

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

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

REPUBLICAN QUESTIONS FOR THE RECORD

COVER PAGE
Douglas Dziak

RANKING MEMBER TED CRUZ (R-TX)

The Consumer Product Safety Act (CPSA) sets a statutory civil penalty amount for the CPSC to pursue against violators. Some have argued that the penalty level is too low and that Congress should raise it.

1. What are your thoughts on the current statutory civil penalty level and what factors should Congress consider when setting a statutory civil penalty amount?

Response: CPSC's maximum civil penalty amount is established in statute. The current maximum penalty is \$17,150,000. The statute sets forth the factors the Commission must consider when assessing civil penalties.

One purpose of civil penalties is to deter bad conduct. The Commission has assessed civil penalties on multi-billion-dollar firms. In such instances, the deterrent effect of the current maximum civil penalty is likely limited.

Should Congress seek to raise the current statutory civil penalty, if confirmed, I commit to working with your office and to provide technical assistance where appropriate.

SENATOR JOHN THUNE (R-SD)

Question 1. In 2014, the CPSC proposed a rulemaking implementing safety standards for Recreational Off-Highway Vehicles (ROVs). Since that time, that particular rulemaking has been the subject of much debate and no further action has been taken by the CPSC to finalize the rules. If confirmed, do you believe the CPSC should terminate that particular rulemaking?

Response: CPSC published its ROV rulemaking almost 9 years ago. Such a lengthy pendency for any rulemaking prolongs uncertainty for all stakeholders.

For a number of years since its publication, the ROV rulemaking has been subject to an appropriations requirement that CPSC await a National Academy of Sciences report regarding these products before proceeding. I am committed to following the law.

While Commissioners have moved on multiple occasions to terminate the rulemaking, to date, the Commission has not adopted such a termination. Should I be confirmed, I am committed to working with my colleagues on this issue.

SENATOR JERRY MORAN (R-KS)

1. CPSC Authority

There has been significant furor over the CPSC's review of gas stoves this year, which many in Congress view as an agency working beyond the scope of authority granted to it by Congress. Can you explain your philosophy when it comes to scoping the authority of agencies, and what that means for your work at the CPSC, if confirmed?

Response: The Consumer Product Safety Act defines the scope of the Commission's authority. Under the Act, two central purposes of the Commission include protecting the public against unreasonable risks of injury associated with consumer products and developing uniform safety standards.

If confirmed, I will follow the law. I believe in CPSC's safety mission, and these tenets would guide my approach each day as I work with my colleagues.

2. CPSC Act Section 6(b)

Do you believe Section 6(b) helps or hinders the execution of the CPSC's mission to protect consumers? Please explain.

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.