



July 21, 2015

TO: Members, Subcommittee on Commerce, Manufacturing, and Trade

FROM: Committee Majority Staff

RE: Subcommittee Markup on H.R. 985, “H.R. ___, Child Nicotine Poisoning Prevention Act of 2015,” and “H.R. ___, E-Warranty Act of 2015.”

I. INTRODUCTION

The Subcommittee on Commerce, Manufacturing, and Trade will meet in open markup on July 23, 2015, at 1:00 p.m. in 2123 Rayburn House Office Building to consider the following:

- H.R. 985, Concrete Masonry Products, Research, Education, and Promotion Act of 2015;
- H.R. ___, Child Nicotine Poisoning Prevention Act of 2015; and,
- H.R. ___, E-Warranty Act of 2015.

In keeping with Chairman Upton’s announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to Peter.Kielty@mail.house.gov. Any information with respect to the amendment’s parliamentary standard (e.g., its germaneness) should be submitted at this time as well.

II. LEGISLATION

A. H.R. 985, Concrete Masonry Products, Research, Education, and Promotion Act of 2015

H.R. 985, introduced by Representative Guthrie and Representative Castor, would establish a check-off program for concrete masonry products. It also would direct the Department of Commerce to provide administrative support and exercise certain oversight controls throughout the implementation of the program.

A section-by-section of the legislation follows:

Section 1. Short Title. Section 1 provides that the Act may be cited as the “Concrete Masonry Products Research, Education, and Promotion Act of 2015.”

Section 2. Findings and Declaration of Policy. Section 2 describes why the concrete masonry products industry plays a significant role in the U.S. economy. It also sets forth the purpose of

the Act to establish a program that strengthens the market position and promotes the use of concrete masonry products.

Section 3. Definitions. Section 3 sets forth definitions for terms contained within the Act.

Section 4. Issuance of Orders. Section 4 authorizes the Secretary of the Department of Commerce to issue orders under this Act that are applicable to manufacturers of concrete masonry products. It also sets forth terms that the Secretary must follow in issuing a proposed order, amending a current order, and making orders available for public comment and review.

Section 5. Required Terms in Orders. Section 5 sets forth the specified terms and conditions that an order must contain. This section establishes a Concrete Masonry Products Board, the criteria for board membership, and the powers and duties of the board in carrying out the promotional, research, and informational programs related to concrete masonry products.

Section 6. Assessments. Section 6 requires and authorizes the collection of mandatory assessments paid by manufacturers of concrete masonry products manufactured and marketed in the United States. It also sets forth the collection processes of the assessment and details how the assessments must be disbursed to support research, educational, and promotional activities.

Section 7. Referenda. Section 7 requires the Secretary to conduct a referendum among manufacturers required to pay the assessments to formally adopt an order under this Act. The Secretary will deem the order in effect only if it has been approved by a simple majority of all the votes cast in the referendum by concrete masonry product manufacturers. This section also sets forth the terms of eligibility among manufacturers to participate and cast votes on the referendum.

Section 8. Petition and Review. Section 8 authorizes concrete masonry product manufacturers covered by an order to file a petition challenging the legality of the order. It also authorizes manufacturers to file a petition requesting a modification to the order or an exemption from the order.

Section 9. Enforcement. Section 9 gives U.S. District courts authority to enforce this Act. It also authorizes the U.S. Attorney General to impose civil actions. It establishes civil penalties and orders for violations of the Act of not more than \$5,000 for each violation. It also provides that any remedies for enforcement listed in this Act are in addition to, and not exclusive of, other remedies that may be available.

Section 10. Investigation and Power to Subpoena. Section 10 authorizes the Secretary to conduct investigations, issue subpoenas, and take other actions to determine whether any are engaging in conduct that violates the Act

Section 11. Suspension or Termination. Section 11 gives the Secretary authority to suspend or terminate an order or provision of an order that obstructs or does not effectuate the purpose of the Act. It also gives the Secretary authority to suspend or terminate the collection of

assessments under an order and all other activities if it is determined that the order is not approved as a result of a referendum conducted under Section 7.

Section 12. Confidentiality. Section 12 sets forth that nothing in the Act will require the Board to disclose information or records under section 522 of title 5, United States Code.

Section 13. Amendments to Orders. Section 13 establishes that all the provisions of the Act that are applicable to the order will be applicable to any amendment to the order, except Section 8 will not apply to an amendment.

Section 14. Effect on Other Laws. Section 14 establishes that this Act will not affect or preempt any other Federal or State laws authorizing research, education, and promotion relating to concrete masonry products.

Section 15. Regulations. Section 15 authorizes the Secretary to issue regulations that may be necessary under the power vested in the Secretary under this Act to carry out the Act.

Section 16. Limitation on Expenditures for Administrative Expenses. Section 16 prohibits the use of any funds appropriated to carry out the Act to be used for the payment of expenses or expenditures of the Board in administering the order.

B. H.R.____, Child Nicotine Poisoning Prevention Act of 2015

The discussion draft, H.R.____, Child Nicotine Poisoning Prevention Act of 2015, establishes a requirement that liquid nicotine containers that are sold, manufactured for sale, distributed for commerce, or imported in the U.S. are packaged according to special packaging standards defined in the Poison Prevention Packaging Act of 1970.

A section-by-section of the legislation follows:

Section 1. Short Title. Section 1 provides that the Act may be cited as the Child Nicotine Poisoning Prevention Act of 2015.

Section 2. Special Packaging for Liquid Nicotine Containers. Section 2 establishes a requirement that liquid nicotine containers that are sold, manufactured for sale, distributed for commerce, or imported in the U.S. are packaged according to special packaging standards as defined in the Poison Prevention Packaging Act of 1970. It also establishes a savings clause for the Secretary of Health and Human Services to take any action regarding the manufacture, marketing, sale, distribution, importation, or packaging of nicotine, liquid nicotine containers, or electronic nicotine delivery systems. If the Secretary decides to adopt, maintain, enforce, impose, or continue in effect any packaging requirement for liquid nicotine containers, this section directs the Secretary to do so in consultation with the Consumer Product Safety Commission. This section also sets forth definitions for terms contained within the Act.

Section 3. Effective Date. Section 3 sets forth that the Act will take effect 180 days from the date of enactment.

C. H.R. ____, E-Warranty Act of 2015

H.R. ____, the E-Warranty Act of 2015, sponsored by Congressman Mullin, would modernize current warranty requirements by allowing manufacturers the option of posting product warranties online.

A section-by-section of the legislation follows:

Section 1. Short Title. Section 1 provides that the Act may be cited as the “E-Warranty Act of 2015.”

Section 2. Findings. This section includes Congressional findings that (1) manufacturers and consumers prefer to have the option to provide or receive warranty information online; (2) modernizing warrant notification rules is necessary to allow the United States to compete globally in manufacturing, trade, and the development of consumer products connected to the Internet; and (3) expanding consumer access to relevant consumer information in an environmentally friendly way and providing manufacturers flexibility to meet labeling and warranty requirements would be achieved by allowing an electronic warrant option.

Section 3. Electronic display of terms of written warranty for consumer products. This section would amend existing warranty disclosure provisions of the Magnuson-Moss Warranty Act to allow a seller to make written warranty terms available in an accessible digital format on the Internet website of the manufacturer of the consumer product and providing the consumer, or prospective consumer, with information about how to obtain and review the warranty terms by indicating on the product, the product packaging, or in the product manual the Internet website of the manufacturer where the warrant terms can be obtained and viewed and the phone number, postal mailing address, or other reasonable non-Internet based means of contacting the manufacturer to obtain and review the warranty terms.

This section requires that in the case where the terms of any written warranty must be disclosed to the consumer prior to the sale of the product at a retail location, by catalog, or through door-to-door sales, the option to provide the terms in an accessible digital format shall only apply if the seller makes the terms of the warranty available, through electronic or other means, at the location of the sale to the consumer.

This section requires the Federal Trade Commission to revise the relevant rules to comply with the Act within one year of enactment. The Commission may waive the requirement of section 109(a) of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (15 U.S.C. 2302(b)) to give interested persons an opportunity for oral presentation if the Commission determines that giving interested persons such opportunity would interfere with the ability of the Commission to revise the rules in a timely manner.

III. STAFF CONTACTS

If you have any questions regarding this markup, please contact Paul Nagle, Olivia Trusty, Melissa Froehlich, or Graham Dufault of the Committee staff at (202) 225-2927.