

Public Law 98-491
98th Congress

An Act

To enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children.

Oct. 17, 1984
[H.R. 5818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Toy Safety Act of 1984".

Toy Safety Act of
1984.
Hazardous
materials.
15 USC 1261
note.

SEC. 2. (a) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting immediately after subsection (b) the following:

"(c)(1) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that notification is required to protect adequately the public from such toy or article, the Commission may order the manufacturer or any distributor or dealer of such toy or article to take any one or more of the following actions:

"(A) To give public notice that such defective toy or article contains a defect which creates a substantial risk of injury to children.

"(B) To mail such notice to each person who is a manufacturer, distributor, or dealer of such toy or article.

"(C) To mail such notice to every person to whom the person giving notice knows such toy or article was delivered or sold. An order under this paragraph shall specify the form and content of any notice required to be given under the order.

"(2) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that action under this paragraph is in the public interest, the Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

"(A) If repairs to or changes in the toy or article can be made so that it will not contain a defect which creates a substantial risk of injury to children, to make such repairs or changes.

“(B) To replace such toy or article with a like or equivalent toy or article which does not contain a defect which creates a substantial risk of injury to children.

“(C) To refund the purchase price of such toy or article (less a reasonable allowance for use, if such toy or article has been in the possession of the consumer for 1 year or more (i) at the time of public notice under paragraph (1)(A), or (ii) at the time the consumer receives actual notice that the toy or article contains a defect which creates a substantial risk of injury to children, whichever first occurs).

An order under this paragraph may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the person to whom refunds must be made if the person to whom the order is directed elects to take the action described in subparagraph (C). If an order under this paragraph is directed to more than one person, the Commission shall specify which person has the election under this paragraph. An order under this paragraph may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the toy or article with respect to which the order was issued.”

Prohibition.

19 USC 1202.

Ante, p. 2269.

(b) Section 15(d)(1) of the Federal Hazardous Substances Act, as so redesignated by subsection (a) of this section, is amended by striking “subsection (b)” and inserting in lieu thereof “subsection (b) or (c)”.

(c) Section 15(d)(2) of such Act, as so redesignated by subsection (a) of this section, is amended—

(1) by striking “an article” and inserting in lieu thereof “a toy, article”; and

(2) by inserting “toy,” immediately before “article” the second and third time it appears.

(d) Section 15 (d)(2) and (e) of such Act, as so redesignated by subsection (a) of this section, is amended by striking “subsection (a) or (b)” and inserting in lieu thereof “subsection (a), (b), or (c)”.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5818 (S. 2650):

HOUSE REPORT No. 98-895 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-591 accompanying S. 2650 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 6, considered and passed House.

Sept. 12, S. 2650 considered and passed Senate.

Oct. 3, considered and passed Senate, amended; House concurred in Senate amendments.