in paragraph (3)(B)'' after ''a children's product safety rule'';

(B) in subparagraph (B), by striking ''the children's product safety rule'' and inserting ''such children's product safety rule''; and

(C) by striking the flush sentence following subparagraph (B); and

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting ''described in subparagraph (B)'' after ''a children's product safety rule''; and

(B) by amending subparagraph (B)(vi) to read as follows:

''(vi) OTHER DURABLE NURSERY PRODUCTS.—The Commission shall publish

notice of the requirements for accreditation of third-party conformity assessment bodies to assess conformity with other rules promulgated under section 104 of the Consumer Product Safety Improvement Act of 2008 not later than 90 days before such rules or revisions take effect.''.

(b) THIRD-PARTY TESTING REQUIREMENTS.—

(1) REQUIREMENTS.—Section 14(b) of the Consumer Product Safety Act (15 U.S.C. 2063(b)) is amended to read as follows:

''(b) TESTING PROGRAMS.—

''(1) IN GENERAL.—The Commission may, by rule, prescribe reasonable testing programs to be used as the basis for certification under subsection (a).

''(2) TESTING BY AN INDEPENDENT THIRD PARTY.—Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests, unless the Commission, by rule and in accordance with paragraph (3), requires testing by an independent third party for—

"(A) a particular rule, regulation, standard, ban;

"(B) any portion of a particular rule, regulation, standard, or ban; or

"(C) a particular class of products.

"(3) REQUIREMENTS FOR TESTING BY AN INDEPENDENT THIRD PARTY.—

"(A) REQUIREMENTS.—The Commission may not require testing by an independent third party under paragraph (2) until the Commission has—

"(i) established and published notice of the requirements for accreditation of third-party conformity assessment bodies who are determined to be qualified by the Commission to conduct such testing;

"(ii) determined that the testing capacity of accredited third-party conformity assessment bodies, taken together as a whole, is sufficient or is likely to be sufficient in a reasonable period of time to prevent unreasonable delays due to testing;

"(iii) established, by rule, exemptions or alternative testing procedures for the certification of works of art and other one-

of-a-kind products and of specialty products for the disabled, and products that are produced in small quantities such that the cost of testing by an independent third party is not economically practicable; and

''(iv) made a reasoned determination—

''(I) that the benefits from requiring third-party testing justify the costs; and

''(II) that any rule issued pursuant to this paragraph is tailored to impose the least possible burden, taking into account to the extent practicable, the costs of cumulative regulations.

''(B) PRODUCED IN SMALL QUANTITIES DEFINED.—For purposes of subparagraph (A)(iii), the term 'produced in small quantities' means that not more than 10,000 units of the same product (or substantially similar products) are produced in one year by a manufacturer and any affiliated manufacturer. A manufacturer may not subdivide the production of such

manufacturer into small quantities in order to evade third-party testing requirements.

''(4) STAY OF ENFORCEMENT AND REVIEW OF REQUIREMENTS.—

''(A) STAY OF ENFORCEMENT.—The Commission may not enforce any third-party testing requirement relating to lead content limits (other than for children's metal jewelry), phthalate limits, or the mandatory toy standard until the Commission has complied with the requirements of paragraph (3) with respect to such requirement.

''(B) REVIEW.—The Commission may modify any other third-party testing requirement it has adopted, based on a review of such requirements in accordance with paragraph (3), to provide additional flexibility or to eliminate unnecessary burdens.''.

(2) PROHIBITED ACT.—Section 19(a)(14) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(14)) is amended by inserting before the period the following: '', or to subdivide the production of any children's product into small quantities in order to evade any third-party testing requirements under section 14(a)(2)''.

(c) CONTINUING TESTING.—Section 14(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2063(d)(2)) is amended—

(1) by striking ''Not later than 15 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the'' and inserting ''(A) The'';

(2) by redesignating clauses (i) through (iv) of subparagraph (B) as subclauses (I) through (IV), respectively, and by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) in the matter preceding clause (i) (as so redesignated), by striking ''shall'';

(4) in clause (i) (as so redesignated), by striking ''initiate'' and inserting ''not later than 15 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, shall initiate''; and

(5) in clause (ii) (as so redesignated), by striking ''establish'' and inserting ''may establish''; and

(6) by inserting at the end the following:

''(B) The Commission may not enforce any third-party testing requirement pursuant to this paragraph without first having determined that such

requirement is consistent with the requirements of subsection (b)(3)(A)(iv).''.

SEC. 5. 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 subparagraph (A), it shall no-

tify 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) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) APPLICATION.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any revision of the standard promulgated under subsection (b)(1)(B) subse-

quent to the initial promulgation of a standard under such subsection.

''(B) SPECIAL RULE FOR FIXED-SIDE CRIBS SUBJECT TO CERTAIN STATE OR LOCAL LAW REQUIREMENTS.—Paragraph (1) shall not apply to a fixed-side crib that has not been recalled and that is offered or provided for use in a licensed child care facility (other than a family child care home) that is subject to the following requirements under the law of a State or a political subdivision of a State:

''(i) The facility may not allow a child to remain in a crib for any significant amount of time while the child is awake.

''(ii) The facility may not place in a crib a child over the age of 16 months.

''(iii) An adult must be present whenever a child is in a crib.''.

SEC. 6. APPLICATION OF SECTION 106 TO FDA-REGULATED PRODUCTS.

Section 106(a) of the Consumer Product Safety Improvement Act (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 Adminis-

tration or any statute administered by the Food and Drug Administration'' after ''or by statute''.

SEC. 7. APPLICATION OF PHTHALATES STANDARD.

(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 (d) through (f), respectively; and

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

''(c) APPLICATION.—

''(1) ACCESSIBLE COMPONENT PARTS.—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 accessible, plasticized component part of a children's toy or child care article.

''(2) COMMISSION AUTHORITY.—The Commission may, by rule, exempt any children's toy or child care article described in paragraph (1) or any class of such products or materials used in such products from any of the prohibitions under subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) where the Commission determines that

compliance with any such prohibition is not necessary to protect children's health.''.

(b) EFFECT OF CONCLUSIONS OF THE CHRONIC HAZARD ADVISORY PANEL.—Section 108(b)(3) of such Act (15 U.S.C. 2057c(b)(3)) is amended—

(1) by striking ''Not later than'' and inserting the following:

''(A) RULEMAKING REQUIRED.—Not later than'';

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

(3) in clause (i) (as so redesignated), by inserting ''or terminate such prohibition'' after ''margin of safety''; and

(4) by adding at the end the following:

''(B) DEADLINE AND EFFECT ON PROHIBITION.—If the Commission does not commence a rulemaking proceeding within 90 days after receiving the report required by paragraph (2)(C) or does not issue a final rule as required by subparagraph (A) within 180 days after commencing a rulemaking, the prohibition in paragraph (1) shall terminate.''.

(c) DEFINITIONS.—Section 108(f) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C.

2057c(f)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''consumer product'' and all that follows and inserting ''children's product that is subject to the standard made mandatory by section 106(b) or any successor standard'';

(B) in subparagraph (C), by striking ''consumer product'' and inserting ''children's product''; and

(C) in subparagraph (D)—

(i) by striking ''consumer product'' and inserting ''children's product'';

(ii) by striking ''section 3(a)(1)'' and inserting ''section 3(a)''; and

(iii) by striking ''2052(a)(1)'' and inserting ''2052(a)''; and

(2) by amending paragraph (2) to read as follows:

''(2) DETERMINATION GUIDELINES.—For purposes of this section, a toy can be placed in a child's mouth if any part of the toy can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the children's

product can only be licked, it is not regarded as able to be placed in the mouth. If a toy or part of a toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth.''.

SEC. 8. EXEMPTION AUTHORITY FOR 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'';

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

SEC. 9. REQUIREMENTS FOR PUBLIC DATABASE.

(a) REQUIREMENTS FOR SUBMISSIONS TO THE DATABASE.—Section 6A(b) of the Consumer Product Safety Act (15 U.S.C. 2055a(b)) is amended—

(1) in paragraph (1)(A)—

(A) in clause (i), by striking ''consumers'' and inserting ''persons who suffer harm or risk of harm related to the use of a product, their next of kin or members of their household, their legal representative, or another person expressly authorized by any such person''; and

(B) in clause (v), by striking ''public safety entities'' and inserting ''police, fire, ambulance, emergency medical services, Federal, State, and local law enforcement entities, and other public safety officials'';

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting ''and its location and availability'' after ''concerned'';

(B) in clause (iv), by inserting ''and if such person is not the person harmed by the product, the name and contact information of the person who suffered the harm or risk of harm related to the use of the product'' after ''report''; and

(C) in clause (v), by inserting ''that such person is the consumer who used the product that gave rise to the harm, the user's next of kin, a member of the user's household, the legal representative of the user, another person expressly authorized by any such person, or a person authorized to submit reports of harm under paragraph (1)(A) and'' after ''person submitting the information''; and

(3) in paragraph (6), by inserting ''or any person on whose behalf such a report was submitted,'' after ''paragraph (1)(A),''.

(b) ADEQUACY AND ACCURACY OF INFORMATION REPORTED TO THE PUBLIC DATABASE.—Section 6A(c)(2) of the Consumer Product Safety Act (15 U.S.C. 2055a(c)(2)) is amended—

(1) in subparagraph (A), by striking ''to submit'' and all that follows and inserting ''to—

''(i) notify the Commission within 10 business days after receipt of the report that the information provided in the report is insufficient for determining which of the manufacturer's products is the subject of the complaint, in which case the manufacturer shall provide the Commission (and

the person submitting the complaint, if that person has consented to disclosure of contact information) with information to assist the person submitting the report to sufficiently identify or provide an adequate description of the product;

''(ii) notify the Commission within 10 business days after receipt of the report that the information provided in the report is materially inaccurate and to provide the Commission with any additional information supporting the manufacturer's claim of inaccuracy; and

''(iii) submit other comments to the Commission on the information contained in such report.''; and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and inserting after subparagraph (A) the following:

''(B) ACTION BY THE COMMISSION.—

''(i) INSUFFICIENT PRODUCT IDENTIFICATION.—If a manufacturer notifies the Commission of the insufficiency of the product information in a report pursuant to subparagraph (A)(i), and the Commis-

sion agrees that the information provided is insufficient to identify the product, the Commission shall provide the information provided by the manufacturer to the person submitting the report (unless such information has already been provided directly by the manufacturer) and seek to obtain from such person an adequate description of the product.

''(ii) MATERIALLY INACCURATE INFORMATION.—If a manufacturer notifies the Commission of a material inaccuracy in a report pursuant to subparagraph (A)(ii), and the Commission determines that the claim is potentially valid, the Commission shall seek to resolve the inaccuracy by any of the following:

''(I) Obtaining from the person submitting the report such additional information necessary to correct the inaccuracy.

''(II) Investigating the incident giving rise to the report in order to correct any such inaccuracy.

''(III) Providing the manufacturer a reasonable period of time to investigate and provide additional information to correct any inaccuracy.

''(iii) STAY ON INCLUSION IN DATABASE.—The Commission shall not include in the database a report described in clauses (i) or (ii) until the product is specifically identified and any material inaccuracy corrected.''.

(c) MISREPRESENTATION PROHIBITED.—Section 19(a)(13) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(13)) is amended by inserting ''related to a submission of information to the database established under section 6A, or'' after ''misrepresentation to such an officer or employee''.

SEC. 10. 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'';

(2) in paragraph (8), by striking ''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. 11. AVAILABILITY OF CERTAIN PERSONAL AND MEDICAL INFORMATION TO THE CPSC.

Section 5 of the Consumer Product Safety Act (15 U.S.C. 2054) is amended by adding at the end the following new subsection:

''(e) AVAILABILITY OF PERSONAL AND MEDICAL INFORMATION UNDER HIPAA.—In order to carry out its investigative and enforcement activities under this Act and under any of the Acts enforced by the Commission, the Commission shall be deemed a public health authority within the meaning of section 164.512(b)(i) of title 45, Code of Federal Regulations, for purposes of permitted disclosures of protected health information authorized under such section.''.

SEC. 12. TECHNICAL AMENDMENT.

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).

SEC. 13. EFFECTIVE DATE.

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

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