

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 4040
OFFERED BY MR. MARKEY**

(page and line numbers refer to FSUB__005)

Page 34, after line 10, insert the following (and re-designate succeeding subparagraphs accordingly):

1 (B) by inserting “(other than information
2 collected and disseminated under subsections
3 (a)(1) and (e) of section 5)” after “obtained
4 under this Act”.

Page 34, line 25, insert “; or (B)” after “prohibited acts”).

Page 35, line 3, insert “; (B) information collected and disseminated under subsections (a)(1) and (e) of section 5; or (C)” after “Commission”.

Page 35, line 3, strike “and”.

Page 35, line 19, strike the period and insert “; and”.

Page 35, after line 19, insert the following:

5 (5) by adding at the end the following:

1 “(9) With regard to injury and incident information
2 collected and disseminated under section 5(a)(1), not less
3 than 15 days prior to disseminating such information (in-
4 cluding making such information available on a searchable
5 database), the Commission shall, to the extent practicable,
6 provide such information to each manufacturer or private
7 labeler of any consumer product to which such information
8 pertains, if the manner in which such consumer product
9 is to be designated or described in such information will
10 permit the public to ascertain readily the identity of such
11 manufacturer or private labeler, and shall provide such
12 manufacturer or private labeler with a reasonable oppor-
13 tunity to provide evidence that the product identified in
14 such information was misidentified. If the manufacturer
15 provides information to the Commission that the product
16 described in the information was misidentified, the Com-
17 mission shall delay making such information available for
18 an additional 15 days, during which time the Commission
19 shall determine, to the extent practicable, whether such
20 information is accurate.”

Page 36, line 14, strike “views of the Commission regarding whether” and insert “plans of the Commission to include”.

Page 36, line 15, strike “such as” and insert “including”.

Page 36, beginning on line 16, strike “should be included”.

Page 36, after line 22, insert the following:

1 (c) INCIDENT AND INJURY INFORMATION.—The in-
2 formation required to be collected and disseminated under
3 section 5(a)(1) of the Consumer Product Safety Act (15
4 U.S.C. 2064(a)(1)), and to be included in the database
5 under a plan described in subsection (b), includes any re-
6 ports of incidents involving a consumer product that result
7 in serious injury, illness, or death or a risk of serious in-
8 jury, illness, or death that—

9 (1) are received by the Commission from con-
10 sumers, hospitals, or physicians; or

11 (2) are received by manufacturers and reported
12 by manufacturers to the Commission under section
13 5(e) of the Consumer Product Safety Act.

14 Consistent with section 6(b)(9), the Commission shall
15 make such information available on the database as
16 promptly as possible after it is received, but not later than
17 45 days after such information is received by the Commis-
18 sion.

19 (d) FUNCTIONALITY OF THE DATABASE.—Informa-
20 tion available on the database under a plan submitted by
21 the Commission under subsection (b) shall be categorized
22 by product, manufacturer, and model of product and shall

1 be aggregated by the Commission to display the total num-
2 ber of reported incidents by product, manufacturer, and
3 model where available. The database shall include a sum-
4 mary of the incident, including the date and location of
5 the incident, nature of defect, severity of incident, and any
6 injury, illness, or death that resulted from the incident.

7 (e) DISCLAIMER.—The database established under a
8 plan submitted by the Commission under subsection (b)
9 shall include on the homepage of such database and ac-
10 companying each report that is provided in the database
11 a statement that the report is provided for informational
12 purposes only and that the Commission has not inves-
13 tigated the report and cannot vouch for the accuracy of
14 the report.

15 (f) INFORMATION RELATING TO INVESTIGATION OR
16 RESOLUTION.—The Commission shall include with any re-
17 port made available on the database information relating
18 to any action by the Commission to—

19 (1) investigate the conformity to consumer
20 product safety rules of the product that is the sub-
21 ject of the report; or

22 (2) resolve any such investigation.

23 (g) REMOVAL OF INACCURATE OR INCORRECT IN-
24 FORMATION.—If the Commission determines that infor-
25 mation made available on the database is incorrect, based

1 on a police or medical report or other evidence made avail-
2 able to the Commission, the Commission shall promptly
3 remove from the database the report containing such in-
4 formation.

5 (h) REPORTING REQUIREMENT.—Section 5 (15
6 U.S.C. 2054) is amended by adding at the end the fol-
7 lowing:

8 “(e) REPORTING REQUIREMENT.—

9 “(1) REQUIREMENT TO REPORT.—Each manu-
10 facturer, distributor, retailer, and importer of a con-
11 sumer product shall report to the Commission any
12 information obtained by such manufacturer, dis-
13 tributor, retailer, or importer which reasonably sup-
14 ports the conclusion that an incident occurred in-
15 volving the consumer product and that such incident
16 resulted in serious injury, illness, or death or a risk
17 of serious injury, illness, or death, including all in-
18 formation obtained by such manufacturer regarding
19 such incident.

20 “(2) EFFECT ON LIABILITY.—A report by a
21 manufacturer, distributor, retailer, or importer
22 under paragraph (1) shall not be interpreted, for
23 any purpose, as an admission of liability or of the
24 truth of the information contained in the report.”.