

From: Rick Woldenberg

Sent: Sun 2/8/2009 3:39 AM

To: 'Christian.Fjeld@mail.house.gov'; 'robin.appleberry@mail.house.gov';
andrew_grobmyer@pryor.senate.gov; james_reid@rockefeller.senate.gov

Cc: 'brian.mccullough@mail.house.gov'; 'shannon.weinberg@mail.house.gov';
'william.carty@mail.house.gov'; 'mjg@brown-gidding.com'; Etienne Veber;
'challengeandfun@gmail.com'; 'kathleen@fashion-incubator.com'; 'Stephen Lamar
(slamar@apparelandfootwear.org)'; 'Nancy Nord (nnord@cpsc.gov)'; 'Joe Martyak
(jmartyak@cpsc.gov)'; 'Mary Toro (MToro@cpsc.gov)'; 'tmoore@cpsc.gov'; 'Patrick Magnuson
(patrick.magnuson@mail.house.gov)'; 'Carter Keithley (ckeithley@toy-tia.org)'; 'Rick Locker
(fblocker@LockerLaw.com)'; 'Desmond, Edward'; 'David Callet (calletd@gtlaw.com)';
'ravitz.georgia@arentfox.com'; 'Pamela Gilbert (pamelag@cuneolaw.com)'; 'Robert Adler'; 'Dan
Marshall (dan@peapods.com)'; 'erik.lieberman@mail.house.gov'; 'cfalvey@cpsc.gov'; Judy Bailey
(judith.bailey@mail.house.gov); adele@narts.org; kmchugh@astratoy.org;
richard.goldberg@mail.house.gov; matthew.abbott@mail.house.gov;
'Brian_hendricks@hutchison.senate.gov'; 'david@commerce.senate.gov';
'Cathy.hurwit@mail.house.gov'; pwell@cpsc.gov; mgougisha@cpsc.gov;
bridget_petruczok@boxer.senate.gov; michael_daum@cantwell.senate.gov;
bill_ghent@carper.senate.gov; hap_rigby@demint.senate.gov;
frannie_wellings@dorgan.senate.gov; david_quinalty@ensign.senate.gov;
james_chang@inouye.senate.gov; jonathan_becker@klobuchar.senate.gov;
michelle_schwartz@lautenberg.senate.gov; lee_dunn@mccain.senate.gov;
sonya_wendell@mccaskill.senate.gov; matthew_hussey@snowe.senate.gov;
brendan_plack@thune.senate.gov; hugh_carroll@wicker.senate.gov;
elissa.levin@mail.house.gov; christopher.schepis@mail.house.gov;
theresa.lavery@mail.house.gov; greg.louer@mail.house.gov; brian.diffell@mail.house.gov;
amy.ingham@mail.house.gov; laura.vaught@mail.house.gov; matt.johnson@mail.house.gov;
saul.hernandez@mail.house.gov; aaron.shapiro@mail.house.gov; rick.axthelm@mail.house.gov;
steve.plevniak@mail.house.gov; scott.cleveland@mail.house.gov;
jonathan.smith@mail.house.gov; pat.cavanagh@mail.house.gov; rachel.wood@mail.house.gov;
michael.gaffin@mail.house.gov; angela.manso@mail.house.gov;
dana.lichtenberg@mail.house.gov; derrick.ramos@mail.house.gov;
elizabeth.stack@mail.house.gov; lori.pepper@mail.house.gov; david.bahar@mail.house.gov;
mark.bayer@mail.house.gov; Neeta.Bidwai@mail.house.gov; kyle.victor@mail.house.gov;
chris.debosier@mail.house.gov; morgan.jones@mail.house.gov;
matthew.dockham@mail.house.gov; tuley.wright@mail.house.gov; cade.king@mail.house.gov;
betsy.christian@mail.house.gov; chris.herndon@mail.house.gov; Mike.Ward@mail.house.gov;
laura.abshire@mail.house.gov; randi.meyers@mail.house.gov; Greta.Hanson@mail.house.gov;
liz.muro@mail.house.gov; jamie.euken@mail.house.gov; jon.oehmen@mail.house.gov;
brad.schweer@mail.house.gov; michael.beckerman@mail.house.gov;
valerie.henry@mail.house.gov; Becky.Claster@mail.house.gov;
tiffany.guarascio@mail.house.gov; jeff.mortier@mail.house.gov;
Christopher_day@billnelson.senate.gov; john_phillips@kerry.senate.gov; Kerrie Campbell
(kcampbell@manatt.com); bryan_hickman@hatch.senate.gov; Ben.Kershaw@mail.house.gov;
tom_jones@commerce.senate.gov; Lisa Brown (lbrown@who.eop.gov); csunstein@who.eop.gov;
stacy_ettinger@jec.senate.gov; csunstei@uchicago.edu; rpalmieri@nam.org;
dbrown@muchshelist.com

Subject: RE: CPSIA - The Emperor Has No Clothes (Updated)

I thought you might be interested in learning of the effect of your CPSIA on the Mollison family discussed in my January 10 email entitled "The Emperor Has No Clothes". In that email, I discussed the sad situation of Raven Mollison and her mother Denise in Hawaii. Ms. Mollison feared having to close down her store because of the dramatic impact of the CPSIA on

her business, and in the process, causing great concern to her daughter over their family's ability to pay for her medical treatments. Like so many others, Ms. Mollison was responding to the economic incentives in the CPSIA to discontinue important but harmless entrepreneurial activities; in this case, she closed her store rather than take the risk of violating the new law. See http://www.khnl.com/Global/story.asp?S=9799062&nav=menu55_2, also reproduced below. We can only hope a black market will develop in her dolls to help Ms. Mollison pay her bills. Yes, a black market in America - what a lovely innovation caused by the CPSIA!

This is one of the great ironies of the CPSIA, a law that grew out of Congress' mania-driven suspicions of low integrity in the business community producing and selling children's products. The rational choices being made by many businesspersons to suspend innocent but valuable activities, whether to close stores, discontinue products or to stop selling in certain markets, are largely driven by a passion to COMPLY with law. The prospect of being a scofflaw is horrifying to most businesses and most Americans. In the case of the incredibly restrictive and damaging CPSIA, the law of the land was designed for the worst of society, and imposed on everyone. The casualties will be many, all in the cause of avoiding imaginary risks. Read on below:

Doll shop closes despite temporary hold on anti-lead law

Posted: Feb 5, 2009 10:22 PM CST

Updated: Feb 6, 2009 06:24 AM CST

Denise Mollison

News Links

[New lead law on kid's items threatens to close](#)

By Mari-Ela David - [bio](#) | [email](#)

[local doll shop](#)

KAILUA (KHNL) - Some possible relief for those who sell children's products, from toys to clothes.

The U.S. Consumer Product Safety Commission (CPSC) has issued a temporary stay on the controversial anti-lead law that takes effect February 10.

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But, even with the stay, a doll shop on the Windward side of Oahu says it will still be forced to close.

In Kailua, little Raven Mollison holds what's left of her mom's at-home business.

"It's the last doll that my mom made so she gave it to me," she said.

Her mom Denise, ran a doll shop to pay for Raven's medical supplies. The eight-year-old has Russell Silver Syndrome, which stunts her growth.

"I'm very sad that she's shut it down out of business," said Raven.

But Denise says she has no choice. A new anti-lead law calls for safety tests she can't afford.

"Parents and consumers are hesitant to purchase my products and truthfully I don't blame them. If I could provide the certification then everything would be fine but my hands are tied," said Mollison.

In response to critics who call the law a job-killer, CPSC has issued a stay of enforcement which puts testing requirements on hold for a year until it can work out a compromise. But business owners must still abide by the new lead limits.

"The snag here is they're saying 'don't test but follow the guidelines'. You can't be sure you're following the guidelines unless you test so it's a catch 22," said Mollison.

For Raven's sake, Denise is launching a new business.

"My only life raft is making wristlets until this mess is resolved," Denise said.

"It's very important so then I can get feeding more, so then I can grow," said Raven.

On Thursday, U.S. Senator Jim DeMint introduced a bill to reform the law, saying "Congress has overreacted and threatened to kill thousands of jobs, small businesses and harm charities around the country. We simply cannot allow this law to go unreformed."

DeMint's reforms would allow small businesses to use certification from suppliers and manufacturers.

That way people like Mollison won't have to shoulder the costs of testing.

Congress passed the Consumer Products Safety Improvement Act of 2008 last Fall after a lead paint scare in children's toys made in China.

The act bans children's items containing more than 600 parts per million total lead.

Businesses that sell used children's items, such as thrift stores, are not required to test their products. But they cannot resell them if they exceed the lead limit.

From: Rick Woldenberg

Sent: Sat 1/10/2009 3:34 PM

To: 'Judith.bailey@mail.house.gov'; 'Christian.fjeld@mail.house.gov'; Robin Appleberry (robin.appleberry@mail.house.gov)

Cc: Etienne Veber; 'Michael Gidding (mjpg@brown-gidding.com)'; 'Nancy Nord (nnord@cpsc.gov)'; 'Joe Martyak (jmartyak@cpsc.gov)'; 'tmoore@cpsc.gov'; 'jmullan@cpsc.gov';

'Brian_hendricks@hutchison.senate.gov'; 'david@commerce.senate.gov';

'Shannon.weinberg@mail.house.gov'; 'Brian.mccullough@mail.house.gov';

'Cathy.hurwit@mail.house.gov'; Larry Lynn; 'MToro@cpsc.gov'; 'william.carty@mail.house.gov';

'patrick.magnuson@mail.house.gov'; pwell@cpsc.gov; mgougisha@cpsc.gov;

cfalvey@cpsc.gov; bridget_petruczok@boxer.senate.gov; michael_daum@cantwell.senate.gov;

bill_ghent@carper.senate.gov; hap_rigby@demint.senate.gov;

frannie_wellings@dorgan.senate.gov; david_quinalty@ensign.senate.gov;

james_chang@inouye.senate.gov; jamie_phillips@kerry.senate.gov;

jonathan_becker@klobuchar.senate.gov; michelle_schwartz@lautenberg.senate.gov;

lee_dunn@mccain.senate.gov; sonya_wendell@mccaskill.senate.gov;

christopher_day@nelson.senate.gov; andrew_grobmyer@pryor.senate.gov;

james_reid@rockefeller.senate.gov; betsy_mcdonnell@smith.senate.gov;

matthew_hussey@snowe.senate.gov; christine_kurth@stevens.senate.gov;

mike_orielly@senunu.senate.gov; brendan_plack@thune.senate.gov;

garret_graves@vitter.senate.gov; hugh_carroll@wicker.senate.gov;

sarah_baldwin@mail.house.gov; elissa_levin@mail.house.gov;

christopher_schepis@mail.house.gov; theresa_lavery@mail.house.gov;

greg_louer@mail.house.gov; brian_diffell@mail.house.gov; amy_ingham@mail.house.gov;

laura_vaught@mail.house.gov; matt_johnson@mail.house.gov; saul_hernandez@mail.house.gov;

mike_kelly@mail.house.gov; aaron_shapiro@mail.house.gov; rick_axthelm@mail.house.gov;

steve_plevniak@mail.house.gov; scott_cleveland@mail.house.gov;

jonathan_smith@mail.house.gov; pat_cavanagh@mail.house.gov; rachel_wood@mail.house.gov;

michael_gaffin@mail.house.gov; derick_apt@mail.house.gov; aaron_ringel@mail.house.gov;

angela_manso@mail.house.gov; dana_lichtenberg@mail.house.gov;

derrick_ramos@mail.house.gov; elizabeth_stack@mail.house.gov; julie_hulings@mail.house.gov;

lori_pepper@mail.house.gov; josh_connolly@mail.house.gov; david_bahar@mail.house.gov;

mark_bayer@mail.house.gov; Neeta.Bidwai@mail.house.gov; kyle_victor@mail.house.gov;

chris_debosier@mail.house.gov; morgan_jones@mail.house.gov;

matthew_dockham@mail.house.gov; tuley_wright@mail.house.gov; cade_king@mail.house.gov;

betsy_christian@mail.house.gov; chris_herndon@mail.house.gov; Mike.Ward@mail.house.gov;

laura_abshire@mail.house.gov; randi_meyers@mail.house.gov; Greta.Hanson@mail.house.gov;

liz.muro@mail.house.gov; matt.mandel@mail.house.gov; jamie.euken@mail.house.gov;
jon.oehmen@mail.house.gov; brad.schweer@mail.house.gov; dana.grayson@mail.house.gov;
michael.beckerman@mail.house.gov; valerie.henry@mail.house.gov;
Becky.Claster@mail.house.gov; tiffany.guarascio@mail.house.gov; jeff.mortier@mail.house.gov;
kenneth.schwarz@mail.house.gov; Pamela Gilbert (pamelag@cuneolaw.com); Robert Adler
Subject: CPSIA - The Emperor Has No Clothes

I recently saw this video about a doll store in Hawaii that is planning to close because of the CPSIA and recommend that you watch it, too:

<http://www.khnl.com/global/video/flash/popupplayer.asp?ClipID1=3323714&h1=New%20lead%20law%20on%20kid%27s%20items%20threatens%20to%20close%20local%20doll%20shop&vt1=v&at1=News&d1=137133&LaunchPageAdTag=News&activePane=info&rnd=25878297>

I am sure the world can live without another doll store. However, the owner of this particular store and her special needs child will suffer certainly. Should we care, especially since the law is making children so much "safer"? I think so, and here's why:

1. There is no reason for ANYONE to suspect that this doll store has EVER harmed anyone in any way. Can anyone provide ANY data to suggest that this store's products will harm anyone because of lead? No, absolutely not. I am fully confident that we can all agree that these dolls are highly unlikely to be harmful because of lead. So what have we accomplished?
2. Recognizing that these products could not realistically have any lead safety issues, the requirements of the law are extremely wasteful in this case, and are so serious that they threaten the very existence of the store and its products. [Notably, although the press is only focusing on the cost of testing, the list of problems caused for this doll store does not end there (not discussed in the video or in this email).] So what have we accomplished?
3. The diversion of capital and human resources to wasteful activities like excessive and almost neurotic testing prevents all kinds of alternative, productive uses of the financial and human capital being wasted. So what we have accomplished?
4. Given that the products and services of this store are useful and its profits are also deployed usefully in society (see the video), and further that as a direct result of the CPSIA the store will have to close, what have we accomplished?

The story of this doll store is TYPICAL of the ill effects of this law. Don't be distracted by the particulars of this person's story - she stands for everyone similarly victimized by the CPSIA. The storyline may change but the story remains the same - there is a societal recognition that American products are safe. The idea that our economy is "full" of unsafe children's products is fed by fear mongering, not facts. The CPSIA with its excessive "zero tolerance" approach neither contributes to additional safety (whatever that means) or to the efficient functioning of the economy. The day of reckoning is coming, and these cries for help are being ignored. Something must be done

So I am here to announce, for the first time, that the EMPEROR HAS NO CLOTHES. The CPSIA has nothing to do with safety - it is about vengeance, retribution and displaced anger. The discussion about safety under this law has become abstract and spiritual in nature, as though "safety" were a state of mind or some kind of karma level. That's not how the real world works - safety relates to RISK and risk can and needs to be defined. By drafting the CPSIA in such an absurdly overly-broad manner, Congress has created the conditions for debates like whether this little doll shop makes lead-laden dolls. I find it hard to dignify such debates by taking them seriously, as the notion that the subject dolls are somehow a safety risk is patently absurd, as is obvious to anyone living in the real world filled with real products and real risks.

How did this happen? The Emperor's new set of invisible clothes were borne of anger from "43 million toys recalled in 2007". [See <http://www.todaysthv.com/news/local/story.aspx?storyid=78263>.] What exactly happened in 2007? The lead-related recalls related to LEAD-IN-PAINT, not lead in substrates. [In addition, there was one tort involving one piece of lead jewelry.] Lead-in-paint has been illegal for decades. I hate to be a killjoy, but this means that the problem in 2007 was compliance with law, not the strictness of the rules. This is a behavioral issue, not a restrictions issue, and requires a thoughtful solution tailored to the nature of the problem (lack of compliance). By extending the law well beyond the known safety issue (lead-in-paint) to a laundry list of imaginary risks not associated with actual injuries, we end up arguing about whether cloth dolls, culturally-authentic clothing, microscope bulbs and Harry Potter books present a lead danger. If we are going to pay to prevent safety "risks" of that microscopic magnitude, why stop there? If children's products up to age 12 are such a serious (and undefined) lead safety issue, why aren't dog toys? Why aren't products for adults? What about industrial products? What about products we put on spaceships?

And, no, the CPSC cannot clothe the naked Emperor. It's simply not workable to write an ultra-complex law no one understands and then instruct a federal agency to just go "fix it". Even if that were possible, if a magical set of rules could be written that would fix the law so that all these various unthreatening situations could be addressed one-by-one (shoemakers, doll stores, t-shirt vendors, the needs of stores with less than five employees, blah blah blah), we would be left with such a vast crazy quilt of FAQs, interpretations, legal opinions, rules and regulations that compliance would become only a theoretical possibility. Again, don't blame the CPSC for the state of the implementing rules - until you try to write them yourself. Even the tax code makes more sense than this.

The Emperor Has No Clothes - the CPSIA's gotta go. We can have plenty of "safety" without such a vindictive and overly-broad law on the books. I hope you will invite industry to help you urgently draft this new law, one to protect American children and the American economy appropriately for our lasting communal benefit.

Sincerely,

Richard Woldenberg
Chairman
Learning Resources, Inc.
Tel 224 436 0265
rwoldenberg@learningresources.com