

[DISCUSSION DRAFT]

MARCH 29, 2011

112TH CONGRESS
1ST SESSION

H. R. _____

To amend the consumer product safety laws...*[to be provided]*

IN THE HOUSE OF REPRESENTATIVES

_____ introduced the following bill; which was referred to
the Committee on _____

A BILL

To amend the consumer product safety laws...*[to be provided]*

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. DEFINITION OF CHILDREN’S PRODUCT.**

4 (a) DEFINITION.—Section 3(a)(2) of the Consumer
5 Product Safety Act (15 U.S.C. 2052(a)(2)) is amended—

6 (1) in the matter preceding subparagraph (A)—

7 (A) by striking “intended primarily for
8 children 12 years of age or younger” and in-

1 serting “primarily intended for use by children
2 【____】 years of age or younger”; and

3 (B) by striking “intended for a child 12
4 years of age or younger” and inserting “in-
5 tended for use by a child 【____】 years of age
6 or younger”;

7 (2) in subparagraph (B), by striking “children
8 12 years of age or younger” and inserting “children
9 【____】 years of age or younger”; and

10 (3) in subparagraph (C), by striking “child 12
11 years of age or younger” and inserting “child
12 【____】 years of age or younger”.

13 (b) **TECHNICAL AMENDMENT.**—Section 101(a)(1) of
14 the Consumer Product Safety Improvement Act of 2008
15 (15 U.S.C. 1278a(a)(1)) is amended by striking “(as de-
16 fined in section 3(a)(16) of the Consumer Product Safety
17 Act (15 U.S.C. 2052(a)(16)))” and inserting “(as defined
18 in section 3(a) of the Consumer Product Safety Act (15
19 U.S.C. 2052(a)))”.

20 **SEC. 2. APPLICATION OF LEAD LIMIT.**

21 (a) **EXTENSION OF DEADLINE FOR LEAD LIMIT.**—
22 Section 101(a)(2) of the Consumer Product Safety Im-
23 provement Act of 2008 (15 U.S.C. 1278a(a)(2)) is amend-
24 ed—

1 (1) in subparagraph (C), by striking “3 years”
2 and inserting “4 years”; and

3 (2) in subparagraph (D), by striking “3 years”
4 and inserting “4 years”.

5 (b) **AUTHORITY TO APPLY LIMITS TO OTHER PROD-**
6 **UCTS.**—Such section is further amended by adding at the
7 end the following:

8 “(F) **AUTHORITY TO APPLY LIMITS TO**
9 **OTHER PRODUCTS.**—The Commission may, by
10 regulation, apply the limit set forth in subpara-
11 graph (A) to any consumer product other than
12 a children’s product (as such terms are defined
13 in section 3(a) of the Consumer Product Safety
14 Act (15 U.S.C. 2052(a))) that is designed or
15 primarily intended for use by children 12 years
16 of age or younger, or to any class of such con-
17 sumer products, if it determines after a hearing
18 that the lead content in such product or class
19 of products presents an unreasonable risk to
20 children’s health.”.

21 (c) **PROSPECTIVE APPLICATION OF LEAD LIMIT FOR**
22 **CHILDREN’S PRODUCTS.**—Section 101(a) of the Con-
23 sumer Product Safety Improvement Act of 2008 (15
24 U.S.C. 1278a(a)) is further amended by adding at the end
25 the following:

1 “(3) APPLICATION.—Each limit set forth in
2 paragraph (2) shall apply only to a children’s prod-
3 uct (as defined in section 3(a) of the Consumer
4 Product Safety Act (15 U.S.C. 2052(a))) that is
5 manufactured after the effective date of such respec-
6 tive limit.”.

7 (d) ALTERNATIVE LIMIT AND DE MINIMIS EXCEP-
8 TION.—Section 101(b) of such Act (15 U.S.C.
9 1278a(b)(1)) is amended—

10 (1) by redesignating paragraphs (2) through 5
11 as paragraphs (3) through (6), respectively; and

12 (2) by striking paragraph (1) and inserting the
13 following:

14 “(1) ALTERNATIVE LIMIT FOR CERTAIN MATE-
15 RIALS AND DE MINIMIS EXCEPTION FOR CERTAIN
16 PARTS.—

17 “(A) ALTERNATIVE LIMIT.—For a compo-
18 nent part of a children’s product that is made
19 of steel, copper, or aluminum alloys, the limit
20 referred to in subsection (a)(1) shall be **【_____】**
21 parts per million unless—

22 “(i) the product into which such part
23 is incorporated fits entirely within the
24 small parts cylinder described in section

1 1501.4 of title 16, Code of Federal Regula-
2 tions; or

3 “(ii) after any necessary assembly of
4 the product and after the product has been
5 subjected to reasonably foreseeable condi-
6 tions of use and abuse, the part or any
7 portion of the part becomes detached from
8 the product and such part or portion of the
9 part fits entirely within such cylinder.

10 “(B) DE MINIMIS EXCEPTION.—

11 “(i) IN GENERAL.—The limits estab-
12 lished under subsection (a) shall not apply
13 to any component part of a children’s
14 product if, under reasonably foreseeable
15 conditions of use and abuse, it is unlikely
16 that a child who is exposed to the product
17 would ingest more than a de minimis
18 amount of lead, unless—

19 “(I) the product into which such
20 part is incorporated fits entirely with-
21 in the small parts cylinder described
22 in section 1501.4 of title 16, Code of
23 Federal Regulations; or

24 “(II) after any necessary assem-
25 bly of the product and after the prod-

1 uct has been subjected to reasonably
2 foreseeable conditions of use and
3 abuse, the part or any portion of the
4 part becomes detached from the prod-
5 uct and such part or portion of the
6 part fits entirely within such cylinder.

7 “(ii) METHODOLOGY FOR ESTIMATING
8 AMOUNT OF LEAD INGESTED.—

9 “(I) ESTABLISHMENT BY COM-
10 MISSION.—The Commission shall, by
11 regulation, establish a methodology
12 for estimating the amount of lead a
13 child would likely ingest from expo-
14 sure to a component part. Such meth-
15 odology shall distinguish, at a min-
16 imum, between parts that can be
17 placed in the mouth and parts that
18 cannot be placed in the mouth.

19 “(II) INTERIM METHODOLOGY.—
20 Until the Commission has issued a
21 final rule under subclause (I), a man-
22 ufacturer may use any reasonable
23 methodology to estimate the amount
24 of lead a child would likely ingest
25 from exposure to a component part.

1 The manufacturer shall document the
2 methodology used.

3 “(iii) DE MINIMIS AMOUNT DE-
4 FINED.—In this subparagraph, the term
5 ‘de minimis amount’ means **[_____]**
6 micrograms per day. The Commission may
7 revise such amount by regulation.

8 “(2) EXCLUSION OF CERTAIN USED CHIL-
9 DREN’S PRODUCTS.—

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

13 “(B) DEFINITION.—The term ‘used chil-
14 dren’s product’ means a children’s product that
15 was obtained by the seller for use and not for
16 the purpose of resale or was obtained by the
17 seller, either directly or indirectly, from a per-
18 son who obtained such children’s product for
19 use and not for the purpose of resale. Such
20 term also includes a children’s product that was
21 donated to the seller for charitable distribution
22 or resale to support charitable purposes. Such
23 term shall not include—

24 “(i) children’s metal jewelry; or

1 “(ii) any children’s product for which
2 the donating party or the seller has actual
3 knowledge that the product is in violation
4 of the lead limits in this section; or

5 For purposes of this definition, the term ‘seller’
6 includes a person who lends or donates a used
7 children’s product.”.

8 **SEC. 3. APPLICATION OF THIRD PARTY TESTING REQUIRE-**
9 **MENTS.**

10 (a) **APPLICABLE CHILDREN’S PRODUCTS.**—Section
11 14(a) of the Consumer Product Safety Act (15 U.S.C.
12 2063(a)) is amended—

13 (1) in paragraph (2)—

14 (A) in the matter preceding subparagraph
15 (A), by inserting “described in clauses (i)
16 through (iv) of paragraph (3)(B)” after “a chil-
17 dren’s product safety rule”;

18 (B) in subparagraph (B), by striking “the
19 children’s product safety rule” and inserting
20 “such children’s product safety rule”; and

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

23 (2) in paragraph (3)—

24 (A) in subparagraph (A), by inserting “de-
25 scribed in clauses (i) through (iv) of subpara-

1 graph (B)” after “a children’s product safety
2 rule”; and

3 (B) in subparagraph (B), by striking
4 clauses (v) and (vi).

5 (b) THIRD PARTY TESTING REQUIREMENTS.—Sec-
6 tion 14(b) of the Consumer Product Safety Act (15 U.S.C.
7 2063(b)) is amended to read as follows:

8 “(b) TESTING PROGRAMS.—

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

13 “(2) TESTING BY AN INDEPENDENT THIRD
14 PARTY.—Any test or testing program on the basis of
15 which a certificate is issued under subsection (a)
16 may, at the option of the person required to certify
17 the product, be conducted by an independent third
18 party qualified to perform such tests, unless the
19 Commission, by rule and in accordance with para-
20 graph (3), requires testing by an independent third
21 party for—

22 “(A) a particular rule, regulation, stand-
23 ard, ban;

24 “(B) any portion of a particular rule, regu-
25 lation, standard, or ban; or

1 “(C) a particular class of products.

2 “(3) REQUIREMENTS FOR TESTING BY AN
3 INDEPENDENT THIRD PARTY.—The Commission
4 may not require testing by an independent third
5 party under paragraph (2) until the Commission has
6 completed each of the following:

7 “(A) ACCREDITATION OF CONFORMITY AS-
8 SESSMENT BODIES.—Established and published
9 notice of the requirements for accreditation of
10 third party conformity assessment bodies who
11 are determined to be qualified by the Commis-
12 sion to conduct such testing.

13 “(B) TESTING CAPACITY.—Determined
14 that the testing capacity of the accredited third
15 part conformity assessment bodies is sufficient
16 to prevent unreasonable delays due to testing.

17 “(C) EXEMPTIONS AND ALTERNATE TEST-
18 ING PROCEDURES.—

19 “(i) IN GENERAL.—Established, by
20 rule—

21 “(I) exemptions for works of art
22 and other one-of-a-kind products; and

23 “(II) exemptions or alternative
24 testing procedures for the certification
25 of specialty products for the disabled,

1 and products that are produced in
2 small quantities such that the cost of
3 testing by an independent third party
4 is not economically practicable.

5 “(ii) PRODUCED IN SMALL QUAN-
6 TITIES DEFINED.—In this subparagraph,
7 the term ‘produced in small quantities’
8 means that not more than [_____] units of
9 the same product (or substantially similar
10 products) are produced in one year by a
11 manufacturer and any affiliated manufac-
12 turer. A manufacturer may not subdivide
13 the production of such manufacturer into
14 small quantities in order to evade third
15 party testing requirements.

16 “(D) RULEMAKING CONSIDERATIONS.—
17 Made a reasoned determination—

18 “(i) that the benefits from requiring
19 third-party testing justify the costs (recog-
20 nizing that some costs are difficult to
21 quantify); and

22 “(ii) that any rule issued pursuant to
23 this paragraph is tailored to impose the
24 least possible burden, taking into account

1 to the extent practicable, the costs of cu-
2 mulative regulations.

3 “(4) REVIEW OF PREVIOUS RULES.—The Com-
4 mission may not enforce a third party testing re-
5 quirement that became effective during the period
6 after August 14, 2009, and before the date of the
7 enactment of the [_____ Act of 2011]
8 (or that was stayed by the Commission during such
9 period) until the Commission has reviewed such re-
10 quirement and promulgated any revisions as nec-
11 essary to ensure compliance with the requirements
12 of paragraph (3).”.

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

16 (1) in the matter preceding subparagraph (A),
17 by striking “Not later than 15 months after the date
18 of enactment of the Consumer Product Safety Im-
19 provement Act of 2008, the” and inserting “The”;

20 (2) in the matter preceding subparagraph (A),
21 by striking “shall”;

22 (3) in subparagraph (A), by striking “initiate”
23 and inserting “not later than 15 months after the
24 date of enactment of the Consumer Product Safety
25 Improvement Act of 2008, shall initiate”; and

1 (4) in subparagraph (B), by striking “estab-
2 lish” and inserting “may establish”.

3 **SEC. 4. APPLICATION OF AND PROCESS FOR UPDATING DU-**
4 **RABLE NURSERY PRODUCTS STANDARDS.**

5 (a) APPLICATION OF STANDARD.—Section 104 of the
6 Consumer Product Safety Improvement Act of 2008 (15
7 U.S.C. 2056a) is amended—

8 (1) in subsection (c), by redesignating para-
9 graph (3) as paragraph (4) and inserting after para-
10 graph (2) the following:

11 “(3) APPLICATION.—

12 “(A) IN GENERAL.—Paragraph (1) shall
13 not apply to any revision of the standard pro-
14 mulgated under subsection (b)(1)(B) subse-
15 quent to the initial promulgation of a standard
16 under such subsection.

17 “(B) SPECIAL RULE FOR FIXED-SIDE
18 CRIBS SUBJECT TO CERTAIN STATE OR LOCAL
19 LAW REQUIREMENTS.—Paragraph (1) shall not
20 apply to a fixed-side crib offered or provided for
21 use in a licensed child care facility that is sub-
22 ject to the following requirements under the law
23 of a State or a political subdivision of a State:

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

4 “(ii) The facility may not place in a
5 crib a child over the age of **[12 months]**.

6 “(iii) An adult must be present when-
7 ever a child is in a crib.”.

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

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

14 “(A) NOTICE OF ADOPTION OF VOL-
15 UNTARY STANDARD.—When the Commission
16 promulgates a consumer product safety stand-
17 ard under this subsection that is based, in
18 whole or in part, on a voluntary standard, the
19 Commission shall notify the organization that
20 issued the voluntary standard of the Commis-
21 sion’s action and shall provide a copy of the
22 consumer product safety standard to the orga-
23 nization.

24 “(B) COMMISSION ACTION ON REVISED
25 VOLUNTARY STANDARD.—If an organization re-

1 vises a standard that has been adopted, in
2 whole or in part, as a consumer product safety
3 standard under subparagraph (A), it shall no-
4 tify the Commission. The revised voluntary
5 standard shall be considered to be a consumer
6 product safety standard issued by the Commis-
7 sion under section 9 of the Consumer Product
8 Safety Act (15 U.S.C. 2058), effective 180 days
9 after the date on which the organization notifies
10 the Commission (or such later date specified by
11 the Commission in the Federal Register) unless,
12 within 90 days after receiving that notice, the
13 Commission notifies the organization that it has
14 determined that the proposed revision does not
15 improve the safety of the consumer product cov-
16 ered by the standard and that the Commission
17 is retaining the existing consumer product safe-
18 ty standard.”.

19 **SEC. 5. APPLICATION OF SECTION 106 TO FDA-REGULATED**
20 **PRODUCTS.**

21 Section 106(a) of the Consumer Product Safety Im-
22 provement Act (15 U.S.C. 2056b(a)) is amended by in-
23 serting “or any provision that restates or incorporates a
24 regulation promulgated by the Food and Drug Adminis-

1 tration or any statute administered by the Food and Drug
2 Administration” after “or by statute”.

3 **SEC. 6. APPLICATION OF PHTHALATES STANDARD.**

4 (a) PROSPECTIVE APPLICATION, ACCESSIBLE, PLAS-
5 TICIZED COMPONENT PARTS.—Section 108 of the Con-
6 sumer Product Safety Improvement Act of 2008 (15
7 U.S.C. 2057c) is amended—

8 (1) by redesignating subsections (e) through (e)
9 as subsections (d) through (f), respectively; and

10 (2) by inserting after subsection (b) the fol-
11 lowing:

12 “(c) APPLICATION.—

13 “(1) ACCESSIBLE COMPONENT PARTS.—Sub-
14 sections (a) and (b)(1) and any rule promulgated
15 under subsection (b)(3) shall apply to any children’s
16 toy or child care article containing any accessible,
17 plasticized component part that is manufactured
18 after the respective effective dates in each such sub-
19 section and any such final rule.

20 “(2) COMMISSION AUTHORITY.—The Commis-
21 sion may, by rule, exempt any children’s toy or child
22 care article described in paragraph (1) or any class
23 of such products or materials used in such products
24 from any of the prohibitions under subsections (a)
25 and (b)(1) and any rule promulgated under sub-

1 section (b)(3) where the Commission determines that
2 compliance with any such prohibition is not nec-
3 essary to protect children’s health.”.

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

7 (1) by striking “Not later than” and inserting
8 the following:

9 “(A) RULEMAKING REQUIRED.—Not later
10 than”;

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

13 (3) in clause (i) (as so redesignated), by insert-
14 ing “or terminate such prohibition” after “margin of
15 safety”; and

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

17 “(B) DEADLINE AND EFFECT ON PROHIBI-
18 TION.—If the Commission does not commence a
19 rulemaking proceeding within 90 days after re-
20 ceiving the report required by paragraph (2)(C)
21 or does not issue a final rule as required by
22 subparagraph (A) within **【_____】** after
23 receiving such report, the prohibition in para-
24 graph (1) shall terminate.”.

1 (c) DEFINITIONS.—Section 108(f) of the Consumer
2 Product Safety Improvement Act of 2008 (15 U.S.C.
3 2057c(f)) (as redesignated by subsection (a)) is amend-
4 ed—

5 (1) in paragraph (1)—

6 (A) in subparagraph (B), by striking “con-
7 sumer product” and all that follows and insert-
8 ing “children’s product that is subject to the
9 standard made mandatory by section 106(b) or
10 any successor standard”;

11 (B) in subparagraphs (C), by striking
12 “consumer product” and inserting “children’s
13 product”; and

14 (C) in subparagraph (D)—

15 (i) by striking “consumer product”
16 and inserting “children’s product”;

17 (ii) by striking “section 3(a)(1)” and
18 inserting “section 3(a)”; and

19 (iii) by striking “2052(a)(1)” and in-
20 serting “2052(a)”; and

21 (2) by amending paragraph (2) to read as fol-
22 lows:

23 “(2) DETERMINATION GUIDELINES.—For pur-
24 poses of this section, a toy can be placed in a child’s
25 mouth if any part of the toy can actually be brought

1 to the mouth and kept in the mouth by a child so
2 that it can be sucked and chewed. If the children’s
3 product can only be licked, it is not regarded as able
4 to be placed in the mouth. If a toy or part of a toy
5 in one dimension is smaller than 5 centimeters, it
6 can be placed in the mouth.”.

7 **SEC. 7. EXEMPTION AUTHORITY FOR TRACKING LABELS**
8 **REQUIREMENT.**

9 Section 14(a)(5) of the Consumer Product Safety Act
10 (15 U.S.C. 2063(a)(5)) is amended—

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

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

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

16 “(B) The Commission may, by regulation, exclude a
17 specific product or class of products from the require-
18 ments in subparagraph (A) if the Commission determines
19 that it is not economically practicable for such product or
20 class of products to bear the marks required by such sub-
21 paragraph. The Commission may establish alternative re-
22 quirements for any product or class of products excluded
23 under the preceding sentence consistent with the purposes
24 described in clauses (i) and (ii) of subparagraph (A).”.

1 **SEC. 8. REQUIREMENTS FOR PUBLIC DATABASE.**

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

5 (1) in paragraph (1)(A)—

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

12 (B) in clause (v), by striking “public safety
13 entities” and inserting “police, fire, ambulance,
14 emergency medical services, Federal, State, and
15 local law enforcement entities, and other related
16 public safety officials”; and

17 (2) in paragraph (2)(B)—

18 (A) in clause (i), by inserting “and its lo-
19 cation and availability” after “concerned”;

20 (B) in clause (iv), by inserting “and if
21 such person is not the person harmed by the
22 product, the name and contact information of
23 the person who suffered the harm or risk of
24 harm related to the use of the product” after
25 “report”; and

1 (C) in clause (v), by inserting “that such
2 person is the consumer who used the product
3 that gave rise to the harm, the user’s next of
4 kin, a member of the user’s household, the legal
5 representative of the user, or another person ex-
6 pressly authorized by any such person and”
7 after “person submitting the information”.

8 (b) ADEQUACY AND ACCURACY OF INFORMATION RE-
9 PORTED TO THE PUBLIC DATABASE.—Section 6A(c)(2) of
10 the Consumer Product Safety Act (15 U.S.C.
11 2055a(c)(2)) is amended—

12 (1) in subparagraph (A), by striking “to sub-
13 mit” and all that follows and inserting “to—

14 “(i) notify the Commission within
15 [____] days after receipt of the report
16 that the information provided in the report
17 is insufficient for determining which of the
18 manufacturer’s products is the subject of
19 the complaint, in which case the manufac-
20 turer shall provide the Commission (and
21 the person submitting the complaint, if
22 that person has consented to disclosure of
23 contact information) with information to
24 assist the person submitting the report to

1 sufficiently identify or provide an adequate
2 description of the product;

3 “(ii) notify the Commission within
4 **【___】** days after receipt of the report
5 that the information provided in the report
6 is materially inaccurate and to provide the
7 Commission with any additional informa-
8 tion supporting the manufacturer’s claim
9 of inaccuracy; and

10 “(iii) submit other comments to the
11 Commission on the information contained
12 in such report.”; and

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

16 “(B) ACTION BY THE COMMISSION.—

17 “(i) INSUFFICIENT INFORMATION.—If
18 a manufacturer notifies the Commission of
19 the insufficiency of the information in a re-
20 port pursuant to subparagraph (A)(i), the
21 Commission shall provide the information
22 provided by the manufacturer to the per-
23 son submitting the report (unless such in-
24 formation has already been provided di-
25 rectly by the manufacturer) and seek to

1 obtain from such person an adequate de-
2 scription of the product.

3 “(ii) MATERIALLY INACCURATE IN-
4 FORMATION.—If a manufacturer notifies
5 the Commission of a material inaccuracy in
6 a report pursuant to subparagraph (A)(ii),
7 and the Commission determines that the
8 claim is potentially valid, the Commission
9 shall seek to resolve the inaccuracy by any
10 of the following:

11 “(I) Obtaining from the person
12 submitting the report such additional
13 information necessary to correct the
14 inaccuracy.

15 “(II) Investigating the incident
16 giving rise to the report in order to
17 correct any such inaccuracy.

18 “(III) Providing the manufac-
19 turer a reasonable period of time to
20 investigate and provide additional in-
21 formation to correct any inaccuracy.

22 “(iii) STAY ON INCLUSION IN DATA-
23 BASE.—The Commission shall not include
24 in the database a report described in
25 clauses (i) or (ii) until the product can be

1 specifically identified and any material in-
2 accuracy corrected.”.

3 (c) MISREPRESENTATION PROHIBITED.—Section
4 19(a)(13) of the Consumer Product Safety Act by insert-
5 ing “related to a submission of information to the data-
6 base established under section 6A, or” after “misrepresen-
7 tation to such an officer or employee”.

8 **SEC. 9. SUBPOENA AUTHORITY.**

9 Section 27(b) of the Consumer Product Safety Act
10 (15 U.S.C. 2076(b)) is amended—

11 (1) in paragraph (3), by inserting “and phys-
12 ical” after “documentary”;

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

14 (3) by redesignating paragraph (9) as para-
15 graph (10) and inserting after paragraph (8) the fol-
16 lowing:

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

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

1 **SEC. 10. AVAILABILITY OF CERTAIN PERSONAL AND MED-**
2 **ICAL INFORMATION TO THE CPSC.**

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

6 “(e) AVAILABILITY OF PERSONAL AND MEDICAL IN-
7 FORMATION UNDER HIPAA.—In order to carry out its
8 investigative and enforcement activities under this Act and
9 under any of the Acts enforced by the Commission, the
10 Commission shall be deemed a public health authority
11 within the meaning of section 164.512(b)(i) of title 45,
12 Code of Federal Regulations, for purposes of permitted
13 disclosures of protected health information authorized
14 under such section. For purposes of such section informa-
15 tion about deaths, injuries, diseases, and other health im-
16 pairments possibly relating to consumer products shall be
17 deemed protected health information authorized to be dis-
18 closed to such public health authorities under such sec-
19 tion.”.

20 **SEC. 11. EFFECTIVE DATE.**

21 The amendments made by this Act shall be treated
22 as having taken effect on the date of enactment of the
23 Consumer Product Safety Improvement Act of 2008.