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Published on 01/08/2008

http://www.ombwatch.org/article/articleview/4131/1/{category_id}

Congress Limp Toward Product Safety Reform

Despite a record number of consumer product recalls in 2007, Congress adjourned in December without agreeing on legislation to restore the federal government's safety system. The House passed new legislation that would vastly improve the Consumer Product Safety Commission's (CPSC) ability to regulate unsafe products. Weaker Senate legislation was blocked by a lack of bipartisan agreement.

The House bill, [H.R. 4040](#), passed Dec. 19, 2007, and includes numerous provisions that would enhance CPSC's authority to regulate the more than 15,000 products under its jurisdiction and ban industry-funded travel. In addition, the bill would:

- lower the levels of lead permitted in consumer products generally and especially lower lead levels in children's products;
- require independent third party testing of children's products;
- modify CPSC's procedures for issuing safety regulations;
- modify CPSC's public disclosure procedures as well as manufacturers' procedures for notifying the public about defective products; and
- authorize increased appropriations for both CPSC activities and for capital improvements to its research and testing facility.

The companion bill in the Senate, [S. 2045](#), is not as extensive as the House bill. It excludes the travel ban and appropriates less money in the short term for CPSC activities. According to a Dec. 12, 2007, [Washington Post article](#), there was not a single Republican sponsor for the legislation in the Senate, although there are negotiations to find a compromise. The article quotes the sponsor of the bill, Sen. Mark Pryor (D-AR), as saying he is close to having a bipartisan compromise that would allow the Senate to take up the bill early in 2008. Both the Bush White House and the toy industry oppose some of the provisions in the Senate bill, so it is unclear if Pryor will be able to move the bill quickly.

Both consumer advocates and the toy industry were disappointed in Congress's inability to pass legislation. According to the *Post* story, the toy industry needs to have clarity about regulatory requirements by March or April because that is when toy manufacturers begin to finalize orders for the 2008 holiday season. The president of the Toy Industry Association, Carter Keithley, is quoted as saying, "Having legislation would provide [manufacturers] clarity as to what's required and give the public confidence."

Even if legislation passes both houses of Congress and President Bush signs a bill, there is no guarantee that consumers will be safer from the products they buy. Increased civil penalties, better notice and disclosure of product recalls, and an expanded CPSC will not achieve better consumer protections unless the agency wants to improve its performance. In a [strongly worded op-ed](#) published in the *Post* Dec. 23, 2007, a former CPSC statistician, Robin Ingle, argued that the agency "has lost the will to perform the function it was created for in 1972."

Appropriate public protections can only be built upon research, but over the last decade, the author writes, the agency has reduced vital research. For example, when she collected

statistics on injuries and fatalities from all-terrain vehicle (ATV) accidents, the results indicated that in 2004, deaths and injuries were at a 20-year high. The general counsel at the agency tried to insert language into the executive summary of her report indicating the risk of riding these vehicles was decreasing. The general counsel at the time had been a lawyer for the ATV industry.

The author provides two other examples of either products CPSC chose not to regulate or research indicating product dangers it chose not to release because the costs of buying those products would have increased slightly. She concludes the op-ed with this suggestion for improving the CPSC:

It's easy to be outraged because the agency has allowed dangerous products to be imported from China, or because its chairman has taken trips paid for by the industries she regulates. But it's important to look more closely at CPSC and ask what really drives it and what currency it deals in. The agency was formed for one reason: to save lives. People of all ages die every day in incidents associated with some of the 15,000 products that it's meant to oversee. The agency should listen to its own scientists and stop silencing the life-saving research happening in its buildings.