



# CPSIA

Consumer Product Safety  
Improvement Act of 2008



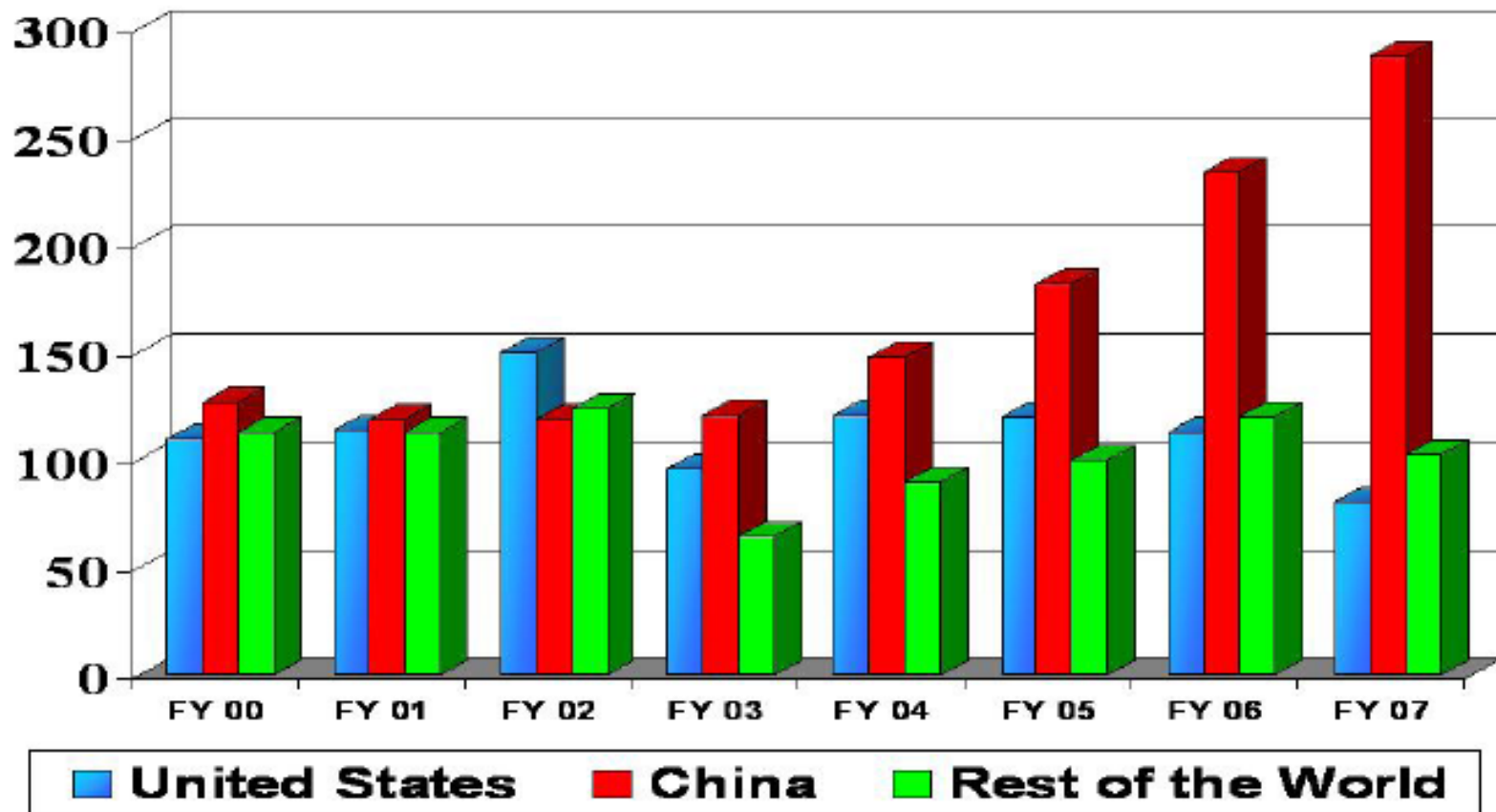
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# Increasing Hazard

## CPSC Recalls by Product Origin





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# Legislation

- H. R. 4040
- Cited as the “Consumer Product Safety Improvement Act of 2008”
- To establish consumer product safety standards and other safety requirements for children’s products and to reauthorize and modernize the Consumer Product Safety Commission



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# CPSIA Summary I

- Signed 14-Aug-2008
- Lead will be essentially eliminated from toys and children's products
- Toxic phthalates will be banned from children's products
- Mandatory 3<sup>rd</sup> party (registered) testing of toys and other children's products required before they are sold



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# CPSIA Summary II

- State Attorneys General will have the necessary authority to enforce product safety laws
- CPSC has the authority to levy more significant civil penalties against violators of its safety regulations, which will help deter wrongdoing
- Whistleblowers will be granted important protections
- CPSC will receive substantial increases in its resources
  - Including its staffing levels, its laboratory and computer resources and its various authorities to conduct recalls and take other action



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# Consumer Product

- Any article, or component part thereof, produced or distributed:
  - For sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or
  - For the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise...





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# Toy

- Consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays
- Does NOT include hobby, craft, art materials, sporting goods, camping, and musical instruments
  - However, toy versions of these actual products are considered toys



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# Age Grading

- Physical skills: Can the child manipulate and play with the features of the toy as it was designed?
- Understanding: Can the child understand how to use the toy?
- Interest: Is the toy of interest to a child of a particular age?
- Safety: Is the toy safe for a child at this particular stage?





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# Conformity Certification

- CPSIA increases the range of products that require testing and certification
  - Certification must be based on a test of the product or a “reasonable testing program”
  - General certification requirement is sometimes called a “supplier’s declaration of conformity”
- Third-party toy testing mandatory
  - Every manufacturer (including an importer) or private labeler of a children’s product must have its product tested by an accredited independent testing lab
  - Deadline 12-Nov-2008
  - ASTM F963 now applies
    - Previously voluntary



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# Laboratory Accreditation

- Laboratories must be accredited to 16 CFR 1303
  - Lead paint
  - Cribs
  - Small parts
  - Etc.
- CPSC to maintain Internet website with entities that have been accredited to assess conformity with children's product safety rules



# Lead

- Toxic if ingested and can cause adverse health effects
- In general populations, lead may be present in hazardous concentrations in food, water, and air
- Sources include paint, urban dust, and folk remedies
- Lead poisoning is the leading environmentally induced illness in children
- At greatest risk are children under the age of six because they are undergoing rapid neurological and physical development



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# Lead Contents

- Amount of lead in children's products are phased in over the course of three years
- Product designed or intended primarily for children 12 and younger may not contain more than **600 ppm** of lead
  - Deadline 10-Feb-2009
  - Products that contain more lead are banned
    - Sale of products can result in significant civil and criminal liability
  - Paint, coatings or electroplating may not be considered a barrier
- FYI: RoHS lead limit is 1000-ppm



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# Lead Contents

- Products designed or intended primarily for children 12 and younger cannot contain more than **300 ppm** of lead
  - Deadline 14-Aug-2009
- The limit goes down to **100 ppm** after three years
  - Deadline 14-Aug-2011
- Children's products may be exempted or excused from these new lead limits if a component part containing lead is inaccessible
  - Rules expected in 2009



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# Lead Paint

- Consumer product paint and similar surface-coating materials must be reduced from 600 ppm to 90 ppm
  - Deadline 14-Aug-2009





# Phthalates

- Used in many common consumer products
  - To soften plastics in children's toys
  - Sealants and adhesives in nail polish
  - Perfumes and air fresheners
- Known to interfere with production of the male hormone, testosterone
- Associated with reproductive abnormalities
- Also been associated with allergic symptoms and asthma



# Phthalates

- Unlawful to sell, distribute, or import any children's toy or child care article that contains concentrations of more than 0.1% of
  - Di-(2-ethylhexyl) phthalate (DEHP)
  - Dibutyl phthalate (DBP)
  - Benzyl butyl phthalate (BBP)
- Deadline 10-Feb-2009



# Placed in Mouth

- Unlawful: Any children's toy that can be placed in a child's mouth or child care article that contains concentrations of more than 0.1 percent of
  - Diisononyl phthalate (DINP)
  - Diisodecyl phthalate (DIDP)
  - Di-n-octyl phthalate (DnOP)
- Deadline 10-Feb-2009
- If any dimension  $< 5$ -cm, it fits in mouth



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# Replacing Phthalates

- Manufacturers must use the least toxic alternatives when replacing phthalates
  - Must not use carcinogens or reproductive toxicants that cause birth defects or developmental harm as defined by the U.S. Environmental Protection Agency or the California Safe Drinking Water Act



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# Labeling

- Manufacturers must have a tracking label or other distinguishing permanent mark on any consumer product primarily intended for children twelve and younger
  - Deadline 14-Aug-2009
  - Includes source of the product, the date of manufacture, and more detailed information on the manufacturing process such as a batch or run number



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# Labeling-Advertising

- Packaging for certain toys and games intended for use by children is required to contain a label, or cautionary statement, regarding choking hazards
  - Deadline 10-Feb-2009
  - Advertising for these products which provide a direct means of purchase or order of the product must contain an appropriate cautionary statement
    - Manufacturers, importers, distributors, or private labelers, of such products must inform retailers if a cautionary statement is required





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# Supply Chain ID

- Expands the inspection and recordkeeping requirements on importers, retailers, and distributors of consumer products by requiring the identification of the manufacturer of a product by name and address
- Requires manufacturers to keep records of each retailer or distributor that has been given a consumer product and the subcontractors used in the manufacture of the product
  - Deadline 14-Aug-2008 (now effective)



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# Stockpiling Prohibited

- CPSIA prohibits manufacturing or importing a consumer product in advance of the effective date of a new product safety rule at a rate greater than the rate at which that product was produced or imported prior to the promulgation of that rule



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# Preemption of State Laws

- Does not preempt California Proposition 65
- New lead limits for lead paint, lead content, and new provisions on phthalates preempt state law
- Mandating the voluntary toy standard ASTM F963 as a mandatory consumer product safety standard is also preemptive
  - Congress has provided a mechanism to grandfather in certain existing state laws on toy safety



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# Wrap Up

- Questions
- Answers
- Discussion
- Thank you!