

"Safety" Insanity

By ACSH Staff — February 20, 2008

This item first appeared in the [\[1\] New York Post](#) ^[1].

Congress is poised to pass a massive giveaway to the ambulance-chasing trial attorneys -- under the guise of protecting consumers.

The proposed law would give the fifty state attorneys general new powers to sue the makers of allegedly unsafe products -- and even to demand help in their suits from the federal Consumer Product Safety Commission.

Headline-hungry AGs will even be able to sue over products the CPSC has already found to be safe. In other words, national standards will effectively go out the window, as politically ambitious AGs compete to bash business so as to win popularity for future elections.

The legislation -- which the House has already passed and the Senate's likely to pass -- would hamper CPSC's mission by creating multiple unscientific "safety" standards. Each AG's vision of what the latest scientific studies imply about purported dangers would prevail in a given state, rather than the CPSC's own (far more expert) findings.

All this would mean a bonanza to trial lawyers -- who'd stand to make hundreds of millions from relentless lawsuits within just a few years, since each state would become a new roulette-wheel of potential jury verdicts against manufacturers.

The bill would also require the CPSC to immediately post even the most preliminary reports of allegedly hazardous products to a public database -- a plain incitement to hasty panic, preparing the ground for future suits.

This would discourage manufacturers from providing important information to the agency early on -- and so could harm CPSC's ability to prevent real potential hazards.

Further encouraging bogus complaints, the bill would grant unprecedented "whistle-blower" protection to any employee who alleges a fear of product danger -- an easy way to secure your job until your case is adjudicated.

The Senate version of the bill grants unprecedented powers to state attorneys general to enforce federal safety laws. As acting CPSC Chairwoman Nancy Nord explains, that would undermine one of the main reasons the agency was created -- to establish national product-safety standards.

For example, California recently chose to ban phthalates (an important and safe component of some plastics) -- a foolish and unscientific policy, but at least one that the state's Legislature and governor adopted democratically.

But under Congress' "reform," each of the 50 state AGs could not only bypass federal officials but

also his or her state lawmakers, and unilaterally drive phthalate-containing products from the shelves in his or her state, declaring them a "banned hazardous substance" despite their proven safety.

Federal scientists and local lawmakers alike would be shunted aside in favor of the wisdom (or lack thereof) of your local crusading AG, effectively one of America's fifty new science czars. It would then be up to a federal district court to decide whether the product was in fact a hazard.

Imagine the chaos, with various AGs targeting different products in the different states. It would be a nightmare for manufacturers and for consumers, who'd no longer know what was safe.

Activist groups have also succeeded in getting wording into the bill that lowers the level of allowed lead paint -- even though the current limit already incorporates the precaution of allowing far less than science tells us is safe. But only lawyers and ideologues support the false claim that "there is no safe level of exposure to lead."

The current, already extra-safe, lead standards caused an unprecedented number of toy recalls last year -- publicity from those recalls may prompt Congress to lower the allowable level to an even more minuscule level -- and to forbid the CPSC from considering whether a child is likely actually to be exposed to dangerous levels. And recalls would be mandatory in all cases.

Let's be clear: Setting tougher standards because of last year's record number of recalls is the same as lowering the speed limit simply because more people were caught speeding -- even though the highways remained just as safe. There's no logic to it.

Government agencies usually like to gain more power. Rarely is legislation so bad that the agency being offered new powers say it doesn't want them. Yet Chairwoman Nord complained that the Senate bill "would harm product safety and put the American people at greater risk."

The only real winners here are avaricious plaintiff's lawyers and ambitious AGs.

COPYRIGHT © 1978-2016 BY THE AMERICAN COUNCIL ON SCIENCE AND HEALTH

Source URL: <https://www.acsh.org/news/2008/02/20/safety-insanity>

Links

[1] http://www.nypost.com/seven/02202008/postopinion/opedcolumnists/safety_insanity_98467.htm