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**Subject:** RE: CPSIA and Small Business

Eric,

Here's an article from the Christian Science Monitor (Jan. 9 issue) on the Small Business issues under the CPSIA. This article, which I only discovered this evening, echoes many points I have made in correspondence with the Rush Subcommittee, notably that the CPSC cannot fix the law, that the age limits in the definition of Children's Products are inappropriate and that the law presents a broad threat to literally thousands of businesses, notably Small Business. No one in the article seems to think that this law is necessary to assure safety, another view I share. The economic issues under the CPSIA are manifold, as this article confirms. Despite the focus of the article on toys, the threats span many industries - in fact, ALL industries making products for children up to 12 years of age. Imagine the breadth of that impact - it's mindboggling.

I hope your committee will be able to shed some light on these issues shortly, as February 10 promises to be quite deadly if nothing is done. I would hate to see all the dread predictions come true - there will no satisfaction in seeing needless economic devastation based on a flimsy and poorly thought-through safety rationale. And I fear that, like children's rhyme instructs, all the king's horses and all the king's men won't be able to put Humpty together again. I think we can do much better than that - with the help of Congress, safety can be assured while the interests of Small Business (and other business) can be protected. This won't involve trading money or jobs for safety, either.

Thanks for your interest in this matter.

Best Regards,

Richard Woldenberg

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<http://www.csmonitor.com/2009/0109/p25s23-hfgn.html>

Ava Mar, 8, played with a wooden train set at the Play Store in Palo Alto, Calif., on Dec. 22, 2008. Worries over lead paint in mass-market toys made the holidays a little brighter for handcrafted toy makers last year, but now the federal government's response to the scare has some workshops fearful that this Christmas might be their last.

Marcio Jose Sanchez/AP

## A new law hurts small toy stores and toymakers

***New regulations banning harmful chemicals in children's items has had unintended consequences for small businesses and crafters.***

By [Yvonne Zipp](#) | Correspondent of *The Christian Science Monitor*  
posted January 9, 2009 at 4:40 p.m. EST

Amy Turn Sharp started making toys because of Thomas the Tank Engine. The 2007 recall of wooden trains with lead paint inspired Ms. Turn Sharp and her husband, a master carpenter, to start making wooden toys for babies.

"It's really just Joseph and me in our backyard. No machinery, no workers," says Turn Sharp, whose toymaking business, Little Alouette, makes it feasible for her to stay home with her two children. (Making toys is a family affair: Their 4-1/2 year-old son likes to help rub organic flaxseed into the finished wood teething blocks, and trains.) The Worthington, Ohio, couple make all their products from maple, felled by a neighboring farmer. "It's just us producing things by hand."

But now fallout from the recall that got them started and others may very well close them down. "We started our company because of Thomas the Tank Engine. We were sick of unsafe toys," says Turn Sharp. "And here we are, and we're going to go out of business because of unsafe toys."

After the recall of millions of toys manufactured in China in 2007, Congress passed the Consumer Products Safety Improvement Act (CPSIA) last year to protect children from lead and phthalates. Under the new guidelines, which are set to take effect Feb. 10, any product manufactured for children under 12 must undergo third-party testing for certification.

The law isn't just for toys, stress critics, who say it is too sweeping and will unfairly impact small businesses. Clothing, backpacks, bicycles, books, science equipment – anything intended for a child under 12 is affected. They argue that the law, however well-intentioned, has the potential to cause thousands of small US businesses to close at a time when unemployment is surging and the country is entering its second year of recession.

"Once again, here's a situation where it's the small business that suffers the most," says Kathryn Howard, an environmental and consumer expert with the New York State Pollution Prevention Institute at Rochester Institute of Technology. "Mattel can easily afford to test every one of their Barbie dolls. The smaller guys are the ones that manufacture in the US – as opposed to China and other parts of the world.

"I see the environmental benefit," she says. But she suggests that the government explore ways to make the testing more affordable for small companies and phase it in over a longer period of time.

Testing costs can start from \$400 to \$500 and run into thousands of dollars, according to some estimates, depending on the complexity of the item. Each unique product has to be tested – meaning that small, medium, and large shirts must be tested individually. In a line of stuffed toys birds, for example, the chickadee, robin, and eagle all need a separate test.

The prospective bill is causing sticker shock and cries of outrage from small US-based artisans and manufacturers, independent toy shops, and baby boutique stores.

"We need an outcry from consumers: 'Wait we asked for safe toys, we didn't ask you to put the industry out of business,' " says Kathleen McHugh, president of American Specialty Toy Retailing Association in Chicago, which has 1,000 members.

She says that independent toy stores have two alternatives, neither of them good: They can have all their products tested or throw all their untested inventory out. Either scenario would put them out of business, she says.

That indeed is the scenario facing Debbie Baillie's Rowdy Rascals toy store in Snohomish, Wash. "I cannot afford to get rid of my inventory and get in new [before Feb. 10]. I will go bankrupt. ... We have just over a month to get in compliance, and I don't know how to do that," says Ms. Baillie, who explains that her family can't afford to have the store fail. Her parents took out equity in their home so she could open the store, and her sister is her partner. If Rowdy Rascals shop goes go under, her entire family will be in financial trouble.

Baillie opened the store because she wanted to create a place for the community. "I wanted to be that old toy-store lady who knew all the kids and their kids. To see it crushed by something like this, it just breaks my heart."

"The commission is working to determine if there is any flexibility in the law for small businesses," says Patty Davis, spokeswoman for the CPSC. They may include products where the amounts of lead, for example, is not found in cotton, wool, or wood.

But, says Julie Vallese, director of public affairs for the CPSC, "The agency has the authority to enforce the law, not change it. It's a very specific, one-size fits all piece of legislation.... Because Congress wrote the law in a very specific way, relief may only be found in the courts."

Another sector of the economy, thrift and consignment shops, who had been among the most vocal about the economic impact of the new law, received relief Thursday. The CPSC ruled that they would not have to test the items on their shelves – at least until they can be confident that items for sale meet the new safety requirements.

That's good news for owners of children's consignment shops, such as Carol Vaporis, owner of Duck Duck Goose in New York City. She says that the new testing would have meant she had to close her doors.

It's also good news for lower-income families, many of whom rely on consignment and thrift stores to clothe their children.

The implications for parents aren't only economic. If the law isn't changed, Ms. Howard says that parents are also going to have to pay more for the toys they buy. The giants of the industry, and those that are available from smaller manufacturers will likely be more expensive, to help

"You now have an even bigger gap between the toys the rich kids play with and the toys the not-so-rich kids play with, with toys that are not the best – maybe they just barely meet the criteria."

Howard also suggests that perhaps the age limit in the law should be rethought. "The reasoning behind the law is to prevent kids from putting things in their mouths. If a kid is old enough to ride a bike, they're old enough not to be chewing on it."

Back in Ohio, the Turn Sharps are unsure how to proceed. Little Alouette had a booming holiday season. "We made some sales on our own hands," Turn Sharp says.

But their business is so small, they simply can't afford the mandatory lead testing required under the new guidelines, says Turn Sharp. "I don't want to be a big boy."

"I don't know what I'll be making on Feb. 10," says Turn Sharp. "I don't know that I'll be making anything."

But she's not giving up. "I'm pretty hopeful that government will have to take a look around. Hopefully, they'll say, 'We can't do this without you.'"

Still, she adds, "If you need any baby gifts, buy them before Feb. 10."