



Government Calls "Time-Out" on CPSIA, Plenty of Questions Still Remain

For background information please read: [Will the Consumer Product Safety Improvement Act Affect You?](#)

Responding to numerous requests by industry organizations and a grass-roots onslaught of emails, phone calls, and letters to their legislators, the U.S. Consumer Product Safety Commission (CPSC) on Friday took the extraordinary step of enacting a one-year limited stay of enforcement of the Consumer Product Safety Improvement Act or CPSIA. The law, passed last August, enacted stringent new testing and certification requirements for total lead content and phthalates limits on children's items and was to go into effect February 10, 2009. "The action we are taking today puts in place a limited 'time-out' so that the Commission and the Congress can address the issues with the law that have become so painfully apparent," Nancy Nord, the Commission's acting chairwoman, said in a written statement.

Nord went on to say, "The stay of enforcement provides some temporary, limited relief to the crafters, children's garment manufacturers and toy makers who had been subject to the testing and certification required under the CPSIA. These businesses will not need to issue certificates based on testing of their products until additional decisions are issued by the Commission. However, all businesses, including, but not limited to, handmade toy and apparel makers, crafters and home-based small businesses, must still be sure that their products conform to all safety standards and similar requirements, including the lead and phthalates provisions of the CPSIA."

A reprieve of sorts:

Although the stay of enforcement removes the specter of rendering inventories of toys, books, garments and other children's items valueless after February 10th, there still remain plenty of questions concerning testing and certification requirements. On the one hand, the stay gives the Commission extra time to set guidelines for testing children's products and also gives businesses temporary relief from paying for some testing. But it raises questions as to how retailers will know whether the children's products they sell now meet the federal lead standards, since the Commission also said Friday that retailers can't sell items if they don't meet the new standards. So in reality, much of the confusion over the law and its effects remain.

When issuing the stay on Friday the CPSC pointed out that although manufacturers will not need to prove compliance with lead and phthalates limits, retailers will still be held liable if their merchandise exceeds those limits. And, without testing, retailers will have no way to assure compliance. Given the confusion surrounding this element of the stay, it's hopeful and likely Congress will take action this week to make the necessary statutory changes to halt the February 10th effective date giving the CPSC sufficient time to complete and issue comprehensive regulations on the many outstanding issues.

The Congressional finger pointing begins with some promise of sanity as lawmakers address important issues:

When the CPSIA came up for a vote last August, elected representatives were falling over themselves to show how concerned they were for protecting America's children by passing the legislation with little debate and no concern or understanding how CPSIA would affect small businesses. The poorly written law passed overwhelmingly in both houses with votes of 89-3 in the Senate and an incredible 424-1 margin in the House. Faced with a groundswell of confusion, panic, misinformation concerning CPSIA and an outcry that hundreds of thousands of small businesses will be harmed, many politicians are running for cover while Congress and the Commission are trading assertions of who's more responsible for the murk surrounding the new law. The legislation's co-sponsor Rep. Henry Waxman of California described the "confusion and misinformation" over the law in a Jan. 16 letter that he, the law's other co-sponsor, Rep. Bobby Rush of Illinois, and two other lawmakers wrote to the commission. "It is the fundamental responsibility of the Commission to interpret and carry out the CPSIA," they wrote. "We urge you to demonstrate greater leadership in fulfilling that responsibility, and to do so with great urgency as we approach the February 10 deadline." But one has to wonder why Waxman himself didn't do more to repeal or rework the law he helped create. And in their defense the Commission said Congress limited exemptions and imposed an unrealistic deadline with no new funding to hire more scientists and lawyers to handle the issues involved.

Providing a more constructive approach, Rep. Joe Barton of Texas has asked Rep. Waxman to hold a hearing on the dispute saying, "Surely no one expected or wanted to drive thousands of home-based and small businesses out of operation." And on Friday, Senator Jim DeMint of South Carolina said that he would introduce legislation this week to reform the CPSIA and "better balance the need for safety with a common-sense business approach." His proposed legislation would allow small manufacturers to comply by using the testing and certification that their component suppliers have done, rather than having to test final products.

For Catholic stores and suppliers, the stay enacted on Friday does not solve the problem of complying with CPSIA, but it does allow for some much needed breathing room to address the many issues surrounding the law. The delay gives our businesses much needed time to fully understand and comply with this complicated new product safety law. It also allows our lawmakers time to provide some common sense amendments and realistic guidance for businesses while providing for the necessary protection of our children.

CMN members are urged to contact the offices of both Congressman Waxman and your particular state representatives letting them know your concerns over the implementation of CPSIA. You can access a list of your state senators and congressman along with their contact information by [clicking here](#).

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