

## **Impact of the CPSIA on Small Business**

In 2007, there were a number of recalls of toys due to unsafe levels of lead from large manufacturers who outsource their production to China. The public called for Congress to help make our children safe and protect the American market from these dangerous toys. Congress responded, and in 2008 passed the Consumer Product Safety Improvement Act, a law whose intent was to ensure the safety of the products on American shelves.

As part of this act, all manufacturers of any children's product will be mandated to have their products tested by a third party testing agency, with varying implementation dates. This will indeed make sure that all products are safe. However, there are some major problems with the bill as written.

While this law was originally intended to make sure toys, jewelry, and other durable children's goods were free from lead paint and pthalates, its true impact is much, much larger. The wording of the bill requires ALL manufacturers who create anything intended for use by children under 12 to undergo extensive testing of their products. Not just toys and cribs, but also clothing, diapers, books, school supplies, bedding, bibs, etc. There is no distinction between those who manufacture in batches of 1000's and those who make just a few items to sell at craft fairs. There is also no distinction between products which are mouthed by small children, potentially exposing them to lead, and products which by their nature would not be mouthed by small children, and thus causing little to no potential lead exposure.

Of primary concern to small business is the need to have each and every SKU tested by an independent third party to be sure that each component is within the prescribed limit for lead content. The testing of the final product as required by the law is extremely costly, and results in redundant testing. At a quoted cost of \$75 per test, many small manufacturers who make products in batches of just a few of a style or to fill one of a kind custom orders simply cannot work this expense into their product price. What is even more frustrating to these manufacturers is that many of the materials which they are using have already been tested by the supplier. In spite of the fact that the manufacturer has certifications proving that the materials which are being used in a final product have already met strict international standards for lead content and other hazardous materials, the CPSIA requires that products made with these materials be tested again in their finished state. Thus, these materials are tested once at the supplier, then again and again in each finished product a manufacturer creates.

This law creates a climate that stifles entrepreneurship, puts a burden on our already struggling economy, and limits consumer choice as a large number of safe products, the very products parents have turned to as an alternative to mass-production, will be removed from the market. Action is needed immediately to prevent hundreds or thousands of American businesses from being forced by Congress to close their doors.

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## Testing Costs

Intertek quote - \$75 per test  
Based on the Adorabumz product line

### Basic PUL cover: (Retail value - \$10.95)

PUL (waterproof fabric) - \$75  
Fold-over Elastic (binding) - \$75  
Snaps - \$75  
Label - \$75  
Thread - \$75  
Total for 1 - **\$375**



Currently offer 21 colors of PUL \* 30 snap colors \* 17 Elastic options = 10710 possible combinations  
To test all 10710 possible combinations - **\$4,016,250**  
For 5 styles - **\$1875**



### Cotton Outer PUL cover (Retail Value \$14.95)

PUL - \$75  
FOE - \$75  
Snaps - \$75  
Label - \$75  
Thread - \$75

Cotton outer - \$75 (swatch sample, not individual dye colors)  
Total for 1 option - \$450

Currently offer 53 fabric choices \* 21 PUL colors \* 17 Elastic colors \* 30 snap colors = 567630 combinations

Total for all 567630 combinations - **\$255,433,500**  
For 5 Styles - **\$2250**



Diapers (retail value \$17.95-\$23.45)

Outer Fabric - \$75

Snaps -\$75

Label - \$75

Inner Fabric - \$75

Thread to match outer fabric - \$75

Thread to match inner fabric - \$75

Total for 1 option: **\$450** (assumes sandwiched fabrics and elastic are deemed “inaccessible”)

Currently offer 3 styles \* 70 outer fabric choices \* 30 snap colors \* 3 inner fabric options = 18900 combinations

Total for 18900 combinations = **\$850500**

Total for 10 combinations - **\$4500**

Wipes (retail value \$.75 - \$2)

For 1 style:

Front fabric - \$75

Backing fabric - \$75

Thread (upper looper, lower looper) - \$75

Thread (Needle 1) - \$75

Total - **\$300**

Currently offer 117 front options \* 5 backing options = 585

Total for 585 combinations = **\$175,500**

Total for 20 combinations - **\$6000**



Inserts (retail value \$2 - \$2.50)

Microfiber - \$75

Thread - \$75

Total - **\$150**

Total for 3 current styles - **\$450**

Total testing costs as prescribed by the CPSIA

**For one of each style**

Basic PUL cover - \$375  
Cotton outer PUL cover - \$450  
Diaper - \$450  
Wipes - \$300  
Inserts - \$150  
Total for one each - **\$1725**

**For current custom options:**

Basic PUL cover - **\$4,016,250**  
Cotton outer PUL cover – **\$255,433,500**  
Diaper - **\$850,500**  
Wipes - **\$175,500**  
Inserts - **\$450**  
Total for current options - **\$260,493,255**

**For a basic product line (no customs):**

Basic PUL cover (5 colors) - \$1875  
Cotton outer PUL cover (5 combinations) – \$2250  
Diaper (10 combinations) - \$4500  
Wipes (20 combinations) - \$6000  
Inserts (1 option) - \$150  
Total for basic product line - **\$14,775**

This assumes products do not need to be retested for new dye lots or resupply as currently required. Retesting will increase costs significantly.

## Component Testing

### **Manufacturer component testing for a basic product line:**

This testing program eliminates duplicate testing of the same component being used in different final products. This opens up the possibility to again provide custom-made products, as multiple combinations of already-tested materials can be used.

PUL – 5 colors (black, brown, red, blue, pink) = \$375  
FOE – 2 colors (black, white) = \$150  
Snaps - 3 colors (white, black, brown) - \$225  
Cotton woven fabric (5 prints) - \$375  
Knit fabric (5 prints) - \$375  
Inner fabric (1 option) \$75  
Thread (3 colors: white, black, neutral) - \$225  
Flannel (5 prints) - \$375  
Backing fabrics (3) - \$225  
Label - \$75

Total for Manufacturer component testing (33 total tests) - **\$2475**

### **Supplier Component Testing:**

Many of my materials are purchased in bulk from a supplier through co-operative purchases. Allowing supplier component testing eliminates redundant testing of the same materials by different manufacturers. This would allow small manufacturers to absorb testing costs in the price of the material, raising prices only slightly. Allowing supplier testing will also allow for an expanded product line, as it will reduce the end-product testing burden.

FOE – Oeko-Tex certified  
Snaps – Oeko-Tex certified  
PUL – regularly tested by supplier, test results available  
Cotton Woven fabrics – test results available for certain suppliers

Remainder of fabrics required for basic product line (as of 1/13/09)  
Sherpa, Bamboo velour, cotton velour, knits (5 prints) flannels (5 prints), thread (3 colors), labels

Total for remainder of materials - 17 tests x \$75 = **\$1275**

## Recommendation

### **XRF screening:**

XRF screening can be done very inexpensively, as low as \$5 per test. While XRF is not as accurate as the digest test, it can be used to detect the presence of lead. If there is zero lead content, it is unnecessary to perform the more expensive tests. This in combination with component testing, can reduce testing costs to a level small businesses can afford.

Cost for Manufacturer level component XRF testing - **\$165**  
Cost for remainder of untested materials for basic product line -  
17 tests x \$5 (lowest quoted price) = **\$85**

Cost Comparison (same basic product line) -  
End unit testing - **\$14755**  
Component testing (Manufacturer level) - **\$2475**  
Component testing (Supplier level – as of 1/13/09) - **\$1275** -  
XRF screening (Manufacturer level) - **\$165**  
XRF screening (in combination with Supplier testing) - **\$85**

Allowing XRF screening in combination with component testing by suppliers will allow small businesses to remain open, while ensuring all products on the American market are safe for our children, which is the intent of the CPSIA.

## **Actions needed**

1. There is a meeting scheduled in Washington on **Wed, Jan 14** of the House Small Business Committee to discuss “The State of the Small Business Economy and Identifying Policies to Promote an Economic Recovery.” Please contact these Representatives to let them know of the impact the CPSIA has on Small Businesses and how this law as written hinders economic recovery by forcing many small business owners out of business.

Here is a list of the members of the Small Business Committee:

**Chairwoman Nydia Velázquez of New York**

Congressman Heath Shuler of North Carolina

Congressman Charlie Gonzalez of Texas

Congressman Rick Larsen of Washington

Congressman Raúl Grijalva of Arizona

Congressman Mike Michaud of Maine

Congresswoman Melissa Bean of Illinois

Congressman Henry Cuellar of Texas

Congressman Daniel Lipinski of Illinois

Congresswoman Gwen Moore of Wisconsin

Congressman Jason Altmire of Pennsylvania

Congressman Bruce Braley of Iowa

Congresswoman Yvette Clarke of New York

Congressman Brad Ellsworth of Indiana

Congressman Hank Johnson of Georgia

Congressman Joe Sestak of Pennsylvania

Congressman Brian Higgins of New York

Congresswoman Mazie Hirono of Hawaii

**Ranking Member Steve Chabot of Ohio**

Congressman Roscoe Bartlett of Maryland

Congressman Sam Graves of Missouri

Congressman Todd Akin of Missouri

Congressman Bill Shuster of Pennsylvania

Congresswoman Marilyn Musgrave of Colorado

Congressman Steve King of Iowa

Congressman Jeff Fortenberry of Nebraska

Congressman Lynn Westmoreland of Georgia

Congressman Louie Gohmert of Texas

Congressman David Davis of Tennessee

Congresswoman Mary Fallin of Oklahoma

Congressman Vern Buchanan of Florida

2. Please contact the leaders of the committee on Energy and Commerce, who have the ability to hold hearings on this issue and call for the necessary changes. These Representatives are Congressman **Henry A. Waxman** (Chairman), Congressman **Joe Barton**, Congressman **Bobby Rush** (who originally sponsored the CPSIA), and Congressman **Ed Whitfield**.

3. Based on conversations with other small business owners who have been in contact with their representatives, there are a growing number of representatives taking up the case of small businesses about the CPSIA. Among them are Congressman **Charlie Dent**, Congressman **Jim Gerlack**, and Congressman **Tim Holden**. Please contact them to see what can be done, and to show your support and concern for small business.

## **Additional links to learn more about the true impact of the CPSIA**

### **CPSIA Activism:**

<http://nationalbankruptcyday.com/>

<http://thedomesticdiva.wordpress.com/2008/12/21/cpsia-what-childrens-clothing-designers-and-manufacturers-need-to-know/>

<http://www.handmadetoyalliance.org/Home/our-proposal-to-modify-the-cpsia>

<http://www.fashion-incubator.com/phpbb/viewforum.php?f=32>

<http://cpsia-central.ning.com/>

### **A sampling of threatened businesses:**

<http://www.endangeredwhimsy.com/>

[http://hyenacart.com/poweredby\\_cat.php?hct=9](http://hyenacart.com/poweredby_cat.php?hct=9)

[http://hyenacart.com/poweredby\\_cat.php?hct=1](http://hyenacart.com/poweredby_cat.php?hct=1)

[http://www.etsy.com/category\\_top.php?top\\_tag=children](http://www.etsy.com/category_top.php?top_tag=children)

### **International Testing Standards:**

[http://www.oeko-tex.com/xdesk/ximages/470/16132\\_grenzwerte.pdf](http://www.oeko-tex.com/xdesk/ximages/470/16132_grenzwerte.pdf)