

106TH CONGRESS  
1ST SESSION

# S. 795

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 14, 1999

Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. FRIST, Mr. BURNS, and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## 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”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       Section 2 of the Fastener Quality Act (15 U.S.C.  
8 5401) is amended to read as follows:

1 **“SEC. 2. FINDINGS.**

2 “The Congress finds that—

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

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

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

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

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

22 **SEC. 3. DEFINITIONS.**

23 Section 3 of the Fastener Quality Act (15 U.S.C.  
24 5402) is amended to read as follows:

25 **“SEC. 3. DEFINITIONS.**

26 “As used in this Act, the term—

1           “(1) ‘accredited laboratory’ means a fastener  
2 testing facility used to perform end-of-line testing  
3 required by a consensus standard or standards to  
4 verify that a lot of fasteners conforms to the grade  
5 identification marking called for in the consensus  
6 standard or standards to which the lot of fasteners  
7 has been manufactured, and which—

8           “(A) meets the requirements of ISO/IEC  
9 Guide 25, including revisions from time to time,  
10 or another document approved by the Director  
11 under section 10(c); and

12           “(B) has been accredited by a laboratory  
13 accreditation body that meets the requirements  
14 of ISO/IEC Guide 58, including revisions from  
15 time to time, or another document approved by  
16 the Director under section 10(d);

17           “(2) ‘consensus standard’ means the provisions  
18 of a document that describes fastener characteristics  
19 published by a consensus standards organization or  
20 a Federal agency, and does not include a proprietary  
21 standard;

22           “(3) ‘consensus standards organization’ means  
23 the American Society for Testing and Materials, the  
24 American National Standards Institute, the Amer-  
25 ican Society of Mechanical Engineers, the Society of

1 Automotive Engineers, the International Organiza-  
2 tion for Standardization, any other organization  
3 identified as a United States consensus standards  
4 organization or a foreign and international con-  
5 sensus standards organization in the Federal Reg-  
6 ister at 61 Fed. Reg. 50582–83 (September 26,  
7 1996), and any successor organizations thereto;

8 “(4) ‘Director’ means the Director of the Na-  
9 tional Institute of Standards and Technology;

10 “(5) ‘distributor’ means a person who pur-  
11 chases fasteners for the purpose of reselling them at  
12 wholesale to unaffiliated entities or individuals (an  
13 original equipment manufacturer and its dealers  
14 shall be considered affiliated entities for purposes of  
15 this Act);

16 “(6) ‘fastener’ means a metallic screw, nut,  
17 bolt, or stud having internal or external threads,  
18 with a nominal diameter of 6 millimeters or greater,  
19 in the case of such items described in metric terms,  
20 or 1/4 inch or greater, in the case of such items  
21 described in terms of the English system of meas-  
22 urement, or a load-indicating washer, that is  
23 through-hardened or represented as meeting a con-  
24 sensus standard that calls for through-hardening,  
25 and that is grade identification marked or rep-

1       resented as meeting a consensus standard that re-  
2       quires grade identification marking, except that such  
3       term does not include any screw, nut, bolt, stud, or  
4       load-indicating washer that is—

5               “(A) part of an assembly;

6               “(B) in a package containing no more than  
7       100 of any one screw, nut, bolt, stud, or load-  
8       indicating washer at the time of sale;

9               “(C) produced and marked as ASTM A  
10       307 Grade A, or a successor standard thereto;

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

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

16               “(i) by the Federal Aviation Adminis-  
17       tration; or

18               “(ii) by a foreign airworthiness au-  
19       thority as described in part 21.29, 21.500,  
20       21.502, or 21.617 of title 14 of the Code  
21       of Federal Regulations;

22              “(F) manufactured in accordance with a  
23       fastener quality assurance system; or

24              “(G) manufactured to a proprietary stand-  
25       ard, whether or not such proprietary standard

1 directly or indirectly references a consensus  
2 standard or any portion thereof;

3 “(7) ‘fastener quality assurance system’  
4 means—

5 “(A) a system that meets the require-  
6 ments, including revisions from time to time,  
7 of—

8 “(i) International Organization for  
9 Standardization (ISO) Standard 9000,  
10 9001, 9002, or TS16949;

11 “(ii) Quality System (QS) 9000  
12 Standard;

13 “(iii) Verband der Automobilindustrie  
14 e. V. (VDA) 6.1 Standard; or

15 “(iv) Aerospace Basic Quality System  
16 Standard AS9000; or

17 “(B) any fastener manufacturing system—

18 “(i) that has as a stated goal the pre-  
19 vention of defects through continuous im-  
20 provement;

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

23 “(I) advance quality planning;

24 “(II) monitoring and control of  
25 the manufacturing process;

1                   “(III) product verification em-  
2                   bodied in a comprehensive written  
3                   control plan for product and process  
4                   characteristics, and process controls  
5                   (including process influence factors  
6                   and statistical process control), tests,  
7                   and measurement systems to be used  
8                   in production; and

9                   “(IV) the creation, maintenance,  
10                  and retention of electronic, photo-  
11                  graphic, or paper records required by  
12                  the control plan regarding the inspec-  
13                  tions, tests, and measurements per-  
14                  formed pursuant to the control plan;  
15                  and

16                  “(iii) that—

17                  “(I) is subject to certification in  
18                  accordance with the requirements of  
19                  ISO/IEC Guide 62, including revisions  
20                  from time to time, (or another docu-  
21                  ment approved by the Director under  
22                  section 10(a)) by a third party who is  
23                  accredited by an accreditation body in  
24                  accordance with the requirements of  
25                  ISO/IEC Guide 61, including revisions

1 from time to time, (or another docu-  
2 ment approved by the Director under  
3 section 10(b)); or

4 “(II) undergoes regular or ran-  
5 dom evaluation and assessment by the  
6 end user or end users of the screws,  
7 nuts, bolts, studs, or load-indicating  
8 washers produced under such fastener  
9 manufacturing system to ensure that  
10 such system meets the requirements  
11 of clauses (i) and (ii);

12 “(8) ‘grade identification marking’ means any  
13 grade-mark or property class symbol appearing on a  
14 fastener purporting to indicate that the lot of fas-  
15 teners conforms to a specific consensus standard,  
16 but such term does not include a manufacturer’s in-  
17 signia or part number;

18 “(9) ‘lot’ means a quantity of fasteners of one  
19 part number fabricated by the same production  
20 process from the same coil or heat number of metal  
21 as provided by the metal manufacturer;

22 “(10) ‘manufacturer’ means a person who fab-  
23 ricates fasteners for sale in commerce;

24 “(11) ‘proprietary standard’ means the provi-  
25 sions of a document that describes characteristics of

1 a screw, nut, bolt, stud, or load-indicating washer  
2 and is issued by a person who—

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

6 “(B) with respect to such screws, nuts,  
7 bolts, studs, or washers, is a developer and  
8 issuer of descriptions that have characteristics  
9 similar to consensus standards and that bear  
10 such user’s identification;

11 “(12) ‘record of conformance’ means a record  
12 or records for each lot of fasteners sold or offered  
13 for sale that contains—

14 “(A) the name and address of the manu-  
15 facturer;

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

17 “(C) the lot number;

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

21 “(E) the consensus standard or specifica-  
22 tions to which the lot of fasteners has been  
23 manufactured, including the date, number, revi-  
24 sion, and other information sufficient to iden-

1           tify the particular consensus standard or speci-  
2           fications being referenced;

3           “(F) the chemistry and grade of material;  
4           and

5           “(G) the coating material and characteris-  
6           tics and the applicable consensus standard or  
7           specifications for such coating;

8           “(13) ‘represent’ means to describe one or more  
9           of a fastener’s purported characteristics in a docu-  
10          ment or statement that is transmitted to a pur-  
11          chaser through any medium;

12          “(14) ‘Secretary’ means the Secretary of Com-  
13          merce;

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

19          “(16) ‘through-harden’ means heating above  
20          the transformation temperature followed by quench-  
21          ing and tempering for the purpose of achieving uni-  
22          form hardness.”.

23 **SEC. 4. SALE OF FASTENERS.**

24          (a) IN GENERAL.—Sections 4 through 7 of the Fas-  
25          tener Quality Act (15 U.S.C. 5403 through 5406) are re-

1 pealed, and the following new section is inserted after sec-  
2 tion 3 of such Act:

3 **“SEC. 4. SALE OF FASTENERS.**

4 “(a) GENERAL RULE.—It shall be unlawful for a  
5 manufacturer or distributor, in conjunction with a sale or  
6 offer for sale of a fastener, to knowingly misrepresent or  
7 falsify—

8 “(1) the record of conformance for the lot of  
9 fasteners;

10 “(2) the identification, characteristics, prop-  
11 erties, mechanical or performance marks, chemistry,  
12 or strength of the lot of fasteners; or

13 “(3) the manufacturer’s insignia.

14 “(b) REPRESENTATIONS.—A direct or indirect ref-  
15 erence to a consensus standard to represent that a fas-  
16 tener conforms to particular requirements of the con-  
17 sensus standard shall not be construed as a representation  
18 that the fastener meets all the requirements of the con-  
19 sensus standard.

20 “(c) SPECIFICATIONS.—A direct or indirect contrac-  
21 tual reference to a consensus standard for the purpose of  
22 identifying particular requirements of the consensus  
23 standard that serve as specifications shall not be con-  
24 strued to require that the fastener meet all the require-  
25 ments of the consensus standard.

1       “(d) USE OF ACCREDITED LABORATORIES.—In the  
 2 case of fasteners manufactured solely to a consensus  
 3 standard or standards, end-of-line testing required by the  
 4 consensus standard or standards, if any, for the purpose  
 5 of verifying that a lot of fasteners conforms with the grade  
 6 identification marking called for in the consensus standard  
 7 or standards to which the lot of fasteners has been manu-  
 8 factured shall be conducted by an accredited laboratory.”.

9       (b) EFFECTIVE DATE.—Section 4(d) of the Fastener  
 10 Quality Act, as added by subsection (a), shall take effect  
 11 2 years after the date of enactment of this Act.

12 **SEC. 5. MANUFACTURERS’ INSIGNIAS.**

13       Section 8 of the Fastener Quality Act (15 U.S.C.  
 14 5407) is redesignated as section 5 and is amended—

15               (1) by amending subsection (a) to read as fol-  
 16 lows:

17       “(a) GENERAL RULE.—Unless the specifications pro-  
 18 vide otherwise, a fastener that is required by the applica-  
 19 ble consensus standard or standards to bear an insignia  
 20 identifying its manufacturer shall not be offered for sale  
 21 or sold in commerce unless—

22               “(1) the fastener bears such an insignia; and

23               “(2) the manufacturer has complied with the  
 24 insignia recordation requirements established under  
 25 subsection (b).”; and

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

4 **SEC. 6. REMEDIES AND PENALTIES.**

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

7           (1) by striking “of this section” in subsection  
8           (b)(3) and inserting “of this subsection”;

9           (2) by inserting “arbitrate,” in subsection  
10          (b)(4) after “Secretary may”;

11          (3) in subsection (d)—

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

14                 (B) by adding at the end the following:

15          “(2) The Secretary shall establish and maintain a  
16 hotline system to facilitate the reporting of alleged viola-  
17 tions of this Act, and the Secretary shall evaluate allega-  
18 tions reported through that system and report any credible  
19 allegations to the Attorney General.”.

20 **SEC. 7. RECORDKEEPING REQUIREMENTS.**

21           Section 10 of the Fastener Quality Act (15 U.S.C.  
22 5409) is redesignated as section 7 and is amended by  
23 striking subsections (a) and (b) and inserting the fol-  
24 lowing:

1 “Manufacturers shall retain the record of conform-  
2 ance for fasteners for 5 years, on paper or in photographic  
3 or electronic format in a manner that allows for  
4 verification of authenticity. Upon request of a distributor  
5 who has purchased a fastener, or a person who has pur-  
6 chased a fastener for use in the production of a commer-  
7 cial product, the manufacturer of the fastener shall make  
8 available information in the record of conformance to the  
9 requester.”.

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

11 Section 11 of the Fastener Quality Act (15 U.S.C.  
12 5410) is redesignated as section 8.

13 **SEC. 9. CONSTRUCTION.**

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

17 **SEC. 10. CERTIFICATION AND ACCREDITATION.**

18 Sections 13 and 15 of the Fastener Quality Act (15  
19 U.S.C. 5412 and 5414) are repealed, and the following  
20 new section is added at the end of that Act:

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

22 “(a) CERTIFICATION.—A person publishing a docu-  
23 ment setting forth guidance or requirements for the cer-  
24 tification of manufacturing systems, including fastener  
25 manufacturing systems, by an accredited third party may

1 petition the Director to approve such document for use  
2 as described in section 3(7)(B)(iii)(I). The Director shall  
3 act upon a petition within 180 days after its filing, and  
4 shall approve such petition if the document provides equal  
5 or greater rigor and reliability as compared to ISO/IEC  
6 Guide 62.

7       “(b) ACCREDITATION.—A person publishing a docu-  
8 ment setting forth guidance or requirements for the ap-  
9 proval of accreditation bodies to accredit third parties de-  
10 scribed in subsection (a) may petition the Director to ap-  
11 prove such document for use as described in section  
12 3(7)(B)(iii)(I). The Director shall act upon a petition  
13 within 180 days after its filing, and shall approve such  
14 petition if the document provides equal or greater rigor  
15 and reliability as compared to ISO/IEC Guide 61.

16       “(c) LABORATORY ACCREDITATION.—A person pub-  
17 lishing a document setting forth guidance or requirements  
18 for the accreditation of laboratories may petition the Di-  
19 rector to approve such document for use as described in  
20 section 3(1)(A). The Director shall act upon a petition  
21 within 180 days after its filing, and shall approve such  
22 petition if the document provides equal or greater rigor  
23 and reliability as compared to ISO/IEC Guide 25.

24       “(d) APPROVAL OF ACCREDITATION BODIES.—A  
25 person publishing a document setting forth guidance or

1 requirements for the approval of accreditation bodies to  
2 accredit laboratories may petition the Director to approve  
3 such document for use as described in section 3(1)(B).  
4 The Director shall act upon a petition within 180 days  
5 after its filing, and shall approve such petition if the docu-  
6 ment provides equal or greater rigor and reliability as  
7 compared to ISO/IEC Guide 58.”.

8 **SEC. 11. APPLICABILITY.**

9 At the end of the Fastener Quality Act, as amended  
10 by section 10, add the following:

11 **“SEC. 11. APPLICABILITY.**

12 “The requirements of this Act shall be applicable only  
13 to fasteners fabricated 180 days or more after the date  
14 of the enactment of this Act, except that if a manufacturer  
15 or distributor of fasteners fabricated before that date pre-  
16 pares a record of conformance for such fasteners, rep-  
17 resentations about such fasteners shall be subject to the  
18 requirements of this Act.”.

19 **SEC. 12. ADVISORY COMMITTEE.**

20 Section 14 of the Fastener Quality Act (15 U.S.C.  
21 5413) is redesignated as section 12.

○