

Consumer Products Safety Commission Denies NAM Petition to Delay Child Safety Labeling

A Nightmare for Manufacturers? CPSIA Continues March Forward, Regardless of Logic

SCDigest Editorial Staff

In a blow to many manufacturers, the Consumer Products Safety Commission denied this week a petition by the National Association of Manufacturers (NAM) for at least a one year delay in a planned labeling requirement for children's products that Congress ordered in the Consumer Product Safety Improvement Act of 2008.

Acting Chairman Nancy Nord voted last week to approve NAM's request, while Commissioner Thomas Moore voted to deny it. The split vote meant the petition would be denied.

In a public statement, NAM said that "Changes in product processes, including changes in labeling requirements for packaging and products, usually take at least a year in many sectors in order to assure smooth execution."

NAM adds that "Already, confusion and uncertainty about the CPSIA's provisions have become a nightmare for many manufacturers. Businesses just want clear guidance, flexibility and sufficient time to implement the new rules. If the CPSC cannot implement the law in a reasonable way, then Congress must amend it."

The new law calls for any product targeted even in part for consumers 12 years old and younger to have attach labels that would identify the name and location of the manufacturer, plus production number, batch number or other identifying characteristics.

A huge number of products, way beyond just toys, will fall under the requirement, though the 2007 issues with toy recalls such as that of Mattel were cer-

On Feb. 10, it became unlawful to ship goods for sale that have not been tested per the law – and strict penalties for those who do not comply. Penalties can include felony prison time and fines of \$100,000. Eventually, new products will all have to be subjected to more stringent "third-party" testing.

tainly the driver of the legislation. Categories can include books, furniture, clothing, diapers, educational materials, backpacks and many more.

The labeling requirements are actually just one part of very broad legislation aimed at improving child safety, especially for products manufactured offshore. In addition to the labeling requirements, the law also requires a battery of testing and certification steps. These requirements will be costly and burdensome even for large manufacturers or retailers. Many have said they are simply beyond the reach of many medium and small companies, who either will simply ignore the requirements and hope they are not caught, stop producing/sourcing that line of products, or in some cases even go out of business.

On Feb. 10, it became unlawful to ship goods for sale that have not been tested per the law – and strict penalties for those who do not comply. Pen-

Consumer Products Safety Commission Denies NAM Petition to Delay Child Safety Labeling (Con't)

alties can include felony prison time and fines of \$100,000. Eventually, new products will all have to be subjected to more stringent "third-party" testing, and it will be unlawful to give away untested inventory even for free.

While supported by many consumer products organizations and others opposed generally to offshoring, NAM argues that the law has an "overly-broad reach" that will "cause unintended harm to consumers and businesses alike by applying the same criteria to a wide range of products, regardless of their intended use."

NAM argues that millions of safe products have been already destroyed, costing manufacturers some \$3 billion in losses.

It notes, for example, that "youth model ATVs and dirt bikes are no longer available because of their lead content, even though they pose no risk of lead poisoning to riders," as among many consequences that are bad for manufacturers and consumers. Because many of the provisions were retroactive, million of products are waiting

in storage warehouses for return or destruction that have no need to be destroyed.



"CPSIA is now shaping up as a calamity for businesses and an epic failure of regulation, threatening to wipe out tens of thousands of small makers of children's items from coast to coast, and taking a particular toll on the handcrafted and creative, the small-production-run and sideline at-home business, not to mention struggling retailers," Walter Olson a senior fellow at the Manhattan Institute, recently observed.

However, hope for some reprieve is fading, as last week's Commission ruling indicates, combined with the fact that there appears to be relatively little sympathy in Congress for a delay or a reconsideration.