

and pass the bill, H.R. 5687, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

**MOTION TO INSTRUCT CONFEREES ON H.R. 4040, CONSUMER PRODUCT SAFETY MODERNIZATION ACT**

Mr. KIRK. Mr. Speaker, pursuant to clause 7 of rule XXII, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Kirk moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4040 be instructed to insist on the provisions contained in the House bill with regard to the definition of "children's product".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. KIRK) and the gentleman from Louisiana (Mr. MELANCON) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. KIRK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in June of 2007, the United States Consumer Product Safety Commission and toy company RC2 announced the recall of 1.5 million various Thomas & Friends wooden railway toys because they contained dangerous amounts of lead.

Lead poisoning causes vomiting, diarrhea, convulsions, anemia, loss of appetite and abdominal pain, irritability, fatigue, constipation, difficulty sleeping, headaches, and coma. Of course, it can even be fatal. The toys on recall were made in China and retailed throughout our country.

Just about every family with young kids in America knows Thomas the Tank Engine well. And that's why I stand here this evening.

In 2004 the Consumer Product Safety Commission reported 121 United States product recalls. By 2007 that number had fallen to 83. Meanwhile, the commission recorded 148 recalls of products from China. But last year Chinese recalls totaled 287.

Now, last July I joined with Congressman RICK LARSEN, the co-Chair with me of the United States China Working Group, in introducing H.R. 3100, the bipartisan Import Safety Act of 2007, to increase penalties for willful violators of Federal regulations on imported goods and increase our commitment to overseas inspections by the FDA and the commission. Our effort brought needed attention to this critical issue, and the legislation that we are discussing today, H.R. 4040, included provisions to increase penalties for violators.

Last August Congressman LARSEN and I led a delegation to China for in-

tense discussions on product safety. We met with the Vice Minister Wei at China's General Administration For Quality Supervision, Inspection and Quarantine. We told him that we would not stop until China allowed the Food and Drug Administration and the Consumer Product Safety Commission to deploy United States product safety officers to China. When we returned, we made good on our promise. After months of work and intense consultations with the State Department, the FDA, the Chinese Foreign Ministry, and the commission, we are pleased to report that we now can announce the FDA will be deploying eight full-time United States product safety officers to China later this year.

Just a few hours ago, Congressman LARSEN and I met with Mr. Christopher Hickey, who will be America's incoming FDA country director for China. We will continue working with our colleagues to ensure that Mr. Hickey has all of the resources he requires to get his work done and keep families safe. We particularly stressed on him the importance of having a letter from the Secretary of Health and Human Services giving him as country director power to stop a dangerous shipment from being unloaded in a U.S. port if, in his view as a country director, he feels that Americans could be at risk. We feel that this letter will give him important powers and negotiating leverage to make sure that he has access where needed on behalf of the FDA and the Department of Health and Human Services to make sure that Americans are safe.

At a hearing of the Appropriations Subcommittee on Financial Services in March of this year, I pressed Chairman Nord to follow FDA's lead and immediately deploy United States product safety officers from the commission to China. After weeks of intense follow-up discussions, we are pleased to have the commission's commitment to send its first full-time American product safety officer to Beijing. As a member of the Appropriations Subcommittee that will fund this effort, our understanding is that the startup costs for this effort will total \$310,000 with reoccurring costs of \$550,000 per year to support the commission's deployment to China.

I want to thank our ambassador to the People's Republic of China, Sandy Randt, for working with us to secure the physical space in Beijing and Shanghai and Guangzhou to accommodate these critical deployments, and staffers from the Kirk and Larsen offices on behalf of the China Working Group did inspect those facilities just a few months ago.

Mr. Speaker, on December 19 of last year, the House passed H.R. 4040, the Consumer Product Safety Commission Reform Act, by a unanimous 407-0 vote. This House came together on a bipartisan basis and defined a children's product as a consumer product designated or intended for children, and here's the key phrase, "up to age 12."

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It would mean that toys for kids up to age 12 would be subject to lead testing. Now our colleagues in the Senate took up a bill and amended this definition and lowered the age requirement to just 7 years.

I take this action tonight on behalf of Americans like Ryan Fischer, age 3, who is now recovering from lead poisoning. Ryan's mother, Beth, came to the Congress to highlight the danger that she faced, among other Americans, including the toys of Ryan's 8-year-old brother that contained lead but would not be covered under the Senate bill. The toy in question in this case was a figure from a Nickelodeon character, Diego, that was among the 17 pounds of toys that had high lead levels in the Fischer home.

Today, I rise to offer what I think is a commonsense motion to instruct conferees on H.R. 4040 to insist on the House definition of a children's product over what the Senate chose.

Now, earlier this evening, I logged onto Etoys.com, a very popular Web site for children's toys. When I clicked on toys for children ages 9 to 12, I found 21 products in the Thomas and Friends line available for sale.

Did our colleagues in the Senate think that dangerous toys coming from China could only harm kids below 8 years of age? If so, the Senate would be out of touch and is not listening to the concerns of many American families.

On May 15, 2008, Linda Ginzel, the co-founder of Kids in Danger, called on conferees to adopt the House definition of a children's product. Linda knows what it's like to lose a child from an unsafe product. In Linda's words, "Kids in Danger especially urges the conferees to include the definition of children's products that go up to age 12. Stopping at age 7 would effectively stop protecting children in the second grade." I agree with Linda, as I think do most Americans. The American Academy of Pediatrics agrees with her as well.

On November 6, 2007, Dr. Dana Best testified before the Congress on behalf of the AAP, issuing the following statement, "The AAP further recommended that children's products be defined as one used by children under the age of 12 years in order to provide a standard that protects most children throughout periods of rapid brain development."

In her later testimony, Dr. Best went on to say, "The AAP further appreciates the fact that this legislation requires lead testing in products designed or intended for use by or with children up to age 12 years. Children's brains develop rapidly throughout childhood, and significant damage would occur from lead exposure at any point during this time. This provision represents a vital protection for child health."

Now, for some reason, our colleagues in the Senate disagreed with Kids in Danger. Our colleagues in the Senate disagreed with the American Academy of Pediatrics and, in my judgment, the

common sense of the American people. For some reason, our colleagues in the Senate may have never logged on to Etoys.com to find out that products recalled less than 1 year ago because of dangerous lead content targeted children between the ages of 9 and 12.

Mr. Speaker, we should not allow toy manufacturers to stop protecting American children once they hit the second grade.

Mr. Speaker, legislation of this type has now been under consideration in the Congress for almost a year. We passed this very legislation in December. We went to conference on this bill over 4 weeks ago. As we work tonight, it is only 4 months until the Christmas shopping season goes into high gear. Likewise, Hanukkah begins 4 days before Christmas.

Time is quickly running out to send a very clear signal by this Congress in this month that lead standards in toys will not just be a recommendation of major retailers, but will have the force of law and will apply to products for children age 12 and down.

In my view, this is a commonsense, bipartisan issue that the House should insist on as it rapidly concludes its conference. We should maximize protections for our Nation's children.

In this effort, I want to thank Will Carty from Mr. BARTON's staff for helping us out on this; Brian Diffell from Mr. BLUNT's staff for this important motion today; and my key staffers, Richard Goldberg and Patrick Magnuson, for their assistance and work on this effort.

I urge my colleagues to support this commonsense motion to instruct, and reserve the balance of my time.

Mr. MELANCON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight I happened to talk to my 2-year-old grandson, Jackson, in his home in south Louisiana. He is just 2 so we didn't talk a lot of details about his pap and what his pap was going to be doing tonight. But I thought it fitting to call him before speaking in favor of this motion to instruct.

For the next couple of years, he will play with just about anything put in front of him. He will clap blocks together, chip paint off of model cars, and I will bet chew on anything that is handy. We owe it to him, his mother, his dad, his grandmothers, his other grandfather, and to me, to do what we can to make certain the toys he plays with won't make him sick. It's that simple. We have that responsibility, and I believe this underlying bill gets us closer to fulfilling it.

Mr. Speaker, I am proud of this bipartisan bill. It passed out of the committee 51-0 and passed the House 407-0. It bans lead beyond the tiniest amounts in products intended for kids 12 and under. That is an important age, as kids are exposed to so many different toys and products as they grow up. I believe the House bill takes this into account, and I am proud to support it.

Mr. Speaker, this motion is a good one. I thank my friend from Illinois for offering it. I urge that the House support the motion to instruct offered.

Mr. Speaker, I yield back the balance of my time.

Mr. KIRK. Mr. Speaker, I thank my colleague. His State has gone through enough, and I am glad for the attention and time he has spent on this issue.

I think most Americans know with regard to Thomas and other faulty products from China, we have known about this problem for a year, and that the House of Representatives has passed completely bipartisan legislation on this subject 7 months ago. We have been in conference for 4 weeks now.

Quite frankly, our colleagues in the Senate made a mistake by making the protections cover only toys from zero to age 7. We risk having a situation in which parents who do not follow the rigid declarations of what is available on the labeling on the box may make a mistake, and we do not offer protections under the Senate bill; or, that older brothers and sisters may have toys available which clearly fall outside the Senate definition but would come clearly inside the House definition. That is why I think this is a very important motion to instruct.

I think this calls attention to this issue for a piece of legislation which should be rapidly finished to send a clear signal to the holiday-buying public. I think it gently corrects our colleagues in the other body that they made a mistake and they should back down to the House's position.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KIRK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### USE IT OR LOSE IT HOAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. I am here on the floor tonight to set the record straight about

false claims that Democrats are peddling as a "use it or lose it" hoax. With American families and small businesses continuing to feel the pain at the pump, House Democrats have begun offering a series of hollow bills that will do nothing to reduce gas prices.

Today's bill, purportedly meant to address price gouging, serves no purpose other than to provide political cover to Democrats who continue to divide the will of the American people who are calling on Congress to increase the supply of American energy. In fact, today's bill is a rehashed version of a similar price gouging bill passed by the House last year.

Still to come in this week's series of no energy bills, the Democrats' "use it or lose it" hoax, with no facts to back up their desperate rhetoric, Democratic leaders continue to make misleading and inaccurate claims with the hope of confusing the American people.

Following are some of the most prevalent examples. Myth. If the American people want increased production of American energy, Congress must force energy companies to use their leased Federal lands to produce oil or lose those leases.

Here's the fact. Use it or lose it is already the law of the land. As a matter of fact, in a bipartisan vote, Speaker PELOSI, Majority Leader HOYER, and Natural Resources Committee Chairman RAHALL each voted for it in 1992. Under the law, Federal energy leaseholders already must produce oil or natural gas within 5 to 10 years after drilling on the land begins, and the Secretary of the Interior has the power to cancel the lease if the energy company fails to comply.

If Representatives PELOSI, HOYER, and RAHALL all had voted for "use it or lose it" 16 years ago, then why are they so insistent on forcing another vote on the exact same concept this year? Could it be because they have no meaningful plan of their own to bring down gas prices?

Another myth. Oil companies are sitting on 68 million acres of Federal lands without drilling for oil or gas on any of it. This is another false claim, which has become one of the Democrats' top talking points, but they can't back it up with any facts.

Energy companies already are actively exploring their currently leased lands to find oil or gas. Once they determine that oil or gas is present, only then can they actually begin drilling. The entire process can take years.

As the Independent American Association of Petroleum Geologists noted in a letter to House leaders yesterday, oil and natural gas exploration is not simple and it is not easy. It requires geological ingenuity, advanced technologies, and the time to do the job right.

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It also requires access to areas where exploration ideas can be tested. The