

111TH CONGRESS  
1ST SESSION

# H. R. 1465

To amend the Consumer Product Safety Act to provide regulatory relief to small and family-owned businesses.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2009

Mr. ELLSWORTH introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Consumer Product Safety Act to provide regulatory relief to small and family-owned businesses.

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. CERTAIN REQUIREMENTS INAPPLICABLE TO**  
4       **SECOND-HAND SELLERS.**

5       Section 19 of the Consumer Product Safety Act (15  
6       U.S.C. 2068) is amended by adding at the end thereof  
7       the following:

8       “(c) EXCEPTIONS FOR SECOND-HAND SELLERS.—

9               “(1) IN GENERAL.—It is not a violation of sub-  
10       section (a)(1) or (a)(2) of this section for a second-

1 hand seller to sell, offer for sale, or distribute in  
2 commerce—

3 “(A) a consumer product for resale that is  
4 treated as a banned hazardous substance under  
5 the Federal Hazardous Substances Act (15  
6 U.S.C. 1261 et seq.) because of the application  
7 of section 101(a) of the Consumer Product  
8 Safety Improvement Act of 2008 (15 U.S.C.  
9 1278a); or

10 “(B) a children’s product without the label  
11 required by section 14(c) of this Act.

12 “(2) SECOND-HAND SELLER DEFINED.—In this  
13 subsection, the term ‘second-hand seller’ means—

14 “(A) a consignment shop, thrift shop, or  
15 similar enterprise that sells, offers for sale, or  
16 distributes in commerce a product after the  
17 first retail sale of that product;

18 “(B) an individual who utilizes the Inter-  
19 net, a yard sale, or other casual means of sell-  
20 ing, or offering for sale, such a product; or

21 “(C) a person who sells, or offers for sale,  
22 such a product at an auction for the benefit of  
23 a nonprofit organization.”.

1 **SEC. 2. PROSPECTIVE APPLICATION OF LEAD CONTENT**  
2 **AND THIRD PARTY TESTING RULES.**

3 (a) **LEAD CONTENT.**—Section 101(a) of the Con-  
4 sumer Product Safety Improvement Act of 2008 (15  
5 U.S.C. 1278a(a)) is amended—

6 (1) by striking “(b) beginning on the dates pro-  
7 vided in paragraph (2),” in paragraph (1) and in-  
8 serting “(b),”;

9 (2) by striking “(15 U.S.C. 1261 et seq.)” in  
10 paragraph (1) and inserting “(15 U.S.C. 1261 et  
11 seq.) if it is manufactured after the date on which  
12 such limit takes effect.”;

13 (3) by striking “180 days” in paragraph (2)(A)  
14 and inserting “360 days”;

15 (4) by striking “1 year” in paragraph (2)(B)  
16 and inserting “18 months”;

17 (5) by striking “3 years” in paragraph (2)(C)  
18 and inserting “3½ years”; and

19 (6) by striking “3 years” in paragraph (2)(D)  
20 and inserting “3½ years”.

21 (b) **APPLICATION.**—The amendments made by sub-  
22 section (a) shall be treated as having taken effect on Au-  
23 gust 15, 2008.

1 **SEC. 3. LEAD CONTENT CERTIFICATION; WAIVER OF THIRD**  
2 **PARTY TESTING REQUIREMENT.**

3 Section 14(g) of the Consumer Product Safety Act  
4 (15 U.S.C. 2063(g)) is amended by adding at the end  
5 thereof the following:

6 “(5) SPECIAL RULE FOR LEAD CONTENT TEST-  
7 ING AND CERTIFICATION.—Subsection (a) shall not  
8 require the manufacturer or private labeler of a  
9 product to test a product for, or certify it with re-  
10 spect to, lead content if—

11 “(A) each component of the product has  
12 been tested for lead content by the manufac-  
13 turer or private labeler of the component; and

14 “(B) the manufacturer or private labeler of  
15 each such component certifies that the compo-  
16 nent (including paint, electroplating, and other  
17 coatings) does not contain more lead than the  
18 limit established by section 101(a)(2) of the  
19 Consumer Product Safety Improvement Act of  
20 2008 (15 U.S.C. 1278a(a)(2)).”.

21 **SEC. 4. SUSPENSION OF ENFORCEMENT PENDING FINAL**  
22 **REGULATIONS.**

23 Notwithstanding any provision of law to the contrary,  
24 neither the Consumer Product Safety Commission nor the  
25 Attorney General of any State may initiate an enforce-  
26 ment proceeding under the Consumer Product Safety Act

1 or the Federal Hazardous Substances Act for failure to  
2 comply with the requirements of, or for violation of, the  
3 following provisions of law until 30 days after the date  
4 on which the Commission issues the referenced rule, regu-  
5 lation, or guidance:

6           (1) Section 101(a) of the Consumer Product  
7           Safety Improvement Act of 2008 (15 U.S.C. 1278a)  
8           with respect to materials, products, or parts de-  
9           scribed in subsection (b)(1), until the date on which  
10          the Commission promulgates a final rule providing  
11          the guidance required by section 101(b)(2)(B) of  
12          that Act.

13          (2) Section 101(a) of that Act with respect to  
14          certain electronic devices described in section  
15          101(b)(4) of that Act, until the date on which the  
16          Commission, by final regulation, issues the require-  
17          ments described in subparagraph (A) of section  
18          101(b)(4) and establishes the schedule described in  
19          subparagraph (A) of section 101(b)(4).

20          (3) Section 14(a) (1) or (2) of the Consumer  
21          Product Safety Act (15 U.S.C. 2063(a) (1) or (2)),  
22          until the date on which—

23                  (A) the Commission has established and  
24                  published final notice of the requirements for  
25                  accreditation of third party conformity assess-

1           ment bodies under section 14(a)(3)(B)(vi) of  
2           that Act for products to which children’s prod-  
3           uct safety rules established or revised before  
4           August 14, 2008, apply,

5                   (B) the Commission has established by  
6           final regulation requirements for the periodic  
7           audit of third party conformity assessment bod-  
8           ies under section 14(d)(1) of that Act (15  
9           U.S.C. 2063(d)(1)), or

10                   (C) the Commission has by final regulation  
11           initiated the program required by section  
12           14(d)(2)(A) of that Act (15 U.S.C.  
13           2063(d)(2)(A)) and established protocols and  
14           standards under section 14(d)(2)(B) of that Act  
15           (15 U.S.C. 2063(d)(2)(B)),

16           whichever is last.

17 **SEC. 5. WAIVER OF CIVIL PENALTY FOR INITIAL GOOD**  
18 **FAITH VIOLATION.**

19           Section 20(c) of the Consumer Product Safety Act  
20           (15 U.S.C. 2069(c)) is amended by adding at the end  
21           thereof the following: “The Commission shall waive any  
22           civil penalty under this section if the Commission deter-  
23           mines that—

24                   “(1) the violation is the first violation of section  
25           19(a) by that person; and

1           “(2) the person was acting in good faith with  
2           respect to the act or omission that constitutes the  
3           violation.”.

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