

# Seeds of Change



## Five Changes Small Batch Toymakers, Crafters, Retailers, and Garment Makers Need to Survive the CPSIA

The Handmade Toy Alliance is a grassroots organization, a coalition of 368 children's product manufacturers, toy retailers, and concerned citizens from across the country, who want to preserve unique handmade toys, clothes, and all manner of small batch children's goods. Formed in November of 2008 in response to the Consumer Product Safety Improvement Act (CPSIA), the Handmade Toy Alliance has given a voice to small businesses by offering common sense solutions on how to improve the CPSIA, while ensuring safe children's products.

[www.handmadetoyalliance.org](http://www.handmadetoyalliance.org)



## CPSIA Technical Amendment Policy Paper #1: Lead Content Testing

*The following language would allow manufacturers to rely on component-based testing for lead content, which would force compliance further up the supply chain while lessening the cost of compliance for manufacturers.*

*This amendment would also exclude books, school materials, and certain products determined by the CPSC to pose a low risk of lead contamination from third party lead content testing requirements. The aim of this amendment is to give the CPSC the flexibility to identify products which require higher levels of certification while preventing irrational removals of low-risk items due to high testing costs.*

Section 14(g) of the Consumer Product Safety Act (15 U.S.C. 2063(g)) is amended by adding at the end thereof the following:

(5) SPECIAL RULE FOR LEAD CONTENT TESTING AND CERTIFICATION- Subsection (a) shall not require the manufacturer or private labeler of a product to test a product for, or certify it with respect to, lead content if--

(A) each component of the product has been tested for lead content by the manufacturer or private labeler of the component; and

(B) the manufacturer or private labeler of each such component certifies that the component (including paint, electroplating, and other coatings) does not contain more lead than the limit established by section 101(a)(2) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)(2)); or

(C) the product is a children's non-toy book; or

(D) the product is defined by the Consumer Product Safety Commission as a low-risk products or product categories which do not require third party testing. The Consumer Product Safety Commission shall research, publish, and annually revise a list of such products or product categories determined by the Commission through objective risk assessment to not require third party testing for lead content. The Commission may consider quantity produced, intended age, country of origin, expected use and abuse, historical product experience, and other appropriate considerations to conduct this risk assessment. The Commission shall establish and promulgate a process for manufactures and importers to apply for this exemption.

'(E) Or, the product is used for instruction purposes by students in a public school, private school, homeschool, museum, library, or other formal educational setting under the supervision of an adult instructor.'



## CPSIA Technical Amendment Policy Paper #2: European Union Harmonization

*This Section amends the lead limits to allow manufacturers to adhere to either a TOTAL LEAD limit or an ABSORBABLE LEAD limit, which is also known as bioavailable lead. This change brings US law closer in line with EU standards and legalizes certain components which pose no lead risk but would otherwise be banned under the total lead limits. Section (C) directs the CPSC to work with other international regulating agencies and to evaluate the feasibility of reducing lead limits further.*

*These changes are urgently needed in order to preserve trade between the US, the EU, and other countries with high product safety standards without incurring redundant testing expenses.*

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

(1) by striking '600 parts per million total lead content by weight for any part of the product' in paragraph (A) and inserting 'either 600 parts per million total lead content by weight or an equivalent absorbable lead content standard to be determined by the Commission.';

(2) by striking '300 parts per million total lead content by weight for any part of the product' in paragraph (B) and inserting 'either 300 parts per million total lead content by weight or an equivalent absorbable lead content standard to be determined by the Commission.';

(3) by striking all of paragraphs (C), (D), and (E) and inserting:

'(C) The Commission shall conduct risk analysis and feasibility studies in conjunction with other public health regulating governmental bodies in the State of California, the European Union, Canada and other international governments engaged in the regulation of the global supply of consumer products. The Commission may reduce the total lead limits and/or absorbable lead content limits below those set in paragraphs (A) and (B) for certain products or product categories if the Commission determines, after due public notice and public hearing, that such further reduction is technologically feasible and justifiable by an objective risk analysis. Said feasibility and risk analysis shall be completed by the Commission no later than three years after August 15<sup>th</sup>, 2008, and every five years thereafter.'



### CPSIA Technical Amendment Policy Paper #3: Correction of CPSIA Inflexible Language

*Part (a) of this section corrects the problem with the word “any” in the original bill, which both Commissioners Nord and Moore have cited as the reason why ATVs and ballpoint pens cannot be exempted from lead limits. Parts (b) and (c) grant the CPSC flexibility in determining the age-based definition of a “children's product” based on the how the product is used and where it is stored. The age was originally set at 12 not because 12 year olds were likely to chew on or suck on their toys, but because younger siblings in the same household might. This change would allow the Commission to exempt bicycles, for example, which are not generally used by children who mouth their toys and are generally kept in a garage or basement where they are not accessible to younger siblings. Any flexibility in the age definition must be based on objective risk analysis.*

(a) LEAD CONTENT EXCLUSIONS--Section 101(b)(1) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)) is amended by striking ‘(A) result in the absorption of any lead’ and inserting ‘(A) result in the absorption of more than a de minimus amount of lead’;

(b) AGE-BASED DEFINITION OF A CHILDREN'S PRODUCT—Section 101 of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)) is amended by inserting after paragraph (g) the following: '(h) The Commission may, based on objective risk analysis, exclude from the definition of children's product for purposes of this section certain products or product categories intended for children younger than 12 which do not pose more than a de minimus risk to younger children in the same household. The Commission shall consider normal use and abuse of a product and the normal locations where a product is used or stored in making this determination.';

(c) AGE-BASED DEFINITION OF TOY IN PHTHALATE BAN—Section 108(e)(1)(B) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)) is amended by inserting after 'when the child plays.' the following: 'The Commission may, based on objective risk analysis, exclude from this definition of “children's toy” for purposes of this section certain products or product categories intended for children younger than 12 which do not pose more than a de minimus risk of phthalate ingestion to younger children in the same household. The Commission shall consider normal use and abuse of a product and the normal locations where a product is used or stored in making this determination.'



#### CPSIA Technical Amendment Policy Paper #4: Third Party Testing Risk-Based Flexibility

*This section seeks to provide exemptions and clarification to third party testing requirements for ASTM standards, which go far beyond lead and phthalates and concern numerous other minerals and the physical design of a product. Exemptions from this testing can be made by the CPSC according to objective risk analysis.*

(a) THIRD PARTY TESTING EXCLUSIONS--Section 102(a)(1) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)) is amended--

(1) By inserting after paragraph (b) the following: '(C) The Consumer Product Safety Commission may exempt from third party testing requirements under this section those products or product categories which it defines as a low-risk product type. The Commission shall research, publish, and revise as needed a list of such products or product categories determined by the Commission through objective risk assessment to not require third party testing for General Conformity Certification. The Commission may consider quantity produced, intended age, country of origin, expected use and abuse, historical product experience, and other appropriate considerations to conduct this risk assessment. The Commission shall establish and promulgate a process for manufactures and importers to apply for this exemption.';

(2) By adding: '(D) Manufacturers may reasonably use a single test for multiple products of similar design and the same materials and will not be required to test each individual stock keeping unit separately in order to issue a Certificate of General Conformity.'



## CPSIA Technical Amendment Policy Paper #5: Batch Labeling

### SECTION 9. EXEMPTIONS FROM TRACKING LABEL REQUIREMENTS.

*This section is copied verbatim from the House CPSIA Reform Bill (HR 1815). Although the CPSIA allows tracking label requirements to be waived based on feasibility, including specific language here would make clear Congressional intent. This is a dire issue for many small batch manufacturers who have no easy or affordable method of marking their products with batch numbers. When the CPSIA was drafted, Congress was presented with no evidence that consumers' difficulty in identifying recalled products affected the CPSC's ability to conduct recalls.*

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

(1) by striking 'Effective' and inserting '(A) IN GENERAL--Effective';

(2) by adding at the end the following new subparagraph:

'(B) COMMISSION EXEMPTIVE AUTHORITY- The Commission may, by rule, exempt or modify any of the requirements of this section for any product or product category, if the Commission determines such requirement to be unduly burdensome or cost prohibitive in relationship to the potential risk presented by such product or product category, or not practical due to the intended use of such product or product category.'