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Congress Weighs Sweeping Overhaul Of Consumer Product Commission

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Spurred by a spate of scares over the safety of imported goods, Congress is weighing the most significant consumer-safety legislation in a generation—even as states and non-profit groups step up their own watchdog efforts.

A bill that would substantially boost fines, add staffers and increase transparency at the embattled Consumer Product Safety Commission is moving through the Senate. The moves represent efforts to address what consumer groups and critics widely see as the weakness and inefficiency of the commission, the tiny federal agency charged with regulating at least 15,000 types of consumer products, from toys to all-terrain vehicles to mattresses.

The Senate bill faces industry opposition and other hurdles on Capitol Hill, including conflict with President Bush over the direction of the CPSC. The House has already passed separate legislation. But consumer advocates predict the Democrat-controlled Senate could pass a version by year end. Industry groups say Republicans aren't likely to try to kill the bill, but hope to amend it to change provisions manufacturers find onerous.

Manufacturers and retailers say they will fight some of the bill's provisions, including the increase of fines to a maximum of \$100 million from \$1.85 million. But their clout has been diminished by a rash of highly publicized recent recalls involving everything from Halloween paints with lead paint to hazardous cribs to toys with small parts that present choking hazards.

Many of the goods are imported from countries like China, where safety standards are often less stringent.

For some, the federal bill is preferable to a patchwork of legislation shaping up as states including California move to increase safety standards on their own.

The new Senate bill, cosponsored by Sen. Mark Pryor (D., Ark.) and Sen. Daniel Inouye (D., Hawaii) with significant Democratic backing, would increase the commission's authorized funding by 58% to \$141.7 million over the next seven years, and allow it to hire about 100 additional employees.

The bill proposes "a pretty big change from the system we have on the books now," Sen. Pryor said. "This is an effort to really clean up the U.S. marketplace."

Some state regulators and independent groups, responding to what they see as a major regulatory void, are already trying to do that. States are introducing tougher safety standards, while watchdogs are testing products and unilaterally announcing results.

The commission's staff has been cut over the years to about 400 employees, less than half the number it had when it started operating in 1973. Meanwhile, the number of products it regulates is soaring, including imports. This has resulted in long delays that have frustrated manufacturers and consumer groups.

Adding to the problem are a fixation among U.S. industry and consumers on getting bargain prices—sometimes, at a cost to quality—and regulators' failure to keep up with changes.

Although the Pryor bill faces industry opposition and other hurdles on Capitol Hill, consumer advocates predict the Democrat-controlled Senate could pass a version in time for the Christmas gift-buying season. Industry groups say Republicans aren't likely to try to kill the bill, but hope to amend it to change provisions the industry finds onerous.

The CPSC declined to comment about pending legislation. Acting Chairman Nancy Nord, a Bush appointee, has proposed raising the cap on civil penalties to \$10 million, but has objected to giving the agency more leeway to publicly disclose details about potential hazards during ongoing investigations.

The CPSC regulates products mostly by setting and enforcing voluntary and mandatory standards in cooperation with manufacturers and others. Manufacturers and retailers must report any defects to the CPSC in a timely manner. The agency may issue a recall if the product is found to violate a standard or pose a safety threat.

In such cases, the agency typically negotiates the recall terms and remedies with manufacturers before goods are removed from shelves. It usually refrains from alerting the public about potential hazards until an agreement is reached.

Most children's products aren't currently required to undergo pre-market testing. CPSC field investigators and customs officials check only a tiny sam-

ple of all goods the CPSC regulates, at ports and elsewhere.

Linda Ginzel, a psychology professor at the University of Chicago, has been fighting for reform of product-safety laws since her 16-month-old son was strangled by a recalled portable crib at his childcare provider's home in 1998.

He was the fifth child known to have died in the Playskool Travel-Lite portable crib, manufactured between 1990 and 1993 and first recalled in 1993. A sixth child later died because of the same model crib.

With the Senate bill, Ms. Ginzel said, "I think we finally have an opportunity for positive change to protect children."

Some state regulators and watchdog groups are already taking their own steps. California has enacted tougher fire-safety standards for mattresses ahead of the CPSC, and Illinois has a ban on lead in children's products that goes beyond federal law.

Illinois Attorney General Lisa Madigan has disagreed with the CPSC over its handling of a crib recall, noting that the commission alerted the public without offering a remedy. A CPSC spokesman said the agency took the "very unusual step" because the cribs had caused three deaths and posed an immediate threat.

Last week, distributor Simplicity Inc. and the CPSC announced that the Reading, Pa., company will provide repair kits to immobilize the cribs' problematic drop-side. Ms. Madigan's office has asked Simplicity to offer a complete refund or replacement. A Simplicity spokesman yesterday said the

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company "worked very closely with the CPSC" and believes "the repair kit is the safest" remedy.

The "CPSC has not been robustly and aggressively working to protect consumers," said Rachel Weintraub, director of product safety at the Consumer Federation of America, a non-profit. "Other entities have stepped up to the plate."

One of the more influential is the California-based Center for Environmental Health. This month, it tested a Curious George toy on the market. Alleging that it contained 10 times the legal amount of lead, CEH filed a notice to the company and regulators, saying that it intended to take legal action. The same day, manufacturer Marvel Entertainment Group Inc., said it would halt shipments of the Chinese-made toy and conduct its own tests to see whether a recall was warranted.

Manufacturers said they oppose several key provisions in the Senate bill. These include a proposal to end a prohibition on the CPSC disclosing details about potentially hazardous products without first giving the manufacturer a chance to respond.

Supporters of the measure argue that agency investigations into such products can last months or years, while injuries and deaths mount, and that other regulatory agencies

aren't bound by such rules.

Joseph M. McGuire, president of the Association of Home Appliance Manufacturers, a trade group, said, "If the information is made public, it could serve as the basis for litigation even though it may be found to be invalid."

Industry groups also oppose a measure that would enable state attorneys general to sue companies for violating federal product-safety laws. They say it would expose companies to potentially inconsistent enforcement and lawsuits.

Legislative hurdles also loom. There is a lack of consensus on key provisions of the Pryor bill, and several amendments could slow its progress once it moves to the Senate floor. So far, the House doesn't have a matching bill. Recently passed House legislation would raise the cap on penalties—but only by one-tenth as much as Mr. Pryor wants. The House bill doesn't include the controversial measures on notification.