

May 12, 1978

Office of the White House Press Secretary

NOTICE TO THE PRESS

The President has signed S. 644 - Consumer Product Safety Commission Improvements Act of 1976. This bill amends the Consumer Product Safety Act (CPSA) by clarifying and extending the powers, jurisdiction, and independence of the Consumer Product Safety Commission (CPSC) and by authorizing appropriations for CPSC through fiscal year 1978.

The major provisions of S. 644 are:

- exclude pesticides, tobacco and tobacco products, and firearms, ammunition, or ammunition components from the jurisdiction of the Commission. CPSC's jurisdiction to regulate fireworks would be preserved.
- direct that no consumer product safety standards may be based upon any sampling plan, except for standards applicable to fabric or product flammability or to glass containers.
- require CPSC to transmit to its congressional authorizing committees its proposed product safety regulations 30 days prior to adoption (a "notify and wait" provision).
- stipulate that any potential adverse impact on the elderly or handicapped be considered in the promulgation of a consumer product safety rule.

In addition, the bill will amend the Federal Tort Claims Act to allow civil suits against the United States where the Commission or an employee is charged with misrepresentation or deceit, or gross negligence in the exercise of, or failure to exercise, a discretionary function. No claim could be brought which did not arise before January 1, 1978.

S. 644 will amend the Federal Hazardous Substance Act, the Poison Prevention Packaging Act, the Flammable Fabrics Act and the CPSA to provide that any non-identical State or local laws may be preempted when a Federal regulation pursuant to these laws is in effect. Exceptions to this provision are permitted where (1) Federal, State or local governments require products which they procure for their own use to comply with a higher standard than the Federal requirement -- so long as there is no conflict between the two requirements, and (2) a State or local government desires to put into effect a standard that is higher than a Federal safety standard and CPSC determines that such exemption does not unduly burden interstate commerce. In addition, fireworks

are categorically excluded from the preemption provision, so that States may set whatever fireworks regulations they wish.

The measure will also:

- authorize the Commission or the Attorney General to seek a preliminary injunction to restrain the distribution of a product which presents a substantial hazard.
- permit the Commission to provide, subject to strict privacy and disclosure standards, accident and investigatory reports to other Federal or State health, safety, or consumer protection agencies.
- establish new procedures and timetables for the development (either by third parties or by the Commission) and promulgation of consumer product safety standards.
- authorize the Commission to make advance payments to third parties selected to develop such product safety standards and to lease space in the District of Columbia in connection with safety education seminars conducted by the Commission.
- provide that risks of injury associated with a consumer product may be regulated under the CPSA, if the Commission finds it in the public interest, even if such risks could otherwise be regulated under the Federal Hazardous Substance Act, the Poison Prevention Packaging Act or the Flammable Fabrics Act.
- prohibit clearance of the appointment of any Commission employee (other than a Commissioner) by the Executive Office of the President

S. 644 will also authorize 12 new supergrade staff positions. These positions would be in addition to those now provided to the Commission from the Civil Service's government-wide pool.

#