

## Consumer Product Safety Improvement Act of 2008 (H.R. 4040)

**H.R. 4040**, the “**Consumer Product Safety Improvement Act of 2008**”, introduced on 1 November, 2007 and after a series of debate and voting by the House of Representatives and the Senate, was finally signed by President George Bush on **14 August, 2008** into law (**Public Law 110-314**). This Law has provided better enforcement tools and expands the Consumer Product Safety Commission’s role in ensuring the safety of consumer products, in particular for those designed for children. Key safety measures, including the new requirements and schedule of implementation, are summarized in the following Table.



Requirements	Implementation Schedule
<b>Sec. 101 Lead in Children’s Products (Materials &amp; Substrates)</b>	
<p>The <b>total lead content (by weight) in materials or substrates</b> of the children’s products shall comply with the following limits:</p> <p>a) <b>600 ppm</b> – Effective 180 days after the date of enforcement</p> <p>b) <b>300 ppm</b> – Effective 1 year after the date of enforcement</p> <p>c) <b>100 ppm</b> (or a feasible limit lower than 300 ppm determined by the Commission) – Effective 3 years after the date of enforcement</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>Inaccessible parts or components.</li> <li>Certain products or materials that the Commission determines without any other adverse impact on public health or safety.</li> <li>Certain electronic devices.</li> </ol>	<p>a) Effective 180 days after enforcement (10 Feb., 2009)</p> <p>b) Effective 1 year after enforcement (14 Aug., 2009)</p> <p>c) Effective 3 years after enforcement (14 Aug., 2011)</p>
<b>Sec. 101(f) Lead in Paint and Surface Coating</b>	
<p>Modify the Code of Federal Regulations <b>16 CFR 1303.1</b> by lowering the total lead <b>limit from 600 ppm (0.06%) to 90 ppm (0.009%)</b>.</p> <p><b>Remark:</b> Screen test: Allow the use of XRF or other alternative methods for measuring lead in paint or in surface coatings where the total weight ≤ 10 mg or the surface area ≤ 1 cm<sup>2</sup>.</p>	<p>Effective 1 year after enforcement (14 Aug., 2009)</p>
<b>Sec. 102 Mandatory Third Party Testing and Certification for Certain Children’s Products</b>	
<p>Manufacturer shall issue <b>certificates<sup>1</sup></b> certifying their products have complied with the children’s product safety rule based on the <b>test results provided by a 3<sup>rd</sup> party conformity assessment bodies</b> accredited to conduct such tests.</p> <p><b><sup>1</sup> Requirements for the Certificate:</b></p> <ol style="list-style-type: none"> <li>The manufacturer or private labeler who issued the certificate, and any 3<sup>rd</sup> party conformity assessment body on whose testing the certificate depends, shall be identified.</li> <li>Include, at a minimum, the date and place of manufacture, the date and place where the product was tested, each party’s name, full mailing address, telephone number, and contact information for individual responsible for maintaining records of test results.</li> <li>Be legible and in English. May also contain the same content in any other languages.</li> <li>Be accompanied with the applicable product or shipment of products and a copy shall be furnished to each distributor or retailer of the product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a certificate copy to the Commission.</li> <li>The Commission may, by rule, provide for the electronic filing of certificates up to 24 hours before arrival of an imported product.</li> </ol>	<p>Effective 90 days after enforcement (12 Nov., 2008)</p>

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Requirements (Cont'd)	Implementation Schedule
<b>Sec. 103 Tracking Labels for Children's Products</b>	
<ul style="list-style-type: none"> <li>▪ <i>Manufacturer shall place permanent, distinguishing mark on the product and its packaging, to the extent practicable, that will enable the manufacturer and ultimate purchaser to ascertain the name of the manufacturer or private labeler, the location and date of production of the product, and cohort information (including the batch, run number, or other identifying characteristic).</i></li> <li>▪ <i>Advertising, labeling or packaging for a consumer product by referencing to a consumer product safety rule or a voluntary consumer product safety standard is allowed only when such product conforms to the applicable safety requirements of such rule or standard.</i></li> </ul>	<p><i>Effective 1 year after enforcement (14 Aug., 2009)</i></p>
<b>Sec. 104 Standards and Consumer Registration of Durable Nursery Products</b>	
<ul style="list-style-type: none"> <li>▪ <i>The Commission shall commence the rulemaking required to promulgate standards for no fewer than 2 categories of <b> durable infant or toddler products</b><sup>2</sup> every 6 months and thereafter, until to cover all such product categories.</i></li> <li>▪ <i>Manufacturer of a durable infant or toddler product shall provide consumers with a postage-paid consumer registration form with each such product.</i></li> <li>▪ <i>Manufacturer shall maintain the consumer registration records (e.g., name, address, email address &amp; other contact information of the registered consumer) for not less than 6 years after the date of manufacture of the product, in order to improve the effectiveness of recalls.</i></li> <li>▪ <i>Manufacturer shall permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.</i></li> </ul> <p><sup>2</sup> <i>"Durable infant or toddler products" means a durable product intended for use, or may be reasonably expected to be used, by a children under 5 years of age, which includes: full-size cribs and non full-size cribs, toddler beds, high chairs, booster chairs, and hook-on chairs, bath seats, gates and other enclosures for confining a child, play yards, stationary activity centers, infant carriers, strollers, walkers, swings, bassinets and cradles.</i></p>	<p><i>Not later than 1 year after enforcement (14 Aug., 2009)</i></p>
<b>Sec. 105 Labeling Requirement for Advertising Toys and Games</b>	
<p><i>Any advertisement that provides a direct means for the purchase or order of a product for which a <b>cautionary statement</b><sup>3</sup> is required under Section 24 of the Federal Hazardous Substance Act (15 U.S.C. 1278), shall display the cautionary statement on or immediately adjacent to that advertisement.</i></p> <ul style="list-style-type: none"> <li>a) <i>Cautionary statement with respect to advertisements on <b>internet websites</b> – Effective 120 days after the date of enforcement.</i></li> <li>b) <i>Cautionary statement with respect to <b>catalogues and other printed materials</b> – Effective 180 days after the date of enforcement.</i></li> </ul> <p><sup>3</sup> <i>Cautionary statement shall be prominently displayed:</i></p> <ol style="list-style-type: none"> <li>1. <i>In the primary language used in the advertisement;</i></li> <li>2. <i>In a conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in such advertisement;</i></li> <li>3. <i>In a manner consistent with the Code of Federal Regulations 16 CFR 1500.</i></li> </ol>	<ul style="list-style-type: none"> <li>a) <i>Effective 120 days after enforcement (12 Dec., 2008)</i></li> <li>b) <i>Effective 180 days after enforcement (10 Feb., 2009)</i></li> </ul>

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<b>Sec. 106 Mandatory Toy Safety Standards</b>	
<p>a) <b>ASTM F963-07</b> (except for Section 4.2 &amp; Annex 4 regarding flammability) shall be considered as the <b>mandatory toy safety standard</b>.</p> <p>b) The Commission, in consultation with industry and other experts, shall evaluate the effectiveness of ASTM F963-07 or its successor standard, for the safety requirements, safety labeling requirements and test methods related to: Magnets, toxic substances, toys with spherical ends, hemispheric-shaped objects, cords, straps, and elastics, and battery-operated toys.</p>	<p>a) Beginning 180 days after enforcement (10 Feb., 2009)</p> <p>b) Not later than 1 year after enforcement (14 Aug., 2009)</p>
<b>Sec. 108 Prohibition on Sale of Certain Products Containing Specified Phthalates</b>	
<p><b>Permanent ban – Children’s toys<sup>4</sup> or child care articles<sup>5</sup> that contain concentration of more than 0.1% of the following phthalates are prohibited:</b></p> <ul style="list-style-type: none"> <li>▪ <b>Di-(2-ethylhexyl) phthalate (DEHP),</b></li> <li>▪ <b>Dibutyl phthalate (DBP), or</b></li> <li>▪ <b>Benzyl butyl phthalate (BBP)</b></li> </ul> <p><b>Interim ban – Children’s toys that can be mouthed<sup>6</sup> or child care articles that contain concentration of more than 0.1% of the following phthalates are prohibited:</b></p> <ul style="list-style-type: none"> <li>▪ <b>Diisononyl phthalate (DINP),</b></li> <li>▪ <b>Diisodecyl phthalate (DIDP), or</b></li> <li>▪ <b>Di-n-octyl phthalate (DnOP)</b></li> </ul> <p><sup>4</sup> “Children’s toy” means a consumer product designed or intended for a child 12 years of age or younger for use by the child when the child plays.</p> <p><sup>5</sup> “Child care article” means a consumer product designed or intended to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething.</p> <p><sup>6</sup> “Toy that can be placed in a child’s mouth” means 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 cm, it can be placed in the mouth.</p>	<p>Effective 180 days after enforcement (10 Feb., 2009)</p>
<b>Sec. 212 Establishment of a Public Consumer Product Safety Database</b>	
<p>The Commission shall provide a detailed plan for establishing and maintaining the database, including plans for the operation, content, maintenance, and functionality of the database.</p>	<p>Not later than 180 days after enforcement (10 Feb., 2009)</p>
<b>Sec. 214 Enhanced Recall Authority and Corrective Action Plans</b>	
<p>The Commission shall, by rule, establish guidelines for recall notice, and the minimum requirements for the content to be included in the recall notice.</p>	<p>Not later than 180 days after enforcement (10 Feb., 2009)</p>
<b>Sec. 216 Prohibited Acts</b>	
<p>It is unlawful for any person to sell, distribute in commerce, or import into the United States any recalled products.</p>	
<b>Sec. 217 Penalties</b>	
<ul style="list-style-type: none"> <li>▪ Increase the maximum <b>civil penalties</b> from \$5,000 to \$100,000 for each individual violation to the Consumer Product Safety Act, and from \$1,250,000 to \$15,000,000 for any related series of such violations.</li> <li>▪ Increase the <b>criminal penalties</b> to an imprisonment for not more than 5 years for anyone who knowingly and willfully violates the Consumer Product Safety Act.</li> </ul>	

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<b>Sec. 232 All-Terrain Vehicle Standard</b>	
The Commission shall publish <b>ANSI/SVIA-1-2007</b> as the <b>mandatory safety standard for Four Wheel All-Terrain Vehicles</b> in the Federal Register.	Publication within 90 days after enforcement (12 Nov., 2008). The standard shall take effect 150 days after publication in the Federal Register.
<b>Sec. 234 Study on the Use of Formaldehyde in Manufacturing of Textile and Apparel Articles</b>	
The Comptroller General, in consultation with the Commission, shall conduct a study on the <b>use of formaldehyde</b> in the manufacture of <b>textile and apparel articles</b> , or in <b>any component of such articles</b> , to identify any risks to consumer caused by the use of formaldehyde in the manufacturing of such articles, or components of such articles.	Not later than 2 years after enforcement (14 Aug., 2010)

Full text of the "**Consumer Product Safety Improvement Act of 2008 (H.R. 4040)**" can be accessed through:  
<http://www.govtrack.us/data/us/bills.text/110/h/h4040.pdf>

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Email: [Toys.enquiry@strhk.com](mailto:Toys.enquiry@strhk.com) / Telephone: 852-29434676  
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