

112TH CONGRESS  
1ST SESSION

# H. R. 2715

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## AN ACT

To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, 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,*

1 **SECTION 1. LIMITATION ON LEAD IN CHILDREN'S PROD-**  
2 **UCTS.**

3 (a) PROSPECTIVE APPLICATION OF LEAD LIMIT FOR  
4 CHILDREN'S PRODUCTS.—Section 101(a) of the Con-  
5 sumer Product Safety Improvement Act of 2008 (15  
6 U.S.C. 1278a(a)) is amended by adding at the end the  
7 following:

8 “(3) APPLICATION.—Each limit set forth in  
9 paragraph (2) (except for the limit set forth in sub-  
10 paragraphs (A) and (B)) shall apply only to a chil-  
11 dren's product (as defined in section 3(a) of the  
12 Consumer Product Safety Act (15 U.S.C. 2052(a)))  
13 that is manufactured after the effective date of such  
14 respective limit.”.

15 (b) ALTERNATIVE LIMITS AND EXCEPTIONS.—Sec-  
16 tion 101(b) of such Act (15 U.S.C. 1278a(b)(1)) is  
17 amended—

18 (1) by striking paragraph (1) and inserting the  
19 following:

20 “(1) FUNCTIONAL PURPOSE EXCEPTION.—

21 “(A) IN GENERAL.—The Commission, on  
22 its own initiative or upon petition by an inter-  
23 ested party, shall grant an exception to the  
24 limit in subsection (a) for a specific product,  
25 class of product, material, or component part if

1 the Commission, after notice and a hearing, de-  
2 termines that—

3 “(i) the product, class of product, ma-  
4 terial, or component part requires the in-  
5 clusion of lead because it is not practicable  
6 or not technologically feasible to manufac-  
7 ture such product, class of product, mate-  
8 rial, or component part, as the case may  
9 be, in accordance with subsection (a) by  
10 removing the excessive lead or by making  
11 the lead inaccessible;

12 “(ii) the product, class of product,  
13 material, or component part is not likely to  
14 be placed in the mouth or ingested, taking  
15 into account normal and reasonably fore-  
16 seeable use and abuse of such product,  
17 class of product, material, or component  
18 part by a child; and

19 “(iii) an exception for the product,  
20 class of product, material, or component  
21 part will have no measurable adverse effect  
22 on public health or safety, taking into ac-  
23 count normal and reasonably foreseeable  
24 use and abuse.

1           “(B) MEASUREMENT.—For purposes of  
2           subparagraph (A)(iii), there is no measurable  
3           adverse effect on public health or safety if the  
4           exception described in subparagraph (A) will re-  
5           sult in no measurable increase in blood lead lev-  
6           els of a child. The Commission may adopt an  
7           alternative method of measurement other than  
8           blood lead levels if it determines, after notice  
9           and a hearing, that such alternative method is  
10          a better scientific method for measuring adverse  
11          effect on public health and safety.

12           “(C) PROCEDURES FOR GRANTING EXCEP-  
13          TION.—

14           “(i) BURDEN OF PROOF.—A party  
15          seeking an exception under subparagraph  
16          (A) has the burden of demonstrating that  
17          it meets the requirements of such subpara-  
18          graph.

19           “(ii) GROUNDS FOR DECISION.—In  
20          the case where a party has petitioned for  
21          an exception, in determining whether to  
22          grant the exception, the Commission may  
23          base its decision solely on the materials  
24          presented by the party seeking the excep-

1           tion and any materials received through  
2           notice and a hearing.

3           “(iii) ADMISSIBLE EVIDENCE.—In  
4           demonstrating that it meets the require-  
5           ments of subparagraph (A), a party seek-  
6           ing an exception under such subparagraph  
7           may rely on any nonproprietary informa-  
8           tion submitted by any other party seeking  
9           such an exception and such information  
10          shall be considered part of the record pre-  
11          sented by the party that relies on that in-  
12          formation.

13          “(iv) SCOPE OF EXCEPTION.—If an  
14          exception is sought for an entire product,  
15          the burden is on the petitioning party to  
16          demonstrate that the criteria in subpara-  
17          graph (A) are met with respect to every ac-  
18          cessible component or accessible material  
19          of the product.

20          “(D) LIMITATION ON EXCEPTION.—If the  
21          Commission grants an exception for a product,  
22          class of product, material, or component part  
23          under subparagraph (A), the Commission may,  
24          as necessary to protect public health or safe-  
25          ty—

1           “(i) establish a lead limit that such  
2           product, class of product, material, or com-  
3           ponent part may not exceed; or

4           “(ii) place a manufacturing expiration  
5           date on such exception or establish a  
6           schedule after which the manufacturer of  
7           such product, class of product, material, or  
8           component part shall be in full compliance  
9           with the limit established under clause (i)  
10          or the limit set forth in subsection (a).

11          “(E) APPLICATION OF EXCEPTION.—An  
12          exception under subparagraph (A) for a prod-  
13          uct, class of product, material, or component  
14          part shall apply regardless of the date of manu-  
15          facture unless the Commission expressly pro-  
16          vides otherwise.

17          “(F) PREVIOUSLY SUBMITTED PETI-  
18          TIONS.—A party seeking an exception under  
19          this paragraph may rely on materials previously  
20          submitted in connection with a petition for ex-  
21          clusion under this section. In such cases, peti-  
22          tioners must notify the Commission of their in-  
23          tent to rely on materials previously submitted.  
24          Such reliance does not affect petitioners’ obliga-  
25          tion to demonstrate that they meet all require-

1           ments of this paragraph as required by sub-  
2           paragraph (C)(i).”;

3           (2) in paragraph (2)(A), by striking “include  
4           to,” and inserting “include”; and

5           (3) by redesignating paragraph (5) as para-  
6           graph (8) and inserting after paragraph (4) the fol-  
7           lowing:

8           “(5) EXCEPTION FOR OFF-HIGHWAY VEHI-  
9           CLES.—

10           “(A) IN GENERAL.—Subsection (a) shall  
11           not apply to an off-highway vehicle.

12           “(B) OFF-HIGHWAY VEHICLE DEFINED.—  
13           For purposes of this section, the term ‘off-high-  
14           way vehicle’—

15           “(i) means any motorized vehicle—

16           “(I) that is manufactured pri-  
17           marily for use off public streets,  
18           roads, and highways;

19           “(II) designed to travel on 2, 3,  
20           or 4 wheels; and

21           “(III) that has either—

22           “(aa) a seat designed to be  
23           straddled by the operator and  
24           handlebars for steering control;  
25           or

1                   “(bb) a nonstraddle seat,  
2                   steering wheel, seat belts, and  
3                   roll-over protective structure; and

4                   “(ii) includes a snowmobile.

5                   “(6) BICYCLES AND RELATED PRODUCTS.—In  
6                   lieu of the lead limits established in subsection  
7                   (a)(2), the limits set forth for each respective mate-  
8                   rial in the notice of the Commission entitled ‘Notice  
9                   of Stay of Enforcement Pertaining to Bicycles and  
10                  Related Products’, published June 30, 2009 (74  
11                  Fed. Reg. 31254), shall apply to any metal compo-  
12                  nent part of the products to which the stay of en-  
13                  forcement described in such notice applies, except  
14                  that after December 31, 2011, the limits set forth  
15                  in such notice shall not be more than 300 parts per  
16                  million total lead content by weight for any metal  
17                  component part of the products to which such stay  
18                  pertains.

19                  “(7) EXCLUSION OF CERTAIN USED CHIL-  
20                  DREN’S PRODUCTS.—

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

24                         “(B) DEFINITION.—In this paragraph, the  
25                         term ‘used children’s product’ means a chil-

1           dren’s product (as defined in section 3(a) of the  
2           Consumer Product Safety Act (15 U.S.C.  
3           2052(a)) that was obtained by the seller for use  
4           and not for the purpose of resale or was ob-  
5           tained by the seller, either directly or indirectly,  
6           from a person who obtained such children’s  
7           product for use and not for the purpose of re-  
8           sale. Such term also includes a children’s prod-  
9           uct that was donated to the seller for charitable  
10          distribution or resale to support charitable pur-  
11          poses. Such term shall not include—

12                           “(i) children’s metal jewelry;

13                           “(ii) any children’s product for which  
14                           the donating party or the seller has actual  
15                           knowledge that the product is in violation  
16                           of the lead limits in this section; or

17                           “(iii) any other children’s product or  
18                           product category that the Commission de-  
19                           termines, after notice and a hearing.

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

1 **SEC. 2. APPLICATION OF THIRD PARTY TESTING REQUIRE-**  
2 **MENTS.**

3 (a) IN GENERAL.—Section 14(d) of the Consumer  
4 Product Safety Act (15 U.S.C. 2063(d)) is amended—

5 (1) in paragraph (2)(B)(ii), by striking “ran-  
6 dom” and inserting “representative”; and

7 (2) by adding at the end the following:

8 “(3) REDUCING THIRD PARTY TESTING BUR-  
9 DENS.—

10 “(A) ASSESSMENT.—Not later than 60  
11 days after the date of enactment of this para-  
12 graph, the Commission shall seek public com-  
13 ment on opportunities to reduce the cost of  
14 third party testing requirements consistent with  
15 assuring compliance with any applicable con-  
16 sumer product safety rule, ban, standard, or  
17 regulation. The request for public comment  
18 shall include the following:

19 “(i) The extent to which the use of  
20 materials subject to regulations of another  
21 government agency that requires third  
22 party testing of those materials may pro-  
23 vide sufficient assurance of conformity  
24 with an applicable consumer product safety  
25 rule, ban, standard, or regulation without  
26 further third party testing.

1           “(ii) The extent to which modification  
2 of the certification requirements may have  
3 the effect of reducing redundant third  
4 party testing by or on behalf of 2 or more  
5 importers of a product that is substantially  
6 similar or identical in all material respects.

7           “(iii) The extent to which products  
8 with a substantial number of different  
9 components subject to third party testing  
10 may be evaluated to show compliance with  
11 an applicable rule, ban, standard, or regu-  
12 lation by third party testing of a subset of  
13 such components selected by a third party  
14 conformity assessment body.

15           “(iv) The extent to which manufactur-  
16 ers with a substantial number of substan-  
17 tially similar products subject to third  
18 party testing may reasonably make use of  
19 sampling procedures that reduce the over-  
20 all test burden without compromising the  
21 benefits of third party testing.

22           “(v) The extent to which evidence of  
23 conformity with other national or inter-  
24 national governmental standards may pro-  
25 vide assurance of conformity to consumer

1 product safety rules, bans, standards, or  
2 regulations applicable under this Act.

3 “(vi) The extent to which technology,  
4 other than the technology already approved  
5 by the Commission, exists for third party  
6 conformity assessment bodies to test or to  
7 screen for testing consumer products sub-  
8 ject to a third party testing requirement.

9 “(vii) Other techniques for lowering  
10 the cost of third party testing consistent  
11 with assuring compliance with the applica-  
12 ble consumer product safety rules, bans,  
13 standards, and regulations.

14 “(B) REGULATIONS.—Following the public  
15 comment period described in subparagraph (A),  
16 but not later than 1 year after the date of en-  
17 actment of this paragraph, the Commission  
18 shall review the public comments and may pre-  
19 scribe new or revised third party testing regula-  
20 tions if it determines that such regulations will  
21 reduce third party testing costs consistent with  
22 assuring compliance with the applicable con-  
23 sumer product safety rules, bans, standards,  
24 and regulations.

1           “(C) REPORT.—If the Commission deter-  
2 mines that it lacks authority to implement an  
3 opportunity for reducing the costs of third-  
4 party testing consistent with assuring compli-  
5 ance with the applicable consumer product safe-  
6 ty rules, bans, standards, and regulations, it  
7 shall transmit a report to Congress reviewing  
8 those opportunities, along with any rec-  
9 ommendations for any legislation to permit  
10 such implementation.

11           “(4) SPECIAL RULES FOR SMALL BATCH MANU-  
12 FACTURERS.—

13           “(A) SPECIAL CONSIDERATION; EXEMP-  
14 TION.—

15           “(i) CONSIDERATION; ALTERNATIVE  
16 REQUIREMENTS.—Subject to subparagraph  
17 (C), in implementing third party testing  
18 requirements under this section, the Com-  
19 mission shall take into consideration any  
20 economic, administrative, or other limits  
21 on the ability of small batch manufacturers  
22 to comply with such requirements and  
23 shall, after notice and a hearing, provide  
24 alternative testing requirements for cov-  
25 ered products manufactured by small batch

1 manufacturers in lieu of those required  
2 under subsection (a) or (b). Any such al-  
3 ternative requirements shall provide for  
4 reasonable methods to assure compliance  
5 with any applicable consumer product safe-  
6 ty rule, ban, standard, or regulation. The  
7 Commission may allow such alternative  
8 testing requirements for small batch manu-  
9 facturers with respect to a specific product  
10 or product class or with respect to a spe-  
11 cific safety rule, ban, standard, or regula-  
12 tion, or portion thereof.

13 “(ii) EXEMPTION.—If the Commission  
14 determines that no alternative testing re-  
15 quirement is available or economically  
16 practicable, it shall exempt small batch  
17 manufacturers from third party testing re-  
18 quirements under subsections (a) and (b).

19 “(iii) CERTIFICATION.—In lieu of or  
20 as part of any alternative testing require-  
21 ments provided under clause (i), the Com-  
22 mission may allow certification of a prod-  
23 uct to an applicable consumer product  
24 safety rule, ban, standard, or regulation, or  
25 portion thereof, based on documentation

1 that the product complies with another na-  
2 tional or international governmental stand-  
3 ard or safety requirement that the Com-  
4 mission determines is the same or more  
5 stringent than the consumer product safety  
6 rule, ban, standard, or regulation, or por-  
7 tion thereof. Any such certification shall  
8 only be allowed to the extent of the equiva-  
9 lency with a consumer product safety rule,  
10 ban, standard, or regulation and not to  
11 any other part of the consumer product  
12 safety rule, ban, standard, or regulation.

13 “(iv) RESTRICTION.—Except as pro-  
14 vided in subparagraph (C), and except  
15 where the Commission determines that the  
16 manufacturer does not meet the definition  
17 of a small batch manufacturer, for any  
18 small batch manufacturer registered pursu-  
19 ant to subparagraph (B), the Commission  
20 may not require third party testing of a  
21 covered product by a third party con-  
22 formity assessment body until the Commis-  
23 sion has provided either an alternative  
24 testing requirement or an exemption in ac-

1 cordance with clause (i) or (ii), respec-  
2 tively.

3 “(B) REGISTRATION.—Any small batch  
4 manufacturer that utilizes alternative require-  
5 ments or an exemption under this paragraph  
6 shall register with the Commission prior to  
7 using such alternative requirements or exemp-  
8 tions pursuant to any guidelines issued by the  
9 Commission to carry out this requirement.

10 “(C) LIMITATION.—The Commission shall  
11 not provide or permit to continue in effect any  
12 alternative requirements or exemption from  
13 third party testing requirements under this  
14 paragraph where it determines, based on notice  
15 and a hearing, that full compliance with sub-  
16 section (a) or (b) is reasonably necessary to  
17 protect public health or safety. The Commission  
18 shall not provide any alternative requirements  
19 or exemption for—

20 “(i) any of the third party testing re-  
21 quirements described in clauses (i) through  
22 (v) of subsection (a)(3)(B); or

23 “(ii) durable infant or toddler prod-  
24 ucts, as defined in section 104(f) of the

1           Consumer Product Safety Improvement  
2           Act of 2008 (15 U.S.C. 2056a(f)).

3           “(D) SUBSEQUENT MANUFACTURER.—

4           Nothing in this paragraph shall be construed to  
5           affect third party testing or any other require-  
6           ments with respect to a subsequent manufac-  
7           turer or other entity that uses components pro-  
8           vided by one or more small batch manufactur-  
9           ers.

10          “(E) DEFINITIONS.—For purposes of this  
11          paragraph—

12                 “(i) the term ‘covered product’ means  
13                 a consumer product manufactured by a  
14                 small batch manufacturer where no more  
15                 than 7,500 units of the same product were  
16                 manufactured in the previous calendar  
17                 year; and

18                 “(ii) the term ‘small batch manufac-  
19                 turer’ means a manufacturer that had no  
20                 more than \$1,000,000 in total gross rev-  
21                 enue from sales of all consumer products  
22                 in the previous calendar year. The dollar  
23                 amount contained in this paragraph shall  
24                 be adjusted annually by the percentage in-  
25                 crease in the Consumer Price Index for all

1           urban consumers published by the Depart-  
2           ment of Labor.

3           For purposes of determining the total gross rev-  
4           enue for all sales of all consumer products of a  
5           manufacturer under this subparagraph, such  
6           total gross revenue shall be considered to in-  
7           clude all gross revenue from all sales of all con-  
8           sumer products of each entity that controls, is  
9           controlled by, or is under common control with  
10          such manufacturer. The Commission shall take  
11          steps to ensure that all relevant business affili-  
12          ations are considered in determining whether or  
13          not a manufacturer meets this definition.

14          “(5) EXCLUSION FROM THIRD PARTY TEST-  
15          ING.—

16                 “(A) CERTAIN PRINTED MATERIALS.—

17                         “(i) IN GENERAL.—The third party  
18                         testing requirements established under  
19                         subsection (a) shall not apply to ordinary  
20                         books or ordinary paper-based printed ma-  
21                         terials.

22                         “(ii) DEFINITIONS.—

23                                 “(I) ORDINARY BOOK.—The term  
24                                 ‘ordinary book’ means a book printed  
25                                 on paper or cardboard, printed with

1 inks or toners, and bound and fin-  
2 ished using a conventional method,  
3 and that is intended to be read or has  
4 educational value. Such term does not  
5 include books with inherent play  
6 value, books designed or intended for  
7 a child 3 years of age or younger, and  
8 does not include any toy or other arti-  
9 cle that is not a book that is sold or  
10 packaged with an ordinary book.

11 “(II) ORDINARY PAPER-BASED  
12 PRINTED MATERIALS.—The term ‘or-  
13 dinary paper-based printed materials’  
14 means materials printed on paper or  
15 cardboard, such as magazines, post-  
16 ers, greeting cards, and similar prod-  
17 ucts, that are printed with inks or  
18 toners and bound and finished using a  
19 conventional method.

20 “(III) EXCLUSIONS.—Such terms  
21 do not include books or printed mate-  
22 rials that contain components that are  
23 printed on material other than paper  
24 or cardboard or contain nonpaper-  
25 based components such as metal or

1 plastic parts or accessories that are  
2 not part of the binding and finishing  
3 materials used in a conventional  
4 method.

5 “(B) METAL COMPONENT PARTS OF BICY-  
6 CLES.—The third party testing requirements  
7 established under subsection (a) shall not apply  
8 to metal component parts of bicycles with re-  
9 spect to compliance with the lead content limits  
10 in place pursuant to section 101(b)(6) of the  
11 Consumer Product Safety Improvement Act of  
12 2008.”.

13 (b) PROHIBITED ACT.—Section 19(a)(14) of the  
14 Consumer Product Safety Act (15 U.S.C. 2068(a)(14)) is  
15 amended by striking the period and inserting “, or to sub-  
16 divide the production of any children’s product into small  
17 quantities that have the effect of evading any third party  
18 testing requirements under section 14(a)(2);”.

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

21 (a) UPDATING STANDARD.—Section 104(b) of the  
22 Consumer Product Safety Improvement Act of 2008 (15  
23 U.S.C. 2056a(b)) is amended by adding at the end the  
24 following:

1           “(4) PROCESS FOR CONSIDERING SUBSEQUENT  
2 REVISIONS TO VOLUNTARY STANDARD.—

3           “(A) NOTICE OF ADOPTION OF VOL-  
4 UNTARY STANDARD.—When the Commission  
5 promulgates a consumer product safety stand-  
6 ard under this subsection that is based, in  
7 whole or in part, on a voluntary standard, the  
8 Commission shall notify the organization that  
9 issued the voluntary standard of the Commis-  
10 sion’s action and shall provide a copy of the  
11 consumer product safety standard to the orga-  
12 nization.

13           “(B) COMMISSION ACTION ON REVISED  
14 VOLUNTARY STANDARD.—If an organization re-  
15 vises a standard that has been adopted, in  
16 whole or in part, as a consumer product safety  
17 standard under this subsection, it shall notify  
18 the Commission. The revised voluntary stand-  
19 ard shall be considered to be a consumer prod-  
20 uct safety standard issued by the Commission  
21 under section 9 of the Consumer Product Safe-  
22 ty Act (15 U.S.C. 2058), effective 180 days  
23 after the date on which the organization notifies  
24 the Commission (or such later date specified by  
25 the Commission in the Federal Register) unless,

1           within 90 days after receiving that notice, the  
2           Commission notifies the organization that it has  
3           determined that the proposed revision does not  
4           improve the safety of the consumer product cov-  
5           ered by the standard and that the Commission  
6           is retaining the existing consumer product safe-  
7           ty standard.”.

8           (b) APPLICATION OF STANDARD.—Section 104(c) of  
9           the Consumer Product Safety Improvement Act of 2008  
10          (15 U.S.C. 2056a(c)) is amended by redesignating para-  
11          graph (3) as paragraph (4) and inserting after paragraph  
12          (2) the following:

13                 “(3) APPLICATION OF ANY REVISION.—With re-  
14                 spect to any revision of the standard promulgated  
15                 under subsection (b)(1)(B) subsequent to the initial  
16                 promulgation of a standard under such subsection,  
17                 paragraph (1) shall apply only to a person that man-  
18                 ufactures or imports cribs, unless the Commission  
19                 determines that application to any other person de-  
20                 scribed in paragraph (2) is necessary to protect  
21                 against an unreasonable risk to health or safety. If  
22                 the Commission determines that application to a  
23                 person described in paragraph (2) is necessary, it  
24                 shall provide not less than 12 months for such per-  
25                 son to come into compliance.”.

1 **SEC. 4. APPLICATION OF SECTION 106 TO FDA-REGULATED**  
2 **PRODUCTS.**

3 Section 106(a) of the Consumer Product Safety Im-  
4 provement Act of 2008 (15 U.S.C. 2056b(a)) is amended  
5 by inserting “or any provision that restates or incor-  
6 porates a regulation promulgated by the Food and Drug  
7 Administration or any statute administered by the Food  
8 and Drug Administration” after “or by statute”.

9 **SEC. 5. APPLICATION OF PHTHALATES LIMIT.**

10 (a) ACCESSIBLE, PLASTICIZED COMPONENT  
11 PARTS.—Section 108 of the Consumer Product Safety Im-  
12 provement Act of 2008 (15 U.S.C. 2057c) is amended—

13 (1) by redesignating subsections (e) through (e)  
14 as subsections (e) through (g), respectively; and

15 (2) by inserting after subsection (b) the fol-  
16 lowing:

17 “(c) APPLICATION.—Effective on the date of enact-  
18 ment of this Act, subsections (a) and (b)(1) and any rule  
19 promulgated under subsection (b)(3) shall apply to any  
20 plasticized component part of a children’s toy or child care  
21 article or any other component part of a children’s toy  
22 or child care article that is made of other materials that  
23 may contain phthalates.

24 “(d) EXCLUSION FOR INACCESSIBLE COMPONENT  
25 PARTS.—

1           “(1) IN GENERAL.—The prohibitions estab-  
2           lished under subsections (a) and (b) shall not apply  
3           to any component part of a children’s toy or child  
4           care article that is not accessible to a child through  
5           normal and reasonably foreseeable use and abuse of  
6           such product, as determined by the Commission. A  
7           component part is not accessible under this para-  
8           graph if such component part is not physically ex-  
9           posed by reason of a sealed covering or casing and  
10          does not become physically exposed through reason-  
11          ably foreseeable use and abuse of the product. Rea-  
12          sonably foreseeable use and abuse shall include swal-  
13          lowing, mouthing, breaking, or other children’s ac-  
14          tivities, and the aging of the product.

15          “(2) LIMITATION.—The Commission may re-  
16          voke an exclusion or all exclusions granted under  
17          paragraph (1) at any time and require that any or  
18          all component parts manufactured after such exclu-  
19          sion is revoked comply with the prohibitions estab-  
20          lished under subsections (a) and (b) if the Commis-  
21          sion finds, based on scientific evidence, that such  
22          compliance is necessary to protect the public health  
23          or safety.

1           “(3) INACCESSIBILITY PROCEEDING.—Within 1  
2 year after the date of enactment of this subsection,  
3 the Commission shall—

4                   “(A) promulgate a rule providing guidance  
5 with respect to what product components, or  
6 classes of components, will be considered to be  
7 inaccessible for purposes of paragraph (1); or

8                   “(B) adopt the same guidance with respect  
9 to inaccessibility that was adopted by the Com-  
10 mission with regards to accessibility of lead  
11 under section 101(b)(2)(B), with additional  
12 consideration, as appropriate, of whether such  
13 component can be placed in a child’s mouth.

14           “(4) APPLICATION PENDING COMMISSION GUID-  
15 ANCE.—Until the Commission promulgates a rule  
16 pursuant to paragraph (3), the determination of  
17 whether a product component is inaccessible to a  
18 child shall be made in accordance with the require-  
19 ments laid out in paragraph (1) for considering a  
20 component to be inaccessible to a child.”.

21 **SEC. 6. AUTHORITY TO MODIFY TRACKING LABELS RE-**  
22 **QUIREMENT.**

23           Section 14(a)(5) of the Consumer Product Safety Act  
24 (15 U.S.C. 2063(a)(5)) is amended—

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

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

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

6 “(B) The Commission may, by regulation, exclude a  
7 specific product or class of products from the require-  
8 ments in subparagraph (A) if the Commission determines  
9 that it is not practicable for such product or class of prod-  
10 ucts to bear the marks required by such subparagraph.  
11 The Commission may establish alternative requirements  
12 for any product or class of products excluded under the  
13 preceding sentence consistent with the purposes described  
14 in clauses (i) and (ii) of subparagraph (A).”.

15 **SEC. 7. IMPROVED PRODUCT IDENTIFICATION FOR PUBLIC**  
16 **DATABASE.**

17 Section 6A(c) of the Consumer Product Safety Act  
18 (15 U.S.C. 2055a(c)) is amended—

19 (1) in paragraph (3)(A), by inserting “or para-  
20 graph (5)” after “paragraph (4)(A)”;

21 (2) in paragraph (4)(A), by striking “deter-  
22 mines that the information in such report or com-  
23 ment is materially inaccurate, the Commission  
24 shall—” and inserting “receives notice that the in-  
25 formation in such report or comment is materially

1 inaccurate, the Commission shall stay the publica-  
2 tion of the report on the database as required under  
3 paragraph (3) for a period of no more than 5 addi-  
4 tional days. If the Commission determines that the  
5 information in such report or comment is materially  
6 inaccurate, the Commission shall—”; and

7 (3) by adding at the end the following new  
8 paragraph:

9 “(5) OBTAINING CERTAIN PRODUCT IDENTIFI-  
10 CATION INFORMATION.—

11 “(A) IN GENERAL.—If the Commission re-  
12 ceives a report described in subsection (b)(1)(A)  
13 that does not include the model or serial num-  
14 ber of the consumer product concerned, the  
15 Commission shall seek from the individual or  
16 entity submitting the report such model or se-  
17 rial number or, if such model or serial number  
18 is not available, a photograph of the product. If  
19 the Commission obtains information relating to  
20 the serial or model number of the product or a  
21 photograph of the product, it shall immediately  
22 forward such information to the manufacturer  
23 of the product. The Commission shall make the  
24 report available in the database on the 15th  
25 business day after the date on which the Com-

1 mission transmits the report under paragraph  
2 (1) and shall include in the database any addi-  
3 tional information about the product obtained  
4 under this paragraph.

5 “(B) RULE OF CONSTRUCTION.—Nothing  
6 in this paragraph shall be construed to—

7 “(i) permit the Commission to delay  
8 transmission of the report under para-  
9 graph (1) until the Commission has ob-  
10 tained the model or serial number or a  
11 photograph of the consumer product con-  
12 cerned; or

13 “(ii) make inclusion in the database of  
14 a report described in subsection (b)(1)(A)  
15 contingent on the availability of the model  
16 or serial number or a photograph of the  
17 consumer product concerned.”.

18 **SEC. 8. SUBPOENA AUTHORITY.**

19 Section 27(b) of the Consumer Product Safety Act  
20 (15 U.S.C. 2076(b)) is amended—

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

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

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

4           “(9) to delegate to the general counsel of the  
5           Commission the authority to issue subpoenas solely  
6           to Federal, State, or local government agencies for  
7           evidence described in paragraph (3); and”;

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

11 **SEC. 9. DEADLINE FOR RULE BY CONSUMER PRODUCT**  
12                           **SAFETY COMMISSION ON STANDARDS FOR**  
13                           **ALL TERRAIN VEHICLES.**

14          The Commission shall issue the final rule described  
15          in section 42(d) of the Consumer Product Safety Act (15  
16          U.S.C. 2089(d)) not later than 1 year after the date of  
17          enactment of this Act.

18 **SEC. 10. TECHNICAL AMENDMENTS.**

19          (a) CPSA.—Section 14 of the Consumer Product  
20          Safety Act (15 U.S.C. 2063) is further amended by redesi-  
21          gnating the second subsection (d) as subsection (i).

22          (b) CPSIA.—Section 101(a)(1) of the Consumer  
23          Product Safety Improvement Act of 2008 (15 U.S.C.  
24          1278a(a)(1)) is amended by striking “(as defined in sec-  
25          tion 3(a)(16) of the Consumer Product Safety Act (15

1 U.S.C. 2052(a)(16)))” and inserting “(as defined in sec-  
2 tion 3(a) of the Consumer Product Safety Act (15 U.S.C.  
3 2052(a)))”.

4 **SEC. 11. EFFECTIVE DATE.**

5 Except as provided otherwise, the amendments made  
6 by this Act shall take effect on the date of enactment of  
7 this Act.

Passed the House of Representatives August 1,  
2011.

Attest:

*Clerk.*



112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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**H. R. 2715**

**AN ACT**

To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes.