To require that 4-gallon to 6-gallon buckets distributed in commerce bear a permanent label warning of a potential drowning hazard to young children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20 (legislative day, APRIL 19), 1993

Mr. METZENBAUM (for himself and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require that 4-gallon to 6-gallon buckets distributed in commerce bear a permanent label warning of a potential drowning hazard to young children, 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 “Bucket Drowning Prevention Act of 1993”.

SEC. 2. FINDINGS.

The Congress finds that:
(1) Since 1985, approximately 400 infants have drowned in 4-gallon to 6-gallon buckets, or nearly 1 child a week.

(2) Children drowning or hospitalized as a result of falling into a bucket of liquid ranged in age from 1 month to 28 months although nearly 80 percent of all victims were 8 to 13 months old.

(3) Where race was reported in connection with such drownings, African-American infants accounted for more of the drowning deaths than any other racial group followed by Caucasians and then Hispanics. In approximately 14 percent of the investigated deaths, Spanish was reported to be the spoken language.

(4) Only about 10 percent of 5-gallon buckets manufactured annually are voluntarily labeled, and States are beginning to establish their own labeling standards. There is no mandatory Federal labeling standard regarding buckets.

(5) To prevent infant drownings in buckets and to assure uniformity in bucket labels and a minimal impact on interstate commerce, it is appropriate to establish a Federal labeling standard.
(6) To address the bucket drowning problem in a more permanent way, it is appropriate to establish performance standards.

SEC. 3. LABELING STANDARD REQUIREMENTS.

Effective 180 days following the date of the enactment of this Act, there is established a consumer product safety standard under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), to eliminate or reduce the risk of injury or death resulting from children falling into 4-gallon to 6-gallon buckets containing liquid. Such standard, when effective, shall require straight sided or slightly tapered, open head containers with a capacity of more than 4 gallons and less than 6 gallons (referred to in this Act as a "bucket"), to bear 2 warning labels, 1 in English and 1 in Spanish. The labels shall meet the following requirements:

(1) Each label shall be permanent so that such label cannot be removed, torn or defaced without the aid of tools or solvents.

(2) Each label shall be at least 7 inches in height, and 5 inches in width, or any larger size as the labeler may choose. The information on the label shall be proportionate to the label’s size.

(3) A label shall be centered on each side of the bucket just below the point where the handle is in-
serted. The label on 1 side shall be in English and
the label on the other side shall be in Spanish.

(4) Each label shall have a border or other form
of contrast around its edges to delineate it from any
other information on the bucket.

(5) Each label shall bear (A) the signal word
“WARNING” in bold uppercase lettering, in black
ink, on an orange background, and (B) in upper and
lower case lettering in black ink on a white back-
ground, the words “Children Can Fall Into Bucket
and Drown—Keep Children Away From Buckets
With Even a Small Amount of Liquid”. The signal
word panel shall be preceded by a safety alert sym-
bol consisting of an orange exclamation mark on a
black triangle.

(6) Each label shall include a picture of a child
falling into a bucket containing liquid. A red prohibi-
tion symbol shall be superimposed over, and totally
surround the pictorial. The picture shall be posi-
tioned between the signal word panel and the mes-
sage panel.

SEC. 4. PROHIBITED ACTS.

(a) REMOVAL OF LABEL.—Once placed on a bucket
pursuant to the standard provided pursuant to section 3,
it shall be a prohibited act under section 19 of the
Consumer Product Safety Act for any person in the chain of distribution of the bucket to intentionally cover, obstruct, tear, deface or remove the label.

(b) Consumer Product Safety Standard.—The standard established pursuant to section 3 of this Act shall be considered a consumer product safety standard established under the Consumer Product Safety Act.

SEC. 5. EXISTING LABELS.

Any bucket label in use on September 1, 1993, which is substantially in conformance with the requirements in section 3, may continue to be used until 12 months after the date of the enactment of this Act. Notwithstanding the preceding sentence, buckets subject to this Act must bear both an English and Spanish language label after the effective date of the standard established pursuant to section 3.

SEC. 6. AMENDMENTS.

Section 553 of title 5, United States Code, shall apply with respect to the Consumer Product Safety Commission’s issuance of any amendments or changes to the bucket labeling standard required by section 3 of this Act. Sections 7 and 9 of the Consumer Product Safety Act shall not apply to such amendments or changes.
SEC. 7. RESPONSIBILITY FOR LABELING.

(a) LABELING.—The standard established by section 3 requires the labeling of buckets covered by such standard to be the responsibility of the manufacturer or distributor of any such bucket without regard to whether or not such bucket is intended for sale by a retailer in an empty state for use as a consumer product, or is intended for sale by a retailer, together with its contents.

(b) TIME FOR PLACING LABELS.—The required label must be on the bucket at the time it is sold or delivered to the end user of the bucket’s contents or, in the case of a bucket intended to be sold to the public in an empty state, at the time it is shipped to a retailer for sale to the public.

SEC. 8. PERFORMANCE STANDARD.

Within 30 days following the date of enactment of this Act, the Commission shall commence a proceeding under the Consumer Product Safety Act for the issuance of a performance standard for buckets to address the drowning hazard associated with this product. Section 553 of title 5, United States Code, shall apply with respect to the issuance of such standard. Sections 7 and 9 of the Consumer Product Safety Act shall not apply to the issuance of such standard. Such standard shall take effect at such time as may be prescribed by the Consumer Product
1 Safety Commission, but in no event later than 180 days following the date of the enactment of this Act.