

**Congressional Field Hearing  
Consumer Product Safety Commission –  
The Dangers of Magnetic Toys**

**Testimony of Illinois Attorney General Lisa Madigan  
June 18, 2007**

Thank you, Senator Durbin and Representative Rush, for giving me the opportunity to testify today on an issue of vital importance to parents and caregivers across the country of protecting our children from dangerous and deadly toys.

As Attorney General, I am the State's chief consumer advocate.

In that role, I work to protect children from dangerous products.

Over the past few years, my office and many dedicated children's advocacy organizations of especially Kids In Danger and its Executive Director, Nancy Cowles of have worked to pass the toughest laws in the country concerning recalls of dangerous children's products.

As a result of these collaborative efforts, we now have the Illinois Children's Product Safety Act of a law that requires manufacturers and retailers to post notices of product recalls in their stores and on their websites.

The law also requires manufacturers and retailers to alert by mail or email any consumers who have already purchased recalled items.

Illinois was the first state to enact such comprehensive child safety notification measures. And we remain one of only a handful of states that requires this kind of notification for the protection of our children.

But our state level efforts are hindered and often undermined by the lax laws and lengthy procedures that slow action at the federal level.

For our state efforts to be effective in informing parents and working with them to protect children, we need an aggressive and proactive federal government partner.

Unfortunately, the Consumer Product Safety Commission is underfunded, understaffed, and seemingly uninterested, thus they are too often unable to protect our children from injury and death.

This was certainly the case when it came to recalling the Magnetix magnetic building sets.

For those people who haven't seen them, Magnetix are the tinker toys and the Lincoln logs of the 21<sup>st</sup> century.

The obvious and crucial difference is that small, powerful magnets are used to keep the building blocks together to construct shapes and figures.

These magnets often fall out onto the playroom floor where they can be picked up and swallowed by children -- with life threatening and even life ending consequences.

Dr. Karyn Quinlan will likely give you a detailed medical explanation.

I want to talk briefly about how the deadly defects in Magnetix illustrate the deadly flaws in the federal system of leaving our children inadequately protected from dangerous products.

The timeline of the CPSC's response to repeated problems with toys containing the small, powerful magnets used in Magnetix toys and with the Magnetix product in particular shows the agency's inability to react quickly and effectively.

As early as 2000, an 8-year old child was forced to undergo intestinal surgery after he swallowed magnets that fell out of a fast food meal toy. The CPSC investigated and documented this case. In late 2003, CPSC investigated and documented another case involving intestinal trauma after a child swallowed a small, powerful magnet.

In 2003, the Rose Art Company launched the Magnetix product marketing it as safe for children 3 and over.

Not long after this, in early 2004, a North Carolina grandmother told CPSC that small magnets were falling out of Magnetix and could be swallowed by a young child. A Colorado mother made a similar report to CPSC in February 2005.

And during that same time period, 3 concerned consumers sent pieces of these defective toys to CPSC.

Then, in May 2005, Sharon Grigsby, an Indiana preschool teacher reported that Magnetix almost killed a 5-year old child who swallowed a magnet from the toy and survived only after emergency surgery.

Even after this report and the other, repeated concerns about Magnetix, the CPSC did nothing to alert parents to the dangers posed by this children's product with deadly consequences.

On Thanksgiving day in 2005, Kenny Sweet, Jr. died after swallowing a magnet from Magnetix.

Finally, in December 2005, two years after the product was launched and the complaints to CPSC began, a CPSC investigator recommended a recall.

But even when it finally decided to respond only after a devastating tragedy the federal agency charged with protecting our children from dangerous products took another unreasonable and, frankly unimaginable, 4 months (until March 31, 2006) to finally issue the recall.

During this period, while the CPSC negotiated the text of the recall, 4 more children required hospital treatment for injuries caused by Magnetix.

Another year then passed ó with more children suffering injuries because they swallowed the magnets from this Magnetix product ó until the CPSC in April 2007 finally issued an expanded recall notice for this product.

After the initial CPSC recall on March 31, 2006, and after the second, expanded recall in April 2007, I sent my staff out to check stores throughout the state to ensure that the recall was being properly implemented.

To protect unsuspecting parents and caretakers from this potentially fatal toy, we wanted to make sure that the product was off store shelves and that the recall notice was posted.

Unfortunately, we found a series of problems with the Magnetix recall.

Of the 80 stores we checked throughout the state:

15 still had Magnetix on their shelves;

5 of those stores had failed to both post the notice and remove the recalled toys from their shelves;

10 stores had posted the recall notice but hadn't removed the toys from their shelves, and

we found 17 stores, where the item had been removed from the shelves but they had failed to post the recall notice so that parents who already owned the toy could see it.

When we talked to retailers, we learned that many of them were confused by the recall notice and couldn't tell which Magnetix toys they needed to remove from store shelves.

We informed CPSC of retailer's concerns on May 24, 2007, and we understand that the agency CPSC knows there are problems with the recall and is currently taking steps to provide better information to retailers.

The results of our checks raise obvious questions ó if retailers can't understand the recall, how can they implement it and actually remove the dangerous product from their shelves? And if retailers can't understand the recall, how are parents and caregivers supposed to decipher it?

Clearly, CPSC is struggling to effectively communicate recalls to retailers, parents and caregivers.

And this problem has another significant aspect ó CPSC does not issue recalls in Spanish.

That failure creates an unnecessary and inexcusable obstacle in the effort to protect children from dangerous products.

CPSC must do a better job to communicate its recalls.

During our store compliance check, we also discovered another gaping hole in CPSC's approach to protecting children from unsafe products.

As we visited stores to check for the Magnetix toy, we quickly found "knock off" magnetic toys at several dollar stores.

The only difference is that these magnetic building sets are made by different manufacturers.

It stands to reason that these same small, powerful magnets ó part of virtually identical toys ó may pose the same threats to children.

We sent these knock off toys to CPSC on May 24, 2007 and asked them to consider recalling these products.

Unfortunately, we received the same response that consumers hear everyday from the agency ó CPSC doesn't test products until an incident is reported.

Waiting for an "incident," ó in other words, waiting to learn that a child has suffered an injury or died from the exact product at issues ó before conducting product safety testing is unconscionable.

Those knock off magnetic building sets are still on store shelves, not because they are constructed differently or have passed safety tests, but simply because they were made by a different company.

If there are health and life-threatening problems caused by these children's magnetic building sets, it doesn't matter who manufacturers them.

They pose unacceptable risks and should not be allowed in our homes or in children's hands until they have withstood thorough testing.

Every aspect of the CPSC's response to the dangers posed by Magnetix is a horrible demonstration that our present system is not working.

The entire process to protect our children from dangerous products is nothing short of a disaster. We can and must do better.

As an initial matter, most children's products are not subject to any kind of mandatory standards before they are sold.

Most are not required to be tested or certified at all.

While some voluntary standards exist, they are created by committees dominated by toy industry representatives with little input from children's and consumer advocates.

As a result, there is no independent safety review of children's products before they are sold.

In response to the injuries and death that the Magnetix building sets have caused, I urge you to pass new laws that mandate testing before children's products are allowed on store shelves and, ultimately, in our homes and day care centers where too many children have been hurt or killed.

Our Congresswoman, Jan Schakowsky has proposed a bill, HR 1698, that would create the "Infant and Toddler Durable Product Safety Act."

That Act would require the CPSC to promulgate mandatory safety standards for durable products intended for infants and toddlers.

It would prevent products that can harm children from getting to the market by requiring independent testing before products enter the stream of commerce.

I know that Nancy Cowles, the Executive Director of Kids In Danger, will speak further about the need for this legislation.

There are other issues with the CPSC that must be addressed and I urge you to take comprehensive action that covers these as well.

We know that once a product is on the market, the CPSC is dependent upon the industry to self report any problems. Everyone in this room recognizes that any system based on self-reporting will be inherently flawed.

And, as in the Magnetix case, recall notices are so watered down and confusing that most retailers, much less parents and caregivers, often cannot understand which products are subject to the recall.

CPSC should have more power to investigate possible problems with products and instead of waiting to hear from the industry. CPSC also should have the clear power to issue strong recalls that adequately and quickly convey the danger of products.

They should not have to waste precious time negotiating every word of a recall notices with manufacturers while dangerous products are allowed to linger on store shelves.

Additionally, the CPSC does not have adequate staff to test or investigate the number of complaints it receives each year, and the process involved when they do conduct in-depth investigations takes far too long.

Clearly, they need more staff and more resources. The lives of our children depend on this agency being able to fulfill its mandate. We cannot cut corners or balance tight budgets by taking risks with children's safety.

We hope that the suffering of the families hurt by Magnetix, and other dangerous children's products, will spur action that dramatically changes this flawed system.

There are things that we can do to improve this system and make our homes safer for our children. I hope you will take these steps ó and I look forward to working to help in any way that I can.

Thank you.