

child-resistance requirements for closures on portable gasoline containers specified in the standard ASTM F2517-05, issued by ASTM International.

“(c) DEFINITION.—As used in this Act, the term ‘portable gasoline container’ means any portable gasoline container intended for use by consumers.

“(d) REVISION OF RULE.—If, after the enactment of this Act, ASTM International proposes to revise the child resistance requirements of ASTM F2517-05, ASTM International shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 60 days of such notice, the Commission notifies ASTM International that the Commission has determined that such revision does not carry out the purposes of subsection (b).

“(e) IMPLEMENTING REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section, and sections 7 and 9 of the Consumer Product Safety Act [15 U.S.C. 2056, 2058] shall not apply to such issuance.

“(f) REPORT.—Not later than 2 years after the date of enactment of this Act [July 17, 2008], the Consumer Product Safety Commission shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

- “(1) the degree of industry compliance with the standard promulgated under subsection (a);
- “(2) any enforcement actions brought by the Commission to enforce such standard; and
- “(3) incidents involving children interacting with portable gasoline containers (including both those that are and are not in compliance with the standard promulgated under subsection (a)).”

AUTOMATIC GARAGE DOOR OPENERS

Section 203 of Pub. L. 101-608 provided that:

“(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act [15 U.S.C. 2058].

“(b) REQUIREMENTS.—

“(1) Effective on and after January 1, 1991, each automatic residential garage door opener manufactured on or after that date for sale in the United States shall conform to the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, as revised May 4, 1988.

“(2)(A) Effective on and after January 1, 1993, all residential automatic garage door openers manufactured on and after such date for sale in the United States shall conform to any additional entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, which were issued after the date of the enactment of this Act [Nov. 16, 1990] to become effective on or before January 1, 1993.

“(B) If, by June 1, 1992, the Underwriters Laboratories, Inc., has not issued a revision to the May 4, 1988, Standards for Safety—UL 325, third edition, to require an entrapment protection feature or device in addition to that required by the May 4, 1988, Standard, the Consumer Product Safety Commission shall begin a rulemaking proceeding, to be completed no later than October 31, 1992, to require an additional such feature or device on all automatic residential garage door openers manufactured on or after January 1, 1993, for sale in the United States. If such a revision is issued by the Underwriters Laboratories, Inc. after the rulemaking has commenced, the rulemaking shall be terminated and the revision shall be incorporated in the consumer product safety rule under subsection (a) unless the Commission has de-

termined under subsection (c) that such revision does not carry out the purposes of subsection (b).

“(c) REVISION OF RULE.—If, after June 1, 1992, or the date of a revision described in subsection (b)(2)(B) if later, the Underwriters Laboratories, Inc. proposes to further revise the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, the Laboratories shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 30 days of such notice, the Commission notifies the Laboratories that the Commission has determined that such revision does not carry out the purposes of subsection (b).

“(d) LABELING.—On and after January 1, 1991, a manufacturer selling or offering for sale in the United States an automatic residential garage door opener manufactured on or after January 1, 1991, shall clearly identify on any container of the system and on the system the month or week and year the system was manufactured and its conformance with the requirements of subsection (b). The display of the UL logo or listing mark, and compliance with the date marking requirements of UL 325, on both the container and the system, shall satisfy the requirements of this subsection.

“(e) NOTIFICATION.—Effective on and after July 1, 1991, all manufacturers of automatic residential garage door openers shall, in consultation with the Consumer Product Safety Commission, notify the public of the potential for entrapment by garage doors equipped with automatic garage door openers and advise the public to test their openers for the entrapment protection feature or device required by subsection (b).

“(f) PREEMPTION.—In applying section 26(a) of the Consumer Product Safety Act (15 U.S.C. 2075) [15 U.S.C. 2075(a)] with respect to the consumer product safety rule of the Consumer Product Safety Commission under subsection (a), only those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule provides shall be subject to such section.

“(g) REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section and sections 7 and 9 of the Consumer Product Safety Act [15 U.S.C. 2056, 2058] do not apply to such issuance. Any additional or revised requirement issued by the Commission shall provide an adequate degree of protection to the public.

“(h) CONSTRUCTION.—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law.”

§ 2056a. Standards and consumer registration of durable nursery products

(a) Short title

This section may be cited as the “Danny Keysar Child Product Safety Notification Act”.

(b) Safety standards

(1) In general

The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products; and

(B) in accordance with section 553 of title 5, promulgate consumer product safety standards that—

- (i) are substantially the same as such voluntary standards; or
- (ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

(2) Timetable for rulemaking

Not later than 1 year after August 14, 2008, the Commission shall commence the rulemaking required under paragraph (1) and shall promulgate standards for no fewer than 2 categories of durable infant or toddler products every 6 months thereafter, beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the standards set forth under this subsection to ensure that such standards provide the highest level of safety for such products that is feasible.

(3) Judicial review

Any person adversely affected by such standards may file a petition for review under the procedures set forth in section 2060(g) of this title, as added by section 236 of this Act.

(4) Process for considering subsequent revisions to voluntary standard

(A) Notice of adoption of voluntary standard

When the Commission promulgates a consumer product safety standard under this subsection that is based, in whole or in part, on a voluntary standard, the Commission shall notify the organization that issued the voluntary standard of the Commission's action and shall provide a copy of the consumer product safety standard to the organization.

(B) Commission action on revised voluntary standard

If an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. The revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 2058 of this title, effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

(c) Cribs

(1) In general

It shall be a violation of section 2068(a)(1) of this title for any person to which this sub-

section applies to manufacture, sell, contract to sell or resell, lease, sublet, offer, provide for use, or otherwise place in the stream of commerce a crib that is not in compliance with a standard promulgated under subsection (b).

(2) Persons to which subsection applies

This subsection applies to any person that—

- (A) manufactures, distributes in commerce, or contracts to sell cribs;
- (B) based on the person's occupation, holds itself out as having knowledge or skill peculiar to cribs, including child care facilities and family child care homes;
- (C) is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or
- (D) owns or operates a place of public accommodation affecting commerce (as defined in section 2203 of this title applied without regard to the phrase "not owned by the Federal Government").

(3) Application of any revision

With respect to any revision of the standard promulgated under subsection (b)(1)(B) subsequent to the initial promulgation of a standard under such subsection, paragraph (1) shall apply only to a person that manufactures or imports cribs, unless the Commission determines that application to any other person described in paragraph (2) is necessary to protect against an unreasonable risk to health or safety. If the Commission determines that application to a person described in paragraph (2) is necessary, it shall provide not less than 12 months for such person to come into compliance.

(4) Crib defined

In this subsection, the term "crib" includes—

- (A) new and used cribs;
- (B) full-sized or nonfull-sized cribs; and
- (C) portable cribs and crib-pens.

(d) Consumer registration requirement

(1) Rulemaking

Notwithstanding any provision of chapter 6 of title 5 or the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), not later than 1 year after August 14, 2008, the Commission shall, pursuant to its authority under section 2065(b) of this title, promulgate a final consumer product safety rule to require each manufacturer of a durable infant or toddler product—

- (A) to provide consumers with a postage-paid consumer registration form with each such product;
- (B) to maintain a record of the names, addresses, e-mail addresses, and other contact information of consumers who register their ownership of such products with the manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and
- (C) to permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.

(2) Requirements for registration form

The registration form required to be provided to consumers under paragraph (1) shall—

(A) include spaces for a consumer to provide the consumer's name, address, telephone number, and e-mail address;

(B) include space sufficiently large to permit easy, legible recording of all desired information;

(C) be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

(D) include the manufacturer's name, model name and number for the product, and the date of manufacture;

(E) include a message explaining the purpose of the registration and designed to encourage consumers to complete the registration;

(F) include an option for consumers to register through the Internet; and

(G) include a statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

In issuing regulations under this section, the Commission may prescribe the exact text and format of the required registration form.

(3) Record keeping and notification requirements

The rules required under this section shall require each manufacturer of a durable infant or toddler product to maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered, and to use such information to notify such consumers in the event of a voluntary or involuntary recall of or safety alert regarding such product. Each manufacturer shall maintain such a record for a period of not less than 6 years after the date of manufacture of the product. Consumer information collected by a manufacturer under this Act may not be used by the manufacturer, nor disseminated by such manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

(4) Study

The Commission shall conduct a study at such time as it considers appropriate on the effectiveness of the consumer registration forms required by this section in facilitating product recalls and whether such registration forms should be required for other children's products. Not later than 4 years after August 14, 2008, the Commission shall report its findings to the appropriate Congressional committees.

(e) Use of alternative recall notification technology

(1) Technology assessment and report

The Commission shall—

(A) beginning 2 years after a rule is promulgated under subsection (d), regularly review recall notification technology and assess the effectiveness of such technology in facilitating recalls of durable infant or toddler products; and

(B) not later than 3 years after August 14, 2008, and periodically thereafter as the Commission considers appropriate, transmit a report on such assessments to the appropriate Congressional committees.

(2) Determination

If, based on the assessment required by paragraph (1), the Commission determines by rule that a recall notification technology is likely to be as effective or more effective in facilitating recalls of durable infant or toddler products as the registration forms required by subsection (d), the Commission—

(A) shall submit to the appropriate Congressional committees a report on such determination; and

(B) shall permit a manufacturer of durable infant or toddler products to use such technology in lieu of such registration forms to facilitate recalls of durable infant or toddler products.

(f) Definition of durable infant or toddler product

As used in this section, the term “durable infant or toddler product”—

(1) means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(2) includes—

(A) full-size cribs and nonfull-size cribs;

(B) toddler beds;

(C) high chairs, booster chairs, and hook-on chairs;

(D) bath seats;

(E) gates and other enclosures for confining a child;

(F) play yards;

(G) stationary activity centers;

(H) infant carriers;

(I) strollers;

(J) walkers;

(K) swings; and

(L) bassinets and cradles.

(Pub. L. 110-314, title I, §104, Aug. 14, 2008, 122 Stat. 3028; Pub. L. 112-28, §3, Aug. 12, 2011, 125 Stat. 279.)

REFERENCES IN TEXT

Section 2060(g) of this title, as added by section 236 of this Act, referred to in subsec. (b)(3), is section 2060(g) of this title, as added by section 236 of Pub. L. 110-314.

The Paperwork Reduction Act of 1980, referred to in subsec. (d)(1), is Pub. L. 96-511, Dec. 11, 1980, 94 Stat. 2812, which was classified principally to chapter 35 (§3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

This Act, referred to in subsec. (d)(3), is Pub. L. 110-314, Aug. 14, 2008, 122 Stat. 3016, known as the Consumer Product Safety Improvement Act of 2008. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 2051 of this title and Tables.

CODIFICATION

Section was enacted as part of the Consumer Product Safety Improvement Act of 2008, and not as part of the Consumer Product Safety Act which comprises this chapter.

AMENDMENTS

2011—Subsec. (b)(4). Pub. L. 112-28, §3(a), added par. (4).

Subsec. (c)(3), (4). Pub. L. 112-28, §3(b), added par. (3) and redesignated former par. (3) as (4).

DEFINITIONS

For definitions of “Commission” and “appropriate Congressional committees” used in this section, see section 2(a) of Pub. L. 110-314, set out as a note under section 2051 of this title.

§ 2056b. Mandatory toy safety standards**(a) In general**

Beginning 180 days after August 14, 2008, the provisions of ASTM International Standard F963-07 Consumer Safety Specifications for Toy Safety (ASTM F963), as it exists on August 14, 2008 (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute or any provision that restates or incorporates a regulation promulgated by the Food and Drug Administration or any statute administered by the Food and Drug Administration) shall be considered to be consumer product safety standards issued by the Commission under section 2058 of this title.

(b) Rulemaking for specific toys, components and risks**(1) Evaluation**

Not later than 1 year after August 14, 2008, the Commission, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, shall examine and assess the effectiveness of ASTM F963 or its successor standard (except for section 4.2 and Annex 4), as it relates to safety requirements, safety labeling requirements, and test methods related to—

- (A) internal harm or injury hazards caused by the ingestion or inhalation of magnets in children’s products;
- (B) toxic substances;
- (C) toys with spherical ends;
- (D) hemispheric-shaped objects;
- (E) cords, straps, and elastics; and
- (F) battery-operated toys.

(2) Rulemaking

Within 1 year after the completion of the assessment required by paragraph (1), the Commission shall promulgate rules in accordance with section 553 of title 5 that—

- (A) take into account other children’s product safety rules; and
- (B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury of such toys.

(c) Periodic review

The Commission shall periodically review and revise the rules set forth under this section to ensure that such rules provide the highest level of safety for such products that is feasible.

(d) Consideration of remaining ASTM standards

After promulgating the rules required by subsection (b), the Commission shall—

(1) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of ASTM F963 (and alternative health protective requirements to prevent or minimize flammability of children’s products) or its successor standard, and shall assess the adequacy of such standards in protecting children from safety hazards; and

(2) in accordance with section 553 of title 5, promulgate consumer product safety rules that—

(A) take into account other children’s product safety rules; and

(B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such toys.

(e) Prioritization

The Commission shall promulgate rules beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories.

(f) Treatment as consumer product safety standards

Rules issued under this section shall be considered consumer product safety standards issued by the Commission under section 2058 of this title.

(g) Revisions

If ASTM International (or its successor entity) proposes to revise ASTM F963-07, or a successor standard, it shall notify the Commission of the proposed revision. The Commission shall incorporate the revision or a section of the revision into the consumer product safety rule. The revised standard shall be considered to be a consumer product safety standard issued by the Consumer Product Safety Commission under section 2058 of this title, effective 180 days after the date on which ASTM International notifies the Commission of the revision unless, within 90 days after receiving that notice, the Commission notifies ASTM International that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. If the Commission so notifies ASTM International with respect to a proposed revision of the standard, the existing standard shall continue to be considered to be a consumer product safety rule without regard to the proposed revision.

(h) Rulemaking to consider exemption from preemption**(1) Exemption of State law from preemption**

Upon application of a State or political subdivision of a State, the Commission shall, after notice and opportunity for oral presentation of views, consider a rulemaking to exempt from the provisions of section 2075(a) of this title (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a chil-