

August 2008

## Contacts

### Malcolm C. Weiss

550 South Hope Street, Suite 2000  
Los Angeles, CA 90071-2627  
(213) 532-2130  
mweiss@hunton.com

### Chris M. Amantea

550 South Hope Street, Suite 2000  
Los Angeles, CA 90071-2627  
(213) 532-2102  
camantea@hunton.com

### David Craig Landin

Group Head, Product Liability  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219-4074  
(804) 788-8387  
dlandin@hunton.com

### Francine E. Friedman

1900 K Street, NW  
Washington, DC 20006-1109  
(202) 955-1536  
ffriedman@hunton.com

## CPSC Reform Act Passes House and Senate — Will Create New Product Safety Standards

The Consumer Product Safety Improvement Act of 2008—the most sweeping reform of the Consumer Product Safety Act in 36 years—is expected to be signed by the president, according to a White House spokesperson. The bill limits the amount of lead in children's products, creates mandatory toy safety standards, restricts the use of phthalates and increases fines for defective manufacturing, among other things. The Act also allows the state attorneys general to enforce its provisions. A copy of the bill is available [here](#). On July 30, 2008 the conference report was agreed to in the House by a vote of 424 to 1. The Senate passed the conference report the following day with a vote of 89 to 3.

### **Harmful Chemicals**

Section 101 of the Act bans any children's toy (a children's toy is a product designed for children 12 years old or younger) containing more than 600 parts per million (ppm) of lead. The lead limit will drop to 300 ppm one year after enactment and to 100 ppm after three years. The lead limit does not apply to product components that are not accessible to children through reasonably foreseeable use and abuse. The current standard for lead in surface coatings (paints) will move from 600 ppm to 90 ppm one year after enactment. The

Consumer Product Safety Commission (CPSC) will have the authority to review and revise the limit downward after three years. The CPSC also has the authority to ban substances which result in the absorption of lead into the body or have "any other adverse impact on public health or safety". The law also implements new testing procedures.

The law also prohibits the manufacturing, sale, distribution, and importation of children's toys or care products containing "concentrations of more than 0.1 percent (1,000 ppm) of di-ethylhexyl phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP)". An interim limit would be placed on products containing "concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP)".

### **Safety Standards**

Section 106 creates mandatory safety standards by implementing those recommended in the ASTM International Standard F963-07 Consumer Safety Specifications for Toy Safety. The CPSC is required to promulgate further safety rules that are equal to, or more stringent than, existing children's product safety rules.

## Online Database, Civil Penalties, and Whistleblower Protections

The Act also creates a publicly available, searchable, online database cataloging reports of harm from consumers, government agencies, healthcare professionals, child service providers, and public safety entities. Section 217 amends the Consumer Product Safety Act, the Federal Hazardous Substances Act and the Flammable Fabrics Act by raising limits on civil penalties up to \$15

million. Section 219 provides protections against discrimination and retaliation for any person who notifies their employer, the federal government, or a state attorney general of a violation of the Act. It also creates a complaint process under the Department of Labor by which a whistleblower can file notice of any discrimination or retaliation.

For more information on our related practices, please see the following practice pages: Product Liability and

Mass Tort [http://www.hunton.com/practices/practice\\_detail.aspx?gr\\_H4ID=887&tab=0001](http://www.hunton.com/practices/practice_detail.aspx?gr_H4ID=887&tab=0001)

Government Relations [http://www.hunton.com/practices/practice\\_detail.aspx?gr\\_H4ID=925&tab=0001](http://www.hunton.com/practices/practice_detail.aspx?gr_H4ID=925&tab=0001)

Environmental Audits and Compliance Assessments [http://www.hunton.com/practices/practice\\_detail.aspx?gr\\_H4ID=833&tab=0001](http://www.hunton.com/practices/practice_detail.aspx?gr_H4ID=833&tab=0001)

© 2008 Hunton & Williams LLP. Attorney advertising materials. These materials have been prepared for informational purposes only and are not legal advice. This information is not intended to create an attorney-client or similar relationship. Please do not send us confidential information. Past successes cannot be an assurance of future success. Whether you need legal services and which lawyer you select are important decisions that should not be based solely upon these materials.