

112TH CONGRESS
1ST SESSION

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.

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.

112TH CONGRESS
1ST SESSION

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.