

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 4040**

OFFERED BY MRS. BLACKBURN and Mr. Towns

At the end of the bill, insert the following:

1 **TITLE III—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 301. MANDATORY STANDARD FOR THE MARKING OF**
4 **IMITATION FIREARMS OR TOY FIREARMS.**

5 (a) **SAFETY STANDARD.**—Not later than 1 year after
6 the date of enactment of this Act, the Commission shall
7 promulgate a final consumer product safety rule that pro-
8 vides for a distinctive marking or device for any toy, look-
9 alike, or imitation firearm to distinguish the look-alike
10 firearm from a firearm. The Commission may waive the
11 requirement of any such marking or device for any toy,
12 look-alike, or imitation firearm that will only be used in
13 the theatrical, movie, or television industry.

14 (b) **LOOK-ALIKE FIREARM DEFINED.**—For purposes
15 of this section, the term “look alike firearm” means any
16 imitation of any original firearm which was manufactured,
17 designed, and produced since 1898, including and limited
18 to toy guns, water guns, replica nonguns, and air-soft
19 guns firing nonmetallic projectiles. Such term does not in-

1 clude any look-alike, nonfiring, collector replica of an an-
2 tique firearm developed prior to 1898, or traditional B-
3 B, paint-ball, or pellet-firing air guns that expel a projec-
4 tile through the force of air pressure.

5 (c) PREEMPTION OF STATE OR LOCAL LAWS OR OR-
6 DINANCES.—

7 (1) IN GENERAL.—The provisions of this sec-
8 tion shall supersede any provision of State or local
9 law or ordinance relating to markings, identification,
10 or sale of toy, look-alike, and imitation firearms. No
11 State or political subdivision shall—

12 (A) prohibit the sale or manufacturer of
13 any look-alike, nonfiring toy or collector replica
14 of an antique firearm developed prior to 1898;
15 or

16 (B) prohibit the sale (other than prohib-
17 iting the sale to minors) of traditional B-B,
18 paint ball, or pellet-firing air guns that expel a
19 projectile through the force of air pressure

20 (2) LIMITATION.—This subsection shall not
21 apply to any provision of State or local law enacted
22 prior to January 30, 1955, or any subsequent
23 amendments enacted thereto.

24 (d) EFFECT ON OTHER LAWS.—This Act shall super-
25 sede the provisions of section 4 of the Federal Energy

- 1 Management Improvement Act of 1988 (15 U.S.C. 5001)
- 2 at such time as the Commission promulgates a final rule
- 3 pursuant to subsection (a).

Amend the table of contents in section 1(b) by inserting after the item relating to section 216 the following new item:

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Mandatory standard for the marking of imitation firearms or toy firearms.