

Consumer Advocacy and Protection (CAP) Act

Background:

The Consumer Product Safety Commission utilizes various tools to deter safety regulation non-compliance, promote adherence to standards, and hold companies accountable, including the imposition of civil penalties. If violations occur, the applicable civil penalty is a maximum of \$100,000 per individual violation and \$15,000,000 for a series of related violations. These amounts were adjusted for inflation in 2021, reaching \$120,000 per violation and \$17,150,000 for a series of related violations. CPSC Commissioners have highlighted that the current cap is insufficient to hold multi-billion-dollar companies accountable, emphasizing the need to increase the statutory cap on civil penalties.

This year, the CPSC secured two of the largest settlement agreements. In May, Generac Power Systems, Inc agreed to pay a \$15,800,000 civil penalty for failing to promptly report a defect in 32 models of its portable generators. The defect resulted in incidents where consumers' fingers were amputated or crushed by the generator's unlocked handle. In January, Peloton agreed to pay \$19,065,000 in civil penalties for knowingly delaying reporting defects in its Tread+ treadmill, leading to injuries and a child's death. Both companies, after receiving reports of incidents, did not promptly inform CPSC as required by law. These penalties underscore the CPSC's commitment to enforcing product safety regulations and protecting consumers from unreasonable risks.

The Consumer Advocacy and Protection (CAP) Act aims to enhance deterrence, more accurately reflect the seriousness of offenses, and bolster consumer protection. More severe financial consequences incentivize companies to prioritize and invest in product safety, resulting in safer products. Eliminating the cap on a series of violations and increasing the cap for an individual violation also provides the U.S. Treasury additional funds from CPSC civil penalty payments. The CPSC takes into account adverse economic impacts on small businesses and other relevant factors when determining civil penalty amounts, ensuring a balanced approach to regulation.

Legislation:

The *CAP Act* would:

- Strike the maximum civil penalty cap on a series of violations.
- Increase the individual violation cap from \$100,000 to \$250,000.
- Add clarity into statute about the types of offenses CPSC can fine manufacturers for and subject those civil penalties to the same caps as described above.
- Adjust the inflation review period from every five years to every year.
 - This bill would also create a new formula for inflation adjustments and sets out a time frame and procedures for those adjustments. These changes follow what many other federal agencies use under the 2015 Federal Civil Penalties Inflation Adjustment Improvements Act.

Endorsing Organizations:

Consumer Federation of America, Consumer Reports, Kids in Danger, Public Citizen, and Public Interest Group