118TH CONGRESS  
2D Session

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To provide that certain water beads products shall be considered banned hazardous products under section 8 of the Consumer Product Safety Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN (for herself, Mr. CASEY, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide that certain water beads products shall be considered banned hazardous products under section 8 of the Consumer Product Safety Act, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as “Esther’s Law”.

SEC. 2. DEFINITIONS.

In this Act:

(1) ART MATERIAL OR ART MATERIAL PROD-
uct.—The term “art material or art material prod-
uct” has the meaning given such term in section
23(b)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1277(b)(1)) as applied to a child under 14 years of age.

(2) COMMISSION.—The term “Commission” means the Consumer Product Safety Commission.

(3) EDUCATIONAL MATERIAL.—The term “educational material” means any substance or product, other than a toy, as defined in paragraph (5), that is designed, intended, or marketed by the producer or repackager as suitable to assist with the cognitive development of a child under 14 years of age.

(4) SENSORY STIMULATION MATERIAL OR SENSORY TOOL.—The term “sensory stimulation material or sensory tool” means a consumer product, as defined in section 3(a)(5) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(5)), that stimulates the visual or tactile sense of a child under 14 years of age.

(5) TOY.—The term “toy” has the meaning given such term in section 3.1.92 of ASTM F963–23 (Standard Consumer Safety Specification for Toy Safety), or any successor to such document.

(6) WATER BEADS PRODUCT.—The term “water beads product” means a consumer product, whether accessible or not, that—
(A) is composed, in whole or in part, of water-absorbing super absorbent polymers, such as polyacrylamides and polyacrylates; and

(B) at the point of sale to a consumer, contains at least 1 individual bead that can—

(i) fit entirely within the cylinder described in section 1501.4 of title 16, Code of Federal Regulations; and

(ii) through water absorption, expand—

(I) to a size of at least 3 millimeters (in 1 or more dimensions); or

(II) by 50 percent or more in diameter in any dimension from its as-received state.

SEC. 3. CERTAIN WATER BEADS PRODUCTS CONSIDERED BANNED HAZARDOUS PRODUCTS.

(a) IN GENERAL.—On and after the date that is 180 days after the date of the enactment of this Act, a water beads product, without regard to the date of manufacture or importation, shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) WATER BEADS PRODUCT.—For purposes of subsection (a), the term “water beads product” (as defined
in section 2) refers to a product that is designed, intended, or marketed as—

(1) a toy;
(2) educational material;
(3) art material or art material product; or
(4) sensory stimulation material or sensory tool.

SEC. 4. REGULATION OF WATER BEAD PRODUCTS NOT DESIGNED, INTENDED, OR MARKETED AS TOYS, EDUCATIONAL MATERIALS, ART MATERIALS, OR SENSORY TOOLS.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, the Commission shall, in accordance with section 553 of title 5, United States Code, promulgate a final consumer product safety standard for water beads products that are not banned under section 3 that—

(1) may contain requirements on the colors of such water beads products, so as to deter use by children; and

(2) shall contain warning label requirements—

(A) to be included, as practicable, on the packaging of such products;

(B) to be included on any literature distributed with the product, in print or in an online format; and
(C) that shall contain language describing
the risk of injury and death if used by children
or around children, including—

(i) the hazard of ingestion, orally or
otherwise;

(ii) the need for the consumer to keep
the product out of an environment that
contains children; and

(iii) instructions for the consumer to
seek medical care and advice should the
consumer suspect ingestion by a child.

(b) Future Rulemaking.—At any time after the
promulgation of a final consumer product safety standard
under subsection (a), the Commission may initiate rule-
making in accordance with section 553 of title 5, United
States Code, to modify the requirements of the standard
or any revised standard. Any rule promulgated under this
subsection shall be treated as a consumer product safety
rule promulgated under section 9 of the Consumer Prod-


(c) Rule of Construction.—Nothing in this sec-
tion shall be construed as applying to water beads that
are used commercially in diapers, personal care products,
sanitary products, or agricultural supplies, including fer-
tilizers and agricultural soil conditioners.