

Not Toying Around

By Reg P. Wydeven
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For Christmas in 1978, my parents got me the Star Wars Cantina Aliens playset. The set came with a cardboard backdrop of the Cantina from the movie and four alien action figures. One of the figures was the coveted blue Snaggletooth – an interesting fanged alien wearing a blue spacesuit.

The blue Snaggletooth was only ever available in the Cantina playset, and the playset was only available through the Sears Christmas catalog that year. Therefore, the blue Snaggletooth is extremely rare and very hard to come by. Seeing as there are many hardcore Star Wars geeks in the world like myself, collectors are willing to shell out big bucks to get one.

So if the market doesn't turn around in the next 12 years and our kids' 529 education savings plans only have enough money in them for one semester of college, I guess I can always sell my blue Snaggletooth – even though it might be illegal.

According to the Consumer Product Safety Improvement Act of 2008, starting on February 10, 2009, it is unlawful for “any person” to “sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States” any children's product that is a banned hazardous substance under the Federal Hazardous Substances Act. Violators could face significant civil and criminal liability.

The CPSIA came on the heels of dozens of toy recalls in 2008 due to lead concerns. For purposes of the new law, such products would include any toy or article intended for children under 12 that contains more than 600 parts per million of lead. The statute further provides that paint, coatings or electroplating may not be considered a barrier that would make the lead content of a product inaccessible to a child.

By August 14, 2009, these products cannot contain more than 300 ppm of lead, and can only have 100 ppm after August 14, 2011. This would not apply, however, if the Consumer Product Safety Commission determines that it is not technologically feasible to achieve this limit. In addition, by August 14, 2009, the Act provides that paint and similar surface-coating materials for consumer use must be reduced from 600 ppm to 90 ppm.

These toys, clothing and other items will be subjected to lead testing and will have to have labels on them to prove that they have passed inspection. While the CPSC clearly intended this law to protect our children from hazardous substances, it may have a huge impact on the second-hand market.

The CPSIA appears to be retroactive, meaning it applies to toys already in circulation. Therefore, existing inventory of toys and clothing currently on shelves that do not comply with the new rules are illegal to sell. In addition, the law applies to “any person” attempting to sell non-compliant toys or clothing. Accordingly, resale shops, such as the national chain Once Upon a Child, which specializes in the sale of used children's toys, clothing and other products, may be forced out of business altogether.

As it stands, the CPSIA would also apply to selling used toys at rummage sales, flea markets or on ebay. So, while I will probably never sell my blue Snaggletooth, the new law may hurt my success of finding Star Wars guys at garage sales. I hope I don't have to resort to buying vintage action figures out of people's trunks in dark alleys.