

106TH CONGRESS
1ST SESSION

H. R. 1183

To amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1999

Mr. SENSENBRENNER (for himself, Mr. BROWN of California, Mrs. MORELLA, Mr. GREEN of Wisconsin, Mr. COOK, Mrs. BIGGERT, and Mr. KUYKENDALL) introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fastener Quality Act
5 Amendments Act of 1999”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 Section 2 of the Fastener Quality Act (15 U.S.C.
3 5401) is amended to read as follows:

4 **“SEC. 2. FINDINGS.**

5 “The Congress finds that—

6 “(1) the United States fastener industry is a
7 significant contributor to the global economy, em-
8 ploying thousands of workers in hundreds of commu-
9 nities;

10 “(2) the American economy uses billions of fas-
11 teners each year;

12 “(3) state-of-the-art manufacturing and im-
13 proved quality assurance systems have dramatically
14 improved fastener quality, so virtually all fasteners
15 sold in commerce meet or exceed the consensus
16 standards for the uses to which they are applied;

17 “(4) a small number of mismarked, misrepre-
18 sented, and counterfeit fasteners do enter commerce
19 in the United States; and

20 “(5) multiple criteria for the identification of
21 fasteners exist, including grade identification mark-
22 ings and manufacturer’s insignia, to enable pur-
23 chasers and users of fasteners to accurately evaluate
24 the characteristics of individual fasteners.”.

1 **SEC. 3. DEFINITIONS.**

2 Section 3 of the Fastener Quality Act (15 U.S.C.
3 5402) is amended to read as follows:

4 **“SEC. 3. DEFINITIONS.**

5 “As used in this Act, the term—

6 “(1) ‘consensus standard’ means the provisions
7 of a document that describes fastener characteristics
8 published by a consensus standards organization or
9 a Federal agency, and does not include a proprietary
10 standard;

11 “(2) ‘consensus standards organization’ means
12 the American Society for Testing and Materials, the
13 American National Standards Institute, the Amer-
14 ican Society of Mechanical Engineers, the Society of
15 Automotive Engineers, the International Organiza-
16 tion for Standardization, any other organization
17 identified as a United States consensus standards
18 organization or a foreign and international con-
19 sensus standards organization in the Federal Reg-
20 ister at 61 Fed. Reg. 50582–83 (September 26,
21 1996), and any successor organizations thereto;

22 “(3) ‘Director’ means the Director of the Na-
23 tional Institute of Standards and Technology;

24 “(4) ‘distributor’ means a person who pur-
25 chases fasteners for the purpose of reselling them at
26 wholesale to unaffiliated entities or individuals (an

1 original equipment manufacturer and its dealers
2 shall be considered affiliated entities for purposes of
3 this Act);

4 “(5) ‘fastener’ means a metallic screw, nut,
5 bolt, or stud having internal or external threads,
6 with a nominal diameter of 6 millimeters or greater,
7 in the case of such items described in metric terms,
8 or 1/4 inch or greater, in the case of such items de-
9 scribed in terms of the English system of measure-
10 ment, or a load-indicating washer, that is through-
11 hardened or represented as meeting a consensus
12 standard that calls for through-hardening, and that
13 is grade identification marked or represented as
14 meeting a consensus standard that requires grade
15 identification marking, except that such term does
16 not include any screw, nut, bolt, stud, or load-indi-
17 cating washer that is—

18 “(A) part of an assembly;

19 “(B) in a package containing no more than
20 100 of any one screw, nut, bolt, stud, or load-
21 indicating washer at the time of sale;

22 “(C) produced and marked as ASTM A
23 307 Grade A, or a successor standard thereto;

24 “(D) produced in accordance with ASTM
25 F 432, or a successor standard thereto;

1 “(E) specifically manufactured for use on
2 an aircraft if the quality and suitability of those
3 fasteners for that use has been approved—

4 “(i) by the Federal Aviation Adminis-
5 tration; or

6 “(ii) by a foreign airworthiness au-
7 thority as described in part 21.29, 21.500,
8 21.502, or 21.617 of title 14 of the Code
9 of Federal Regulations;

10 “(F) manufactured in accordance with a
11 fastener quality assurance system; or

12 “(G) manufactured to a proprietary stand-
13 ard, whether or not such proprietary standard
14 directly or indirectly references a consensus
15 standard or any portion thereof;

16 “(6) ‘fastener quality assurance system’
17 means—

18 “(A) a system that meets the require-
19 ments, including revisions from time to time,
20 of—

21 “(i) International Organization for
22 Standardization (ISO) Standard 9000,
23 9001, 9002, or TS16949;

24 “(ii) Quality System (QS) 9000
25 Standard;

1 “(iii) Verband der Automobilindustrie
2 e. V. (VDA) 6.1 Standard; or

3 “(iv) Aerospace Basic Quality System
4 Standard AS9000; or

5 “(B) any fastener manufacturing system—

6 “(i) that has as a stated goal the pre-
7 vention of defects through continuous im-
8 provement;

9 “(ii) that seeks to attain the goal stat-
10 ed in clause (i) by incorporating—

11 “(I) advance quality planning;

12 “(II) monitoring and control of
13 the manufacturing process;

14 “(III) product verification em-
15 bodied in a comprehensive written
16 control plan for product and process
17 characteristics, and process controls
18 (including process influence factors
19 and statistical process control), tests,
20 and measurement systems to be used
21 in production; and

22 “(IV) the creation, maintenance,
23 and retention of electronic, photo-
24 graphic, or paper records required by
25 the control plan regarding the inspec-

1 tions, tests, and measurements per-
2 formed pursuant to the control plan;
3 and

4 “(iii) that—

5 “(I) is subject to certification in
6 accordance with the requirements of
7 ISO/IEC Guide 62, including revisions
8 from time to time, by a third party
9 who is accredited by an accreditation
10 body in accordance with the require-
11 ments of ISO/IEC Guide 61, includ-
12 ing revisions from time to time, or an-
13 other document approved by the Di-
14 rector under section 10; or

15 “(II) undergoes regular or ran-
16 dom evaluation and assessment by the
17 end user or end users of the screws,
18 nuts, bolts, studs, or load-indicating
19 washers produced under such fastener
20 manufacturing system to ensure that
21 such system meets the requirements
22 of clauses (i) and (ii);

23 “(7) ‘grade identification marking’ means any
24 grade-mark or property class symbol appearing on a
25 fastener purporting to indicate that the lot of fas-

1 teners conforms to a specific consensus standard,
2 but such term does not include a manufacturer’s in-
3 signia or part number;

4 “(8) ‘lot’ means a quantity of fasteners of one
5 part number fabricated by the same production
6 process from the same coil or heat number of metal
7 as provided by the metal manufacturer;

8 “(9) ‘manufacturer’ means a person who fab-
9 ricates fasteners for sale in commerce;

10 “(10) ‘proprietary standard’ means the provi-
11 sions of a document that describes characteristics of
12 a screw, nut, bolt, stud, or load-indicating washer
13 and is issued by a person who—

14 “(A) uses screws, nuts, bolts, studs, or
15 load-indicating washers in the manufacture, as-
16 sembly, or servicing of its products; and

17 “(B) with respect to such screws, nuts,
18 bolts, studs, or washers, is a developer and
19 issuer of descriptions that have characteristics
20 similar to consensus standards and that bear
21 such user’s identification;

22 “(11) ‘record of conformance’ means a record
23 or records designated for each lot of fasteners sold
24 or offered for sale that contains—

1 “(A) the name and address of the manu-
2 facturer;

3 “(B) a description of the type of fastener;

4 “(C) the lot number;

5 “(D) the nominal dimensions of the fas-
6 tener (including diameter and length of bolts or
7 screws), thread form, and class of fit;

8 “(E) the consensus standard or specifica-
9 tions to which the lot of fasteners has been
10 manufactured, including the date, number, revi-
11 sion, and other information sufficient to iden-
12 tify the particular consensus standard or speci-
13 fications being referenced;

14 “(F) the chemistry and grade of material;
15 and

16 “(G) the coating material and characteris-
17 tics and the applicable consensus standard or
18 specifications for such coating;

19 “(12) ‘represent’ means to describe one or more
20 of a fastener’s purported characteristics in a docu-
21 ment or statement that is transmitted to a pur-
22 chaser through any medium;

23 “(13) ‘Secretary’ means the Secretary of Com-
24 merce;

1 “(14) ‘specifications’ means the required char-
2 acteristics identified in the contractual agreement
3 with the manufacturer or to which a fastener is oth-
4 erwise produced, except that the term does not in-
5 clude proprietary standards; and

6 “(15) ‘through-harden’ means heating above
7 the transformation temperature followed by quench-
8 ing and tempering for the purpose of achieving uni-
9 form hardness.”.

10 **SEC. 4. SALE OF FASTENERS.**

11 Sections 5 through 7 of the Fastener Quality Act (15
12 U.S.C. 5404–7) are repealed, and the following new sec-
13 tion is inserted after section 3 of such Act:

14 **“SEC. 4. SALE OF FASTENERS.**

15 “(a) GENERAL RULE.—It shall be unlawful for a
16 manufacturer or distributor, in conjunction with a sale or
17 offer for sale of a fastener, to knowingly misrepresent or
18 falsify—

19 “(1) the record of conformance for the lot of
20 fasteners;

21 “(2) the identification, characteristics, prop-
22 erties, mechanical or performance marks, chemistry,
23 or strength of the lot of fasteners; or

24 “(3) the manufacturer’s insignia.

1 “(b) REPRESENTATIONS.—A direct or indirect ref-
2 erence to a consensus standard to represent that a fas-
3 tener conforms to particular requirements of the con-
4 sensus standard shall not be construed as a representation
5 that the fastener meets all the requirements of the con-
6 sensus standard.

7 “(c) SPECIFICATIONS.—A direct or indirect contrac-
8 tual reference to a consensus standard for the purpose of
9 identifying particular requirements of the consensus
10 standard that serve as specifications shall not be con-
11 strued to require that the fastener meet all the require-
12 ments of the consensus standard.

13 “(d) VOLUNTARY ACCREDITATION OF LABORA-
14 TORIES.—The Secretary, acting through the Director,
15 shall maintain a program for the voluntary accreditation
16 of laboratories, and shall make information about such
17 laboratories available to the public. If the parties to the
18 sale of a fastener agree, a laboratory accredited under
19 such voluntary program shall be used to perform tests that
20 may be required by consensus standards or specifica-
21 tions.”.

22 **SEC. 5. MANUFACTURERS’ INSIGNIAS.**

23 Section 8 of the Fastener Quality Act (15 U.S.C.
24 5407) is redesignated as section 5 and is amended—

1 (1) in subsection (a), by striking “which is re-
2 quired” and all that follows through “by the Sec-
3 retary” and inserting “that is required by the speci-
4 fications or applicable consensus standard or stand-
5 ards in the record of conformance to bear an insig-
6 nia identifying its manufacturer shall be offered for
7 sale or sold in commerce unless the manufacturer of
8 such fastener has complied with the insignia rec-
9 ordation requirements prescribed by the Secretary,
10 acting through the Director,”; and

11 (2) in subsection (b), by striking “and private
12 label” and all that follows and inserting “described
13 in subsection (a).”.

14 **SEC. 6. REMEDIES AND PENALTIES.**

15 Section 9 of the Fastener Quality Act (15 U.S.C.
16 5408) is redesignated as section 6 and is amended—

17 (1) in subsection (b)(3), by striking “of this
18 section” and inserting “of this subsection”;

19 (2) in subsection (b)(4), by inserting “arbi-
20 trate,” after “Secretary may”;

21 (3) by striking paragraph (3) of subsection (c);
22 and

23 (4) in subsection (d)—

24 (A) by inserting “(1)” after “ENFORCE-
25 MENT.—”; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) The Secretary, acting through the Director,
4 shall establish and maintain a hotline system to facilitate
5 the reporting of alleged violations of this Act, and the Sec-
6 retary shall investigate credible allegations reported
7 through that system.”.

8 **SEC. 7. RECORDKEEPING REQUIREMENTS.**

9 Section 10 of the Fastener Quality Act (15 U.S.C.
10 5409) is redesignated as section 7 and is amended by
11 striking subsections (a) and (b) and inserting the fol-
12 lowing:

13 “Manufacturers shall retain the record of conform-
14 ance for fasteners for 5 years, on paper or in photographic
15 or electronic format in a manner that allows for
16 verification of authenticity.”.

17 **SEC. 8. RELATIONSHIP TO STATE LAWS.**

18 Section 11 of the Fastener Quality Act (15 U.S.C.
19 5410) is redesignated as section 8.

20 **SEC. 9. CONSTRUCTION.**

21 Section 12 of the Fastener Quality Act (15 U.S.C.
22 5411) is redesignated as section 9 and is amended by
23 striking “in effect on the date of enactment of this Act”.

1 **SEC. 10. CERTIFICATION AND ACCREDITATION.**

2 Sections 13 and 15 of the Fastener Quality Act (15
3 U.S.C. 5412 and 14) are repealed, and the following new
4 section is inserted at the end of that Act:

5 **“SEC. 10. CERTIFICATION AND ACCREDITATION.**

6 “(a) CERTIFICATION.—A person publishing a docu-
7 ment setting forth guidance or requirements for the cer-
8 tification of manufacturing systems, including fastener
9 manufacturing systems, by an accredited third party may
10 petition the Director to approve such document for use
11 as described in section 3(6)(B)(iii)(I). The Director shall
12 act upon a petition within 180 days after its filing, and
13 shall approve such petition if the document provides equal
14 or greater rigor and reliability as compared to ISO/IEC
15 Guide 62.

16 “(b) ACCREDITATION.—A person publishing a docu-
17 ment setting forth guidance or requirements for the ap-
18 proval of accreditation bodies to accredit third parties de-
19 scribed in subsection (a) may petition the Director to ap-
20 prove such document for use as described in section
21 3(6)(B)(iii)(I). The Director shall act upon a petition
22 within 180 days after its filing, and shall approve such
23 petition if the document provides equal or greater rigor
24 and reliability as compared to ISO/IEC Guide 61.”

1 **SEC. 11. APPLICABILITY.**

2 At the end of the Fastener Quality Act, insert the
3 following new section:

4 **“SEC. 11. APPLICABILITY.**

5 “The requirements of this Act shall be applicable only
6 to fasteners fabricated 180 days or more after the date
7 of the enactment of the Fastener Quality Act Amendments
8 of 1999, except that if a manufacturer or distributor of
9 fasteners fabricated before that date designates a record
10 of conformance for such fasteners, representations about
11 such fasteners shall be subject to the requirements of this
12 Act.”.

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