

110TH CONGRESS
1ST SESSION

S. 1833

To amend the Consumer Product Safety Act to require third-party verification of compliance of children's products with consumer product safety standards promulgated by the Consumer Product Safety Commission and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2007

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

A BILL

To amend the Consumer Product Safety Act to require third-party verification of compliance of children's products with consumer product safety standards promulgated by the Consumer Product Safety Commission and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Children's Products
5 Safety Act of 2007".

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act and the amendments made
3 by this Act is to prevent the introduction of dangerous
4 toys and other products used by children into the market-
5 place by requiring independent third-party testing and cer-
6 tification that toys and other products intended for use
7 by children comply with consumer product safety stand-
8 ards and rules before they enter the interstate stream of
9 commerce.

10 **SEC. 3. CERTIFICATION OF COMPLIANCE OF CHILDREN'S**
11 **PRODUCTS WITH CONSUMER PRODUCT SAFE-**
12 **TY RULES.**

13 (a) EXPANSION OF CERTIFICATION REQUIREMENT
14 TO INCLUDE CERTIFICATION FOR COMPLIANCE WITH
15 ALL CONSUMER PRODUCT SAFETY RULES PROMUL-
16 GATED UNDER ACTS ADMINISTERED BY THE CONSUMER
17 PRODUCT SAFETY COMMISSION.—Subsection (a) of sec-
18 tion 14 of the Consumer Product Safety Act (15 U.S.C.
19 2063) is amended—

20 (1) by redesignating paragraph (2) as para-
21 graph (5);

22 (2) in paragraph (1)—

23 (A) by striking “Every manufacturer” and
24 inserting “Except as provided in paragraph
25 (2),”; and

1 (B) by designating the second and third
2 sentences as paragraphs (3) and (4), respec-
3 tively, and indenting the margin of such para-
4 graphs, as so designated, 2 ems from the left
5 margin;

6 (3) by inserting after paragraph (1) the fol-
7 lowing:

8 “(2) Every manufacturer of a children’s product (and
9 the private labeler of such product if it bears a private
10 label) which is subject to a consumer product safety stand-
11 ard under this Act or a rule under this or any other Act
12 administered by the Commission declaring a consumer
13 product a banned hazardous product shall issue a certifi-
14 cate which shall certify that such product conforms to
15 such consumer product safety standard or is not a banned
16 hazardous product under such rule, and shall specify such
17 consumer product safety standard or such rule.”;

18 (4) in paragraph (3), as redesignated by para-
19 graph (2)(B), by striking “Such certificate shall”
20 and inserting “A certificate required under this sub-
21 section shall”; and

22 (5) in paragraph (5), as redesignated by para-
23 graph (1)—

24 (A) by striking “required by paragraph (1)
25 of this subsection” and inserting “required by

1 paragraph (1) or (2) (as the case may be)”;
2 and

3 (B) by striking “requirement under para-
4 graph (1)” and inserting “requirement under
5 paragraph (1) or (2) (as the case may be)”.

6 (b) THIRD-PARTY CERTIFICATION REQUIRED.—Sub-
7 section 14(b) of the Consumer Product Safety Act (15
8 U.S.C. 2063(b)) is amended—

9 (1) by striking “The Commission may” and in-
10 serting “(1) The Commission may”;

11 (2) by designating the second sentence as para-
12 graph (2) and indenting the margin of such para-
13 graph, as so designated, 2 ems from the left margin;

14 (3) in paragraph (2), as so designated, by strik-
15 ing “Any test or” and inserting “Except as provided
16 in paragraph (3), any test or”; and

17 (4) by adding at the end the following:

18 “(3) In the case of a children’s product, any test or
19 testing program on the basis of which a certificate is
20 issued under subsection (a)(2) shall be conducted by a
21 nongovernmental independent third party qualified to per-
22 form such tests or testing programs.”.

23 (c) DEFINITION OF CHILDREN’S PRODUCTS AND
24 INDEPENDENT THIRD PARTY.—Section 14 of the Con-

1 consumer Product Safety Act (15 U.S.C. 2063) is amended
2 by adding at the end the following:

3 “(d) DEFINITIONS.—In this section:

4 “(1) CHILDREN’S PRODUCT.—The term ‘child-
5 dren’s product’ means a toy or other article intended
6 for use by a child under 60 months of age that is
7 introduced into the interstate stream of commerce.
8 In determining whether a toy or article is intended
9 for use by a child under 60 months of age, the fol-
10 lowing factors shall be considered:

11 “(A) A statement by a manufacturer about
12 the intended use of such toy or article, includ-
13 ing a label on such toy or article, if such state-
14 ment is reasonable.

15 “(B) The context and manner of the ad-
16 vertising, promotion, and marketing associated
17 with the toy or article.

18 “(C) Whether the toy or article is com-
19 monly recognized by consumers as being in-
20 tended for use by a child under 60 months of
21 age.

22 “(D) The Age Determination Guideline
23 issued by the Consumer Product Safety Com-
24 mission in September 2002 and any subsequent
25 version of such Guideline.

1 “(2) INDEPENDENT THIRD PARTY.—The term
 2 ‘independent third party’, with respect to a testing
 3 entity, means an independent testing entity that is
 4 physically separate from any manufacturer or pri-
 5 vate labeler whose product will be tested by such en-
 6 tity, and is not owned, managed, controlled, or di-
 7 rected by such manufacturer or private labeler.”.

8 (d) LABEL AND CERTIFICATION.—Not later than 180
 9 days after the date of the enactment of this Act, the Con-
 10 sumer Product Safety Commission shall prescribe a rule
 11 in accordance with subsection (c) of section 14 of the Con-
 12 sumer Product Safety Act (15 U.S.C. 2063) for children’s
 13 products described in subsection (d)(1) of such section, as
 14 added by subsection (c) of this section.

15 **SEC. 4. PROHIBITION ON IMPORTS OF CHILDREN’S PROD-**
 16 **UCTS WITHOUT THIRD-PARTY TESTING CER-**
 17 **TIFICATION.**

18 Section 17(a) of the Consumer Product Safety Act
 19 (15 U.S.C. 2066) is amended—

20 (1) in paragraph (4), by striking “or” at the
 21 end;

22 (2) in paragraph (5), by striking the period at
 23 the end and inserting a semicolon and “or”; and

24 (3) by adding at the end the following:

1 “(6) is a children’s product, as that term is de-
2 fined in section 14(d), that is not accompanied by a
3 certificate from a third-party verification entity re-
4 quired by section 14(a)(2).”.

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