

**SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

Full Committee
Wednesday, September 20, 2023, at 10:00 A.M.

DEMOCRATIC QUESTIONS FOR THE RECORD

COVER PAGE
Douglas Dziak

CHAIR MARIA CANTWELL (D-WA)

If confirmed as a Commissioner on the Consumer Products Safety Commission (“CPSC”), you will have to exercise judgment that will save people’s lives by regulating or banning hazardous products.

Question 1. What do you believe is the right balance between the interests of consumers and those of businesses?

Response: The consumer’s safety is primary to the CPSC’s mission. In exercising CPSC’s regulatory authority, which includes issuing mandatory rules and banning products in certain circumstances, I will follow the Consumer Product Safety Act as the first principle in my decision-making.

Businesses, like all CPSC stakeholders, provide valuable input to the Commission, be it in the development of voluntary or mandatory standards or other regulatory activities. I am committed to reviewing the CPSC staff findings, and the comments of all stakeholders, and then applying the law to the facts and circumstances.

If confirmed, I intend to have an open-door policy with stakeholders, including safety advocacy groups, affected families, and businesses.

Section 6(b) of the Consumer Products Safety Act prevents the disclosure of certain information to consumers without express permission from the company about which the information pertains, which can delay providing potentially life-saving information to consumers.

Question 2. Do you support reforming Section 6(b)? If yes, what reforms would you support. If no, how can the CPSC ensure that consumers have critical safety information in a timely manner?

Response: On February 17, 2023, CPSC published a Supplemental Notice of Proposed Rulemaking on information disclosure under Section 6(b) of the Consumer Product Safety Act (CPSA). This rulemaking, which contemplates updates to the agency's regulation interpreting Section 6(b), is currently pending before the Commission. I cannot prejudge a matter on which I may participate, should I be confirmed.

In general, Section 6(b) sets forth the congressionally-mandated process to share critical safety information with consumers. With a health and safety finding, Section 6(b) allows the Commission to issue a safety notice, known as a unilateral, on an expedited basis. CPSA also places an affirmative obligation on a company, via Section 15(b), to report possible safety issues immediately. If a company fails to provide such reports, the Commission may pursue civil and criminal penalties. Section 6(b) also functions as a safeguard to ensure the information obtained under CPSA that the Commission may share is accurate and fair in the circumstances.

As CPSC Chair Hoehn-Saric has stated, unilateral safety notices are now a regular part of the Commission's toolkit to keep consumers informed. The Commission, since the beginning of the Chair's tenure, has issued over 30 such notices. This significant increase in unilaterals demonstrates that the Commission may act under 6(b) to warn the public about product hazards.

Whether or not to amend the statutory provisions of Section 6(b) is a question for Congress and the President. If confirmed, I will work with you and your staff and to provide technical drafting assistance on legislation where appropriate.

SENATOR TAMMY DUCKWORTH (D-IL)

Topic: Youth Poisoning Protection Act:

Mr. Dziak, I have been increasingly concerned about the ability of young children and teenagers to access harmful substances through e-commerce sites and occasionally, even in retail stores. If they buy them over the internet, children and teenagers can often get harmful substances delivered directly to their doorstep with very little oversight. In September, Senator Vance and I introduced the bipartisan Youth Poisoning Protection Act, which would ensure dangerous substances like high concentration sodium nitrite are not available for consumers to purchase.

1. Mr. Dziak, are you concerned about hazardous substances, like high concentration sodium nitrate, falling into the hands of children and teenagers and will you commit to working with me on the Youth Poisoning Protection Act?

Response: Yes. I share your concern about children and teenagers easily obtaining high-concentration sodium nitrate. I commit to working with you and your office on the Youth Poisoning Protection Act and to providing technical drafting assistance on your legislation where appropriate.

SENATOR BEN RAY LUJÁN (D-NM)

1. The current consumer recall response rate is 16 percent. What does the CPSC need to do to increase consumer responsiveness to recalls, particularly within tribal communities and non-English language communities?

Response: I share your concern regarding the CPSC's recall response rate. If confirmed, I am committed to work with my colleagues to improve recall effectiveness. Direct notice to consumers is the most efficient way to maximize recall effectiveness. The Commission and recalling firms should work to improve the quality of the outreach to reflect cultural competency and bridge language barriers.

For example, in June, the Commission began posting all recalls in Spanish. In addition, the Commission is in the process of implementing the GAO's November 2020 recommendations regarding recall effectiveness, with four of five recommendations fully implemented. If confirmed, I am committed to working with my colleagues to fully implement the GAO's recommendations and continuing to work to improve recall effectiveness, if confirmed.

With respect to tribal outreach, CPSC initiated targeted safety messaging to tribal communities in ten states, including New Mexico. This campaign includes billboards and radio ads, which reflects the challenges tribal communities face, including limited internet connectivity. If confirmed, I commit to working with you and your staff, as well as tribal communities, to continue these efforts and to provide timely recall information in an accessible format.

SENATOR JOHN HICKENLOOPER (D-CO)

Product Safety Standards Development. Voluntary standard organizations establish product safety standards to protect consumers who use or purchase a wide variety of products. In some cases, the CPSC issues mandatory standards through the rulemaking process that either fill a gap or expand on an existing voluntary standard.

Question. In your view, how should the CPSC decide when to issue mandatory standards for products where voluntary standards already exist or are in the process of being developed?

Response: The Consumer Product Safety Act (CPSA) establishes CPSC's authority to promulgate mandatory safety standards for consumer products.

CPSC works with organizations that promulgate voluntary safety standards. Under the CPSA, the Commission must conduct an analysis to determine if an existing voluntary standard is likely to eliminate or adequately reduce the risk of injury. If so, CPSC must also determine the likelihood of industry's substantial compliance with the voluntary standard.

If the voluntary standard does not adequately reduce the risk of injury or substantial compliance is unlikely, the CPSC may proceed to promulgate a mandatory safety standard.