

*File: children's
safety*

NEWS from CPSC

U.S. Consumer Product Safety Commission

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Hasbro Pays \$400,000 Civil Penalty for Delay in Reporting Infant Carrier Defect

WASHINGTON, D.C. - The U.S. Consumer Product Safety Commission (CPSC) announced today that Hasbro Inc., of Pawtucket, R.I., paid a \$400,000 civil penalty to settle allegations that it violated the Consumer Product Safety Act by failing to timely report defects with its "PLAYSKOOL baby FOLD'N TRAVEL" infant carriers. Playskool Baby is a division of Hasbro.

CPSC alleges that Hasbro failed to report in a timely manner that the carrier's handle locking mechanism could fail, causing the seat to flip forward and infants to fall to the ground. Hasbro received nine injury reports, including seven serious head injuries, before it reported to CPSC. In agreeing to settle this matter, Hasbro denies that the product contained a defect and that Hasbro violated any law.

About 38,500 of these carriers were sold nationwide from 1991 to June 1993 for approximately \$35. The infant carrier has a sleeping, sitting and rocking position and a handle for carrying baby out and about. Each carrier has the words "PLAYSKOOL baby FOLD'N TRAVEL" on a label where the handle connects to the seat.

Hasbro recalled the "PLAYSKOOL baby FOLD'N TRAVEL" carriers in 1996. Consumers still can participate in the recall by calling Hasbro toll-free at (800) 752-9755 anytime to receive a full \$35 refund. The U.S. Consumer Product Safety Commission protects the public from the unreasonable risk of injury or death from 15,000 types of consumer products under the agency's jurisdiction. To report a dangerous product or a product-related injury, you can go to CPSC's forms page and use the first on-line form on that page. Or, you can call CPSC's hotline at (800) 638-2772 or CPSC's teletypewriter at (800) 638-8270, or send the information to info@cpsc.gov. To order a press release through fax-on-demand, call (301) 504-0051 from the handset of your fax machine and enter the release number. Consumers can obtain this release and recall information from CPSC's web site at www.cpsc.gov or by calling the hotline or sending your request to info@cpsc.gov. You can also subscribe to CPSC's email subscription list which normally sends all press releases the day they are issued.



U. S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

Fax Message Cover Sheet

Date: Mar 5, 2000 **Time:** 10:30

- ☐ **Fax To (Name):** Heather Howard
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Subject: _____

Number of Pages to Follow: 6

Monday, April 3, 2000

THE NATION'S NEWSPAPER

USA TODAY

NO. 1 IN THE USA . . . FIRST IN DAILY READERS

Child dangers ignored

17 firms kept problems quiet

By Jayne O'Donnell
USA TODAY

Since 1997, at least 17 companies kept quiet about products that were seriously injuring children until the government stepped in, a USA TODAY investigation finds.

The makers of cribs, infant carriers and other children's products heard complaints — sometimes thousands — from parents. They conducted internal investigations but never told the owners of the products or the government.

In fact, an analysis of government documents shows that problems with 75% of the most dangerous children's products recalled during the past three years were not reported to the government until the Consumer Product Safety Commission, often alerted by consumers, got involved.

Today, the commission plans to announce a \$400,000 civil penalty against Hasbro for waiting until it had 12 reports of handles unlatching on infant carriers — causing seven skull fractures — before telling the agency about the problem. The carriers were recalled in 1996. Hasbro denies wrongdoing and says it settled the matter to avoid prolonged legal proceedings.

Cosco, a maker of children's products, also might wind up in court on charges it ignored reports about four products, including a crib mattress that the safety commission says trapped 12 babies, killing one. If negotiations fail, the commission could sue Cosco.

Cosco says its recent recalls have involved "complex legal and interpretative issues" and often didn't involve serious injuries.

Hasbro is the sixth children's product company to face civil penalties since early 1998 because regulators say they waited too long to report safety hazards — or never told the government at all.



► When safety is delayed. Special report, 1B

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Money

SECTION B

Monday, April 3, 2000

Special report



78 children hurt

Century Travelite
Sport stroller
CPSC says:

- ▶ 1,400 reports of collapsing strollers
- ▶ 78 injuries
- ▶ Century had 560 reports and 29 injuries, before reporting the problem
- ▶ Recalled in April 1997



7 skull fractures

Playskool Fold N' Travel
infant carrier
CPSC says:

- ▶ Seven skull fractures; one infant fell on face
- ▶ Hasbro waited four years to tell government
- ▶ Recalled in July 1996

Photos by Tim Dillon, USA TODAY



200 children hurt

Cosco Geoby Two Ways
tandem stroller
CPSC says:

- ▶ 3,000 lock failures
- ▶ More than 200 children injured, including fractures and head injuries
- ▶ Cosco never voluntarily reported problem
- ▶ Recalled in February 1999

Suffering in silence

From unsafe strollers to cribs,
companies fail to report flaws that
amputate fingers, fracture skulls

USA Today, April 3, 2000, 1B

By Jayne O'Donnell
USA TODAY

Alexia Weber was pushing her two children along a South Lyon, Mich., street two years ago when the stroller they were riding in collapsed. Weber, relieved that the 3-year-old girl and 1-year-old boy were not hurt, assumed that she had done something wrong.

Only later did she learn that hundreds of other parents had experienced the same problem with their Cosco strollers — and many were not so lucky. Their children suffered head injuries, broken bones and cut fingers.

To Weber, the most disturbing news was that the Consumer Product Safety Commission says Cosco knew about those incidents but hadn't alerted parents to the potential danger. Cosco didn't tell CPSC about the problem until the agency learned of it on its own. And it didn't recall the stroller until February 1999 — at least a year after it began receiving what turned out to be 3,000 complaints about stroller locks failing and more than 200 injury reports.

This is a pervasive problem in a wide range of products used by children, a USA TODAY investigation shows. Product manufacturers frequently conduct internal investigations but remain publicly silent as complaints about alleged defects pile up. In the past three years, 75% of the most dangerous problems that led to recalls were never voluntarily reported to the government. During that period, there were at least 17 cases in which products stayed on the market while the company gathered reports of children suffering everything from lost fingers to brain injuries, an analysis of CPSC data shows.

"If I had known what happened to the other kids, I wouldn't have bought the thing," says Kristine Kwiecinski, whose 5-week-old son was dumped out of a Playskool carrier four years after CPSC says Hasbro began collecting reports of skull fractures. A lock on the handle could fail, turning the carrier upside down.

CPSC will announce today that Hasbro will



By JOHN Galloway for USA TODAY

Unsuspecting parent: Weber was pushing Katelynn, left, and Nicholas in a stroller when it collapsed. She was pregnant with Meghan, front, at the time.

pay the government \$400,000 in civil penalties because, the agency says, it delayed reporting the carrier problem. Hasbro denies any wrongdoing and says it settled the matter to avoid prolonged legal proceedings.

Lawyers for Cosco and other child-product makers blame vague CPSC reporting rules and say it's difficult to know when complaints stem from a defect or owner misuse.

Federal law says a company must notify CPSC if it receives information that "reasonably supports the conclusion that its product creates an unreasonable risk of serious injury or death."

In the Cosco case, the company didn't think it

Please see SPECIAL REPORT next page ►

2B MONDAY, APRIL 3, 2000 • USA TODAY

Some product makers kept mum for years

Continued from 1B

was obligated to report the stroller problems to CPSC "due to the minimal number of reports and the minor nature of the injuries reported," says Cosco General Counsel Jonathan Reynolds.

The 3,000 complaints Cosco received represented 5% of 57,000 stroller owners.

"If someone has thousands of complaints, that's a pretty strong message about the quality or safety of their products," says R. David Pittle, a former CPSC commissioner and now vice president of Consumers Union. "That's not something you can say, 'We didn't know.' That's consumers telling you something."

Every year, more than 70,000 children are injured and about 60 die from injuries suffered in cribs, infant carriers and other non-toy items made just for kids, CPSC says.

"When you're talking about time with dangerous products, you're talking about deaths and injuries," says CPSC Chairman Ann Brown.

The companies put not only their customers but themselves at risk when they dawdle on reporting complaints. Since early 1998, manufacturers of six recalled children's products have agreed to pay the government civil penalties because they waited too long or never reported problems to CPSC. In addition to Hasbro, cited for the Playskool "Fold N' Travel" carrier:

► Baby's Dream Furniture in Georgia agreed to pay \$200,000 in civil penalties in January. CPSC said the company waited until it had eight reports of children having their fingers amputated, cut or crushed in its

Special report

"Generation" oak model cribs before it reported the problem to CPSC. The cribs were recalled in 1998. Baby's Dream President David Felfeli says the company didn't think it was late on reporting the injuries, but settled the matter to avoid court costs.

► Century Products paid \$225,000 in civil penalties in 1998. CPSC said Century was told one child died and five became trapped in its Okla Homer Smith cribs before it reported the problem. The cribs were recalled in 1997. CPSC also said Century had 560 reports of collapsing "Travelite Sport" strollers — including 29 injuries — before reporting. The strollers were recalled in 1997. Century had no comment.

► Safety 1st paid civil penalties of \$175,000 in 1998. CPSC said Safety 1st had 27 injury complaints before it reported toddler bed support rails were breaking and children were dropping to the floor. The rails were recalled in 1995. Safety 1st denied its product was defective and that it knowingly violated reporting rules.

► Coaster paid \$300,000 in civil penalties in 1998. CPSC said it failed to report defects or unreasonable risks in its full-size metal cribs despite independent lab test results showing the defect. Although no injuries were reported, the tests showed that crib slats and scrolls could strangle children and that children could choke on plastic and cane on the frame. The

► Binky-Grip Tight paid \$150,000 in civil penalties in 1998. CPSC said it failed to report defects in Binky's Newborn Orthodontic Pacifiers. The company had six reports of pacifiers separating from the knob, creating a choking hazard, although no injuries were reported. The pacifiers were recalled in 1996. The company denied that it knowingly violated reporting rules.

Ongoing negotiations

In the case of the Cosco stroller, CPSC has been discussing possible civil penalties with the company for about a year. CPSC levies higher penalties for companies that are repeat offenders, and Cosco agreed to pay the government \$725,000 in civil penalties in 1996 after the government sued it for failing to notify CPSC about hazardous toddler beds. If those negotiations fail, CPSC can take the company to court.

Cosco said in a statement to USA TODAY that it analyzed the product design and tested the strollers to ensure that any issues identified were corrected after it received complaints from consumers and retailers. The company also developed a repair kit.

Cosco, along with Kolcraft and Evenflo, has recalled an infant car seat that doubles as a baby carrier over the last two years because the handles released and babies fell to the ground. None of the three reported complaints or injuries until they were asked by the National Highway Traffic Safety Administration and CPSC, the government says.

By the time it recalled its carriers in December, Kolcraft had 3,000 reports of handle problems with 42 injuries, including a skull fracture and concussions, CPSC says. The agency says Cosco had 151 complaints the handles released, leading to 29 injuries, including skull fractures, and Evenflo knew of 176 carriers with handles that released, resulting in 89 injuries.

Evenflo spokesman Brian Bloom says the company made managerial changes and implemented an "ag-

USA Today, April 3, 2000, 2B



By Tim Dillon, USA TODAY

On the lookout: CPSC Chairman Ann Rrown, director of recalls Marc Schoem, left, and his brother Alan, director of compliance, amid several of the products that the agency discovered on its own were unsafe.

gressive" quality-assurance program after the recall. The company "takes each recall very seriously because the safety of our customers and their families is our top priority," Bloom says.

Cosco blamed most of the carrier injuries on misuse and says federal tests for handles were not approved until after the carrier went on sale.

Kolcraft General Counsel Eileen Lysaught said the handle-related complaints it had in the fall of 1997 — when regulators asked for information — did not suggest a recall was needed. Along with injury reports, some of the handle complaints related to non-safety issues, such as color and smell.

Fuzzy rules?

"I don't think there's any excuse if a company knows something is causing harm to a child to not let CPSC know to help get the word out to parents," says

Karen Sheehan, assistant professor of pediatrics at Northwestern University Medical School.

Lawyers who represent juvenile-product manufacturers blame CPSC regulations and methods for many of the delay problems:

► Peter Winik, an attorney with Latham & Watkins who represents Cosco and other manufacturers, says CPSC's reporting requirements are vaguely written, making it easy to see how companies might not think they need to report a hazard.

"The regulations leave plenty of gray areas for all different interpretations," Winik says. "In an awful lot of cases, the answer isn't clear. I suspect CPSC likes the regs just the way they are."

But Alan Schoem, CPSC's director of compliance, says the regulations are "pretty clear," and that companies simply prefer not to report. He says there is "no magic number" of injuries or complaints that suggests when a company should notify CPSC. But the agency

USA Today, April 3, 2000, 2B

gives companies from 24 hours to 10 days to investigate complaints and decide if a product hazard, rather than misuse, led to the complaint. He urges any company that is unsure of its reporting responsibility to call CPSC — anonymously, if necessary — to get a reading of the agency's position.

► Former CPSC general counsel Jeffrey Bromme, now a defense lawyer with Arnold & Porter, says CPSC's zeal in areas affecting children can catch some companies off guard.

"If your product has been involved in a child's death or in a horrible injury to a child, the staff is likely to move heaven and earth to get a recall," he told a child-safety conference recently.

Frederick Locker, legal counsel to the Juvenile Products Manufacturers Association and the Toy Manufacturers Association, says CPSC sets out to find a defect — and nearly always does — when it is investigating consumer complaints.

"It has to have chilling effect" on companies across the board, Locker says. "They want to encourage people to report insignificant or minor problems, but people think they'll all wind up being treated the same way" as those with deadly problems.

► Michael Brown, a former CPSC general counsel, now a defense lawyer with Brown & Freeston, says some firms complain it's difficult to predict how consumers might misuse a product and don't think they should be blamed for consumers' mistakes.

For instance, the handles on the combination car seat-infant carriers were unlocking when people propped them against their hips, CPSC says.

The companies considered it improper use of their products. But CPSC says the manufacturers should have known people would do that. The agency considered the lock failure in that position a defect.

"Say you make 3 million of something, and four people complain. Does that mean the design of the whole product is wrong?" asks Brown. "The government's answer is you should always come talk to us, but most of the time it's just a customer-satisfaction issue."

Alexia Weber disagrees.

When she called Cosco about the stroller that collapsed with her children in it, the company told her there was nothing wrong with it. But when she returned the stroller to the store, it wasn't being sold there anymore because management decided it was unsafe — even though it hadn't yet been recalled.

"It's scary that parents can have kids that have been injured after the company knew it was a problem, but decided, 'It's so rare,'" says Weber. "It's scary that companies can get away with it."

Web sites offer data on products' safety

Even the most diligent parent would have trouble keeping up with the children's product recalls announced every year. Here are the best bets for getting information:

► www.cpsc.gov: Includes all the recalls of infant and children's products, toys, household products and other consumer items announced since 1989. Recalls can be searched by name of product, company or product category. You can also sign up to be on CPSC's mailing list to get recall notices faxed or mailed. CPSC's hotline can be reached at 800-638-2772.

► www.nhtsa.gov: Has everything you need to know about child safety seats. You can search the National Highway Traffic Safety Administration's Web site for recalls, complaints and investigations related to any brand or model of child seat. (CPSC's site has only child seats that double as infant carriers.) Also includes tips on proper use of child safety seats. Information can also be obtained by calling 800-424-9393.

► www.registrationvillage.com: Allows consumers to register all their products in exchange for recall updates through e-mail or letters. Consumers also can search for historical recall data on any new purchases they make.

► www.parentsoup.com: Offers a "Consumer Reports" board in the "Around the House" center, which is designed for parents who have found products they "can't live without" and ones they "want everyone to avoid."

► www.momsonline.com: Check "Product Watch" board in the "Homespace" area for information on recalls and other information moms want to share about their children's products.

By Jayne O'Donnell

Page 1A

WEDNESDAY, MAY 3, 2000 • USA TODAY

Millions of weed trimmer heads recalled for dangerous chain flaw

By Jayne O'Donnell
USA TODAY

About 3.5 million weed trimmer heads are being recalled today because the metal chain links can fly off at speeds up to 240 miles an hour and injure or kill people.

A 3-year-old girl was killed and 40 others have been injured when they were hit by the flying metal from Weed Wizard trimmer heads with metal chains.

In August 1997, Peyton Pytlewicz of Dothan, Ala., was playing when she was hit in the skull by a metal link as her grandfather was trimming weeds 35 feet away.

"The metal link becomes a deadly piece of shrapnel," Consumer Product Safety Commission Chairman Ann Brown says.

Weed Wizard Acquisition of Bradley, Mich., which acquired the product after the child's death, settled a lawsuit by her family for \$735 million last year.

Spokesman Kevin McGrath says an engineering consultant conclud-



Weed Wizard: Chain links have become deadly projectiles.

ed that the incidents wouldn't have occurred if the product had been used according to instructions.

There were at least 12 reported accidents before the death, according to family attorney Sam Cherry of Cochran, Cherry, Givens and Smith. Most of those injuries were flesh wounds.

The company never reported the death or injuries to the agency, which is investigating whether Weed Wizard Acquisition should face civil penalties.

"It's a case that illustrates what can happen when a company is not reporting their accident histories,"

Cherry says. "The public is at peril for potentially dangerous products."

A USA TODAY analysis last month showed that 75% of the most dangerous child-product problems that led to recalls never were voluntarily reported to the government. That percentage is believed to apply to all products.

The Weed Wizard being recalled has a metal chain trimmer head that replaces the string trimmer head on gas-powered trimmers.

The Weed Wizards with metal chains were sold from May 1987 through April of this year for \$19 to \$25. The replacement chain kits were sold from January 1992 through April of this year for \$8. They were sold in stores and on TV.

Consumers should stop using the Weed Wizards with metal chains immediately and contact the firm to obtain free plastic replacement blades and installation instructions. For a free replacement kit, call Weed Wizard at 888-810-7536 or check www.weedwizard.com.

GE Faces Lawsuits on Dishwasher-Recall Plan

By MATT MURRAY

Staff Reporter of THE WALL STREET JOURNAL

General Electric Co. is coming under increasing heat for a dishwasher-recall plan.

New York state's attorney general, Eliot Spitzer, said he formally notified GE he intends to file within days a lawsuit over its October recall of 3.1 million dishwashers containing a defective energy switch that could spark fires. In a statement, Mr. Spitzer said GE "deceived consumers in New York and across the country so they could sell more dishwashers."

Terry Dunn, a spokesman at GE Appliances, Louisville, Ky., called the action "grandstanding." Pointing out that the rebate program was implemented in conjunction with the federal Consumer Products Safety Commission, he said, "This has been, is and will continue to be about consumer safety and removing these hazards from the consumer marketplace. We are working very hard to communicate effectively with and to satisfy all our consumers during this recall."

Separately, a lawsuit accusing GE of attempting "to turn the CPSC procedures into a marketing program for the sale of new GE dishwashers" and seeking class-action status was filed yesterday in U.S. District Court in St. Petersburg, Fla. An earlier suit filed in Florida state court ac-

cuses GE of intentionally concealing the design defect in its dishwashers from the late 1980s until it notified the commission in November 1998.

GE has denied those allegations. But the commission said yesterday that it is investigating whether GE should have reported the problem sooner.

The recall concerns GE and Hotpoint brand dishwashers made from April 1983 to January 1989. GE and the commission said 50 fires caused by a defective energy switch on the dishwashers had been reported. Seven spread beyond the machines themselves. No injuries were reported.

The big question is how practical it is to repair the machines. GE offered individual owners rebates of \$75 to \$125 toward new GE replacements, or \$25 toward a non-GE dishwasher. But it refused to pay for repairing them, citing the costs and the age of the appliances, and warns on its Web site, "If you choose to repair it independent of GE, you do so at your own cost and risk."

Yesterday, Mr. Dunn went further, insisting that the appliance cannot be repaired, but can only be altered to deactivate the switch, thus denying users a choice between heated drying and air drying of dishes. "There is no fix," he said. "You can disable the feature, but you cannot repair it to its original condition." The

cost of such an action, Mr. Dunn said, is \$75 to \$100, but "it makes no economic sense for the consumer to spend this money to make an old dishwasher that's past its useful life not do something." The average dishwasher lasts nine to 11 years.

At the same time, GE has offered some big-volume customers, such as apartment managers, instructions and tools to correct the problems on existing dishwashers "if they have a financial hardship," Mr. Dunn said. "They can do this because they have qualified service technicians to safely do this." GE also offers such customers rebates on replacements, which run from \$200 to \$500 a unit.

GE had a choice under the law to offer a recall, a rebate or repairs, said Alan Schoem, director of compliance at the CPSC. He said the agency had urged GE to offer repairs to individual consumers but "they flat out refused."

Moreover, he said: "They might be splitting hairs or playing a semantic game when they talk about a repair. The hazard can be repaired from the dishwasher by rewiring the switch." He conceded that doing so wouldn't permit users to choose between heat drying and air drying their dishes.

He also said that since the recall was announced, the commission has gotten "many more complaints than we would normally get about a recall program."

GE said it has received mostly positive responses.

LEGISLATIVE PROPOSALS TO IMPROVE CPSC ENFORCEMENT POWERS

1. Eliminate the cap on civil penalties for violations of product safety laws

Under current law, the CPSC cannot assess more than \$1,650,000 in any one case against a company that knowingly violates consumer product safety laws. (Under the "Consumer Product Safety Improvement Act of 1990," this number is adjusted for inflation every five years. The next adjustment is due in 2005.) The proposed amendment eliminates this maximum civil penalty amount. Many of the cases in which the Commission seeks civil penalties involve very large corporations. More substantial civil penalties would provide a needed incentive for those companies to notify CPSC of defective products so that the agency can take timely action to protect consumers. Other agencies have civil penalty authority with no "cap" on the amount of the potential penalty, including the Federal Trade Commission (15 U.S.C. 21(l)) and the Federal Mine Safety and Health Administration (30 U.S.C. 820(a)).

The proposed amendment does not change the criteria for determining the amount of civil penalty to be sought. Under current law, the Commission must consider the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, the number of defective products distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged. If the Commission staff cannot reach agreement with a company on a claim for civil penalty, the matter is referred to the Department of Justice for appropriate action.

The proposed amendment also codifies the current civil penalty amount of \$7,000 for *each* knowing violation of a product safety law. This amount was recently adjusted under the Consumer Product Safety Improvement Act of 1990 ("Improvement Act"), Public Law 101-608, 104 Stat. 3110 (November 16, 1990).

2. Increase the penalty for a criminal violation of product safety laws from a misdemeanor to a felony and eliminate the requirement that the agency give notice to the company that is criminally violating the law.

The proposed amendment increases the potential criminal penalties for a knowing violation of consumer product safety laws from a misdemeanor (up to one year in prison) to a felony (up to three years in prison). It also increases the maximum monetary criminal penalty from \$50,000 to \$250,000 for individuals and \$500,000 for companies. These heightened penalties are commensurate with the seriousness of product safety violations, which can result in death or serious injury to children and families. Other agencies have authority to seek substantial (felony) criminal penalties for knowing violations of safety requirements (e.g., the Food and Drug Administration regarding prescription drug marketing violations (21 U.S.C. 333(b)) and the Department of Transportation regarding the transportation of hazardous material (49 U.S.C. 5124)).

The proposed amendment also eliminates the requirement that the Commission give notice of noncompliance before imposing a criminal penalty for a knowing violation of product safety laws. The notice requirement makes it all but impossible to pursue a criminal penalty against companies, even in the most serious cases. The threat of a criminal felony prosecution would create an additional strong incentive for companies to report product defects to the Commission.

3. Give CPSC the authority to select the way a defective product will be fixed in a product recall.

Under current law, a company with a defective product that is being recalled has the right to select the remedy to be offered to the public, even if that remedy does not provide the most protection to consumers. The company can choose repair, replacement, or refund, less a reasonable allowance for use.

The proposed amendment will permit the Commission, rather than the company with the defective product, to select the remedy to protect the public. Companies will still be afforded the opportunity for a hearing to present their views, not only on whether their product constitutes a substantial product hazard, but also on the nature of the remedy that would be appropriate in the event that a recall is ordered.

The ability of companies to choose the remedy often does not further public safety. For example, if a manufacturer chooses to refund, "less a reasonable allowance for use," the purchase price of a product that has been on the market for a long time, the amount due consumers may be so small that there is no incentive for the consumer to take advantage of the recall. This is especially true where the hazardous product is still useful to the consumer and the cost of a replacement is substantial. The company is permitted to make this choice even though people have been at risk for a number of years, thousands of products are still in use, and injuries are continuing to occur. In this example, as the law is currently written, allowing the manufacturer to choose a refund would do little, if anything, to stop customers from using the dangerous product and public safety would not be furthered.

NON-LEGISLATIVE PROPOSALS TO IMPROVE CPSC ENFORCEMENT POWERS

1. Provide \$5 million to enhance CPSC's Special Investigations Unit (SIU)

Under CPSC's laws, any company that has information that "reasonably supports the conclusion that its product creates an unreasonable risk of serious injury or death" must file a report with the CPSC. However, fewer than 60 percent of the investigations of dangerous products conducted by CPSC every year are a result of company reports. The rest of the investigations are initiated because of information that comes from other sources, such as consumer complaints, newspaper articles, and reports from health care practitioners.

In 1995, CPSC established the SIU to develop new sources of information about potentially dangerous products in the marketplace and to review new and existing data sources to uncover potentially defective products. To date, the SIU has reached agreements with the International Association of Arson Investigators and a number of homeowners' insurance companies to receive information about products that may have caused death, serious injury and property damage. CPSC has initiated a number of recalls through the efforts of the SIU, including recalls of dive sticks that can impale children and playpens with protruding rivets that can strangle infants.

An additional \$5 million would enable CPSC to expand the role of the SIU to find companies who have failed to file reports of dangerous products and to investigate and prosecute cases against those companies. The combination of this increased enforcement capability and higher civil and criminal penalties for nonreporting would provide a strong deterrent against companies failing to notify CPSC about dangerous products.

2. Allow CPSC to be eligible to receive money from the Department of Justice Asset Forfeiture Fund

The money in the Department of Justice Asset Forfeiture Fund (the Fund) comes from property that was used in, or acquired through, illegal activities. Certain foreign, federal, state and local law enforcement agencies that help contribute to the Fund are authorized to apply for money from the Fund to enhance forfeiture and strengthen law enforcement. Recently, CPSC has initiated a number of cases against people who illegally distribute fireworks and other consumer products. The assets seized as a result of these cases have been deposited into the Fund. Many of these cases are ongoing, and CPSC staff anticipates that some of the cases will result in additional contributions to the Fund. However, CPSC is not currently a member of the fund, and thus, authorized to apply for money from the Fund to further our law enforcement activities.

The Asset Forfeiture and Money Laundering Section of the Criminal Division of the Department of Justice has the authority to admit CPSC into the Fund, thereby allowing the agency to apply for money from the Fund. With the additional revenue that CPSC would obtain from the Fund, the agency could expand its efforts to pursue criminals who violate product safety laws and put children and families in danger.

May 5, 2000

PARTNERSHIP WITH THE U.S. CONSUMER PRODUCT SAFETY COMMISSION TO UNCOVER DANGEROUS PRODUCTS THAT INJURE AND KILL CHILDREN

The U.S. Consumer Product Safety Commission (CPSC) is the federal agency responsible for protecting the public from unreasonably dangerous or defective consumer products. The partnership would help CPSC find products in the marketplace that have the potential to cause death or serious injury, especially to children.

Under the partnership:

- Health care providers and other professionals would report to the CPSC when they see a death or serious injury that may have been caused by a consumer product. The professional can inform the CPSC through its Internet web site or through its toll-free Hotline.
- The professional association would inform its members through newsletters, conferences, e-mails, etc. of the need to keep CPSC informed of potentially hazardous products. The association would also circulate to its members notices of CPSC product recalls.
- CPSC staff would attend conferences and write articles in newsletters to help train association members about what kind of hazards to look for and to give them the latest product safety information.

How to contact the CPSC:

- Go to the CPSC web site at www.cpsc.gov. Click on "Report Unsafe Products." Scroll to bottom of page and click on "For Physicians and Health Care Professionals to report an injury, death, or unsafe product." Fill out the Product Incident Report.

Or

- Call CPSC's toll-free Hotline: 1-800-638-2772. When prompted, press extension 300 and speak to a Hotline representative.

CPSC PARTNERSHIP CONTACTS: SO FAR

1. International Association of Arson Investigators (IAAI)
Steve Austin, Government Affairs Director
1-800-823-7069

2. American Academy of Pediatrics
Janice Guerney
(202) 347-8600

file: Toy Safety

APRIL 13, 2000

MEMORANDUM FOR BRUCE REED AND MELANNE VERVEER

FROM: HEATHER HOWARD
CC: ANN O'LEARY
SUBJECT: TOY SAFETY INITIATIVE

BACKGROUND

A USA Today investigation recently found that at least 17 manufacturers of children's toys failed to warn the government or owners of toys of complaints about the safety of their products. "[A]n analysis of government documents shows that problems with 75% of the most dangerous children's products recalled during the past three years were not reported to the government until the Consumer Product Safety Commission, often alerted by consumers, got involved." In addition, the Commission recently announced a \$400,000 penalty against Hasbro, which waited until it had 12 reports of handles unlatching on infant carriers (resulting in seven skull fractures) before telling the Commission about the problem. Just today, the Commission announced the recall of 7 million infant swings, after 6 children died after becoming tangled in the waist belts and strangling.

THE PROBLEM

The Commission needs tougher penalties to deter companies from withholding complaints about their products. Currently, the Commission's penalty authority includes 1) civil penalties, which are capped at \$1.6 million (the total fine is \$7,000 per product, multiplied by the number of products sold, up to \$1.6 million), and 2) criminal misdemeanor penalties, including imprisonment of up to one year and fines capped at \$50,000.

The civil penalties are adjusted for inflation every five years, and were last adjusted in 1999. Even so, the cap is absurdly low. It is triggered when the number of products sold exceeds 228; the majority of cases the Commission handles involve, at a minimum, thousands of products sold.

Under the criminal provisions of the statute, the Commission may charge anyone who "knowingly and willfully" violates the law, including the reporting requirements, "after having received notice of noncompliance." Thus, in effect, the criminal provisions only apply on a second offense. Given the high standard of the statute (knowledge of the law and willful violation), the Commission argues that the second offense requirement is unnecessary and hampers their ability to enforce the statute and protect consumer safety.

RESPONSE

I recommend proposing legislation to strengthen the penalty authority of the Commission. Increased penalties would provide obvious incentives for companies to avoid manufacturing defective products, as well as to come forward earlier when problems are detected, thus preventing harm to consumers. Tougher penalties would also generate more news coverage of Commission actions, which is important to making consumers aware of dangerous products.

Proposed legislation would:

- 1) Lift the overall cap on civil penalties. Even if the \$7,000 per product cap remains (of course, we could raise that as well, but the Commission feels the overall cap is most important), this would result in significantly larger fines in most cases.
- 2) Make criminal violations a felony. This would send a strong message to corporations. It probably would also encourage the Department of Justice, which the Commission believes is reluctant to pursue misdemeanors, to prosecute violations. In addition to making violations a felony, we could remove the second offense requirement.

Child dangers ignored

17 firms kept problems quiet

By Jayne O'Donnell
USA TODAY

A1

Since 1997, at least 17 companies kept quiet about products that were seriously injuring children until the government stepped in, a USA TODAY investigation finds.

The makers of cribs, infant carriers and other children's products heard complaints — sometimes thousands — from parents. They conducted internal investigations but never told the owners of the products or the government.

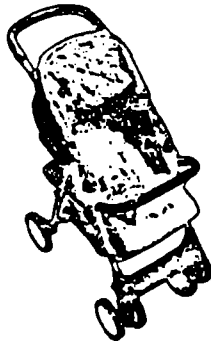
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Today, the commission plans to announce a \$400,000 civil penalty against Hasbro for waiting until it had 12 reports of handles unlatching on infant carriers — causing seven skull fractures — before telling the agency about the problem. The carriers were recalled in 1996. Hasbro denies wrongdoing and says it settled the matter to avoid prolonged legal proceedings.

Cosco, a maker of children's products, also might wind up in court on charges it ignored reports about four products, including a crib mattress that the safety commission says trapped 12 babies, killing one. If negotiations fail, the commission could sue Cosco.

Cosco says its recent recalls have involved "complex legal and interpretative issues," and often didn't involve serious injuries.

Hasbro is the sixth children's product company to face civil penalties since early 1998 because regulators say they waited too long to report safety hazards — or never told the government at all.



► When safety is delayed. Special report, 1B

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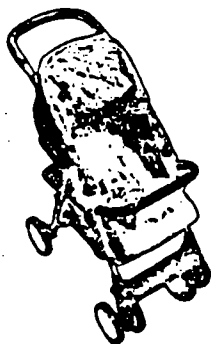
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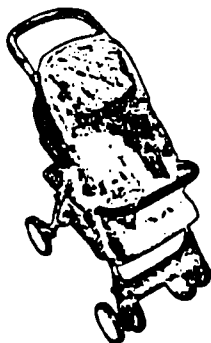
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NEWS from CPSC

U.S. Consumer Product Safety Commission

Office of Information and Public Affairs

Washington, DC 20207

FOR IMMEDIATE RELEASE

April 3, 2000

Release # 00-085

CPSC CONTACT: William J. Moore, Jr.

(301) 504-0626 Ext. 1348

Hasbro Pays \$400,000 Civil Penalty for Delay in Reporting Infant Carrier Defect

WASHINGTON, D.C. - The U.S. Consumer Product Safety Commission (CPSC) announced today that Hasbro Inc., of Pawtucket, R.I., paid a \$400,000 civil penalty to settle allegations that it violated the Consumer Product Safety Act by failing to timely report defects with its "PLAYSKOOL baby FOLD'N TRAVEL" infant carriers. Playskool Baby is a division of Hasbro.

CPSC alleges that Hasbro failed to report in a timely manner that the carrier's handle locking mechanism could fail, causing the seat to flip forward and infants to fall to the ground. Hasbro received nine injury reports, including seven serious head injuries, before it reported to CPSC. In agreeing to settle this matter, Hasbro denies that the product contained a defect and that Hasbro violated any law.

About 38,500 of these carriers were sold nationwide from 1991 to June 1993 for approximately \$35. The infant carrier has a sleeping, sitting and rocking position and a handle for carrying baby out and about. Each carrier has the words "PLAYSKOOL baby FOLD'N TRAVEL" on a label where the handle connects to the seat.

Hasbro recalled the "PLAYSKOOL baby FOLD'N TRAVEL" carriers in 1996. Consumers still can participate in the recall by calling Hasbro toll-free at (800) 752-9755 anytime to receive a full \$35 refund. The U.S. Consumer Product Safety Commission protects the public from the unreasonable risk of injury or death from 15,000 types of consumer products under the agency's jurisdiction. To report a dangerous product or a product-related injury, you can go to [CPSC's forms page](#) and use the first on-line form on that page. Or, you can call CPSC's hotline at (800) 638-2772 or CPSC's teletypewriter at (800) 638-8270, or send the information to info@cpsc.gov. To order a press release through fax-on-demand, call (301) 504-0051 from the handset of your fax machine and enter the release number. Consumers can obtain this release and recall information from CPSC's web site at www.cpsc.gov or by calling the hotline or sending your request to info@cpsc.gov. You can also subscribe to CPSC's [email subscription list](#) which normally sends all press releases the day they are issued.

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