

# United States Senate

WASHINGTON, DC 20510-2202

January 15, 2009

The Honorable John D. Rockefeller  
Chairman, Committee on Commerce,  
Science, and Transportation  
Washington DC 20510

The Honorable Mark L. Pryor  
Chairman, Subcommittee on  
Consumer Affairs  
Washington, DC 20510

Dear Chairmen Rockefeller and Pryor:

I write regarding the implementation of the Consumer Product Safety Improvement Act (CPSIA) and concerns that have been brought to my attention by a number of Michigan companies. Based on the large number of news organizations reporting on this issue, I suspect you have also been hearing from companies in your states and other states expressing similar concerns.

We all agree that it is of the utmost importance to protect our children's health and safety by banning lead and phthalates from children's products, as demonstrated by the widespread support in Congress of H.R. 4040. Given the current lack of resources at the Consumer Product Safety Commission (CPSC), however, I am concerned that the effort to protect our children from dangerous substances has had some unintended consequences including harming small companies that that Act was not aimed at in the first place. Let me give you a few examples from my state of Michigan.

One example is a small Ann Arbor company making "organic" handcrafted wooden toys. Although their products are made of wood, which contains no lead or plastic, and are coated with food grade bee's wax, this company has had to shut down production because they can't afford to test every product as the Act apparently requires. To date they have received no guidance from CPSC telling them their products would be exempt from the testing requirements. Although CPSC indicates it is working to exempt from testing products made from uncoated wood and certain other products that clearly contain no lead, guidance coming from the CPSC has not been issued in a timely manner and has often been unclear. For instance, it is unclear as to whether food grade coating on wood products would be exempt. I have also been informed that even if a wood coating such as a varnish is tested and found to be lead free, all children's products coated in that varnish must still be tested. Although the CPSC tells us it hopes to build a case to argue that one-time testing of coating materials should be sufficient, it is uncertain what the outcome of those efforts will be or how much time this will take. In the meantime companies have to assume everything must be tested and many have shut down production and laid-off workers because they cannot afford the testing.

A second example is the CPSC guidance given to thrift and consignment stores. Several consignment shop owners have told me they find this guidance unhelpful. Although CPSC determined that resellers are not required to test children's products in their inventory for

compliance with lead limits, if they sell a product with lead they are subject to fines and penalties. These shop owners say it would cost several hundred dollars to test each product individually. As a result thrift and consignment store owners are uncertain about how to proceed and many fear they will be unable to sell some or much of their inventory.

At a time when the President and Congress are working to take all possible steps to create jobs we are facing a situation where the unintended consequences of well intentioned legislation has resulted in the loss of jobs. I hope you will take an urgent look at what might be done to mediate these job losses while continuing to protect children's health. This could be done through hearings or by providing the CPSC with the resources and direction needed to allow them to issue guidance in a more clear, rational and timely manner.

Thank you for your consideration of this request. Michigan is suffering from the highest unemployment in the nation and I want to avoid expenses which are not commonsensical.

Sincerely,



Carl Levin

CL/amp

