CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 11, 2003

S. 1261

Consumer Product Safety Commission Reauthorization Act of 2003

As reported by the Senate Committee on Commerce, Science, and Transportation on August 26, 2003

SUMMARY

S. 1261 would modify the Consumer Product Safety Act (CPSA) to authorize appropriations of about $270 million for the Consumer Product Safety Commission over the 2004-2007 period and make administrative changes to the commission.

S. 1261 also would permanently authorize appropriations of $2 million each fiscal year for the commission to conduct consumer notification campaigns under certain circumstances. In addition, the bill would increase the maximum civil penalty to $20 million for violations of safety standards and applicable rules under the CPSA.

CBO estimates that implementing S. 1261 would cost $53 million in 2004 and $280 million over the 2004-2008 period, assuming the appropriation of the specified amounts. CBO estimates that enacting the bill would increase revenues from raising the civil monetary penalties by $11 million in 2004 and $68 million over the 2004-2008 period. S. 1261 would not affect direct spending.

S. 1261 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1261 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By Fiscal Year, in Millions of Dollars					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law						
Budget Authority [a]	57	0	0	0	0	0
Estimated Outlays	56	9	0	0	0	0
Proposed Changes						
Authorization Level	0	62	69	72	76	2
Estimated Outlays	0	53	68	72	75	13
Spending Under S. 1261						
Authorization Level [a]	57	62	69	72	76	2
Estimated Outlays	56	61	68	72	75	13
CHANGES IN REVENUES						
Estimated Revenues	0	11	12	14	15	17

a. The 2003 level is the amount appropriated for that year for the Consumer Product Safety Commission.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted in the fall of 2003, that the authorized amounts will be appropriated for each year, and that outlays will follow historical spending patterns for the authorized activities.

Spending Subject to Appropriation

S. 1261 would authorize specific appropriations totaling about $270 million over the 2004-2007 period for the Consumer Product Safety Commission to carry out its statutory responsibilities. The commission administers four statutes related to safe products: the CPSA, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, and the Flammable Fabrics Act. The bill also would authorize the commission to maintain 471 full-time staff and implement new titles for executive management positions. Both of these provisions would conform current practices of the commission to law.

In addition, S. 1261 would allow the commission to notify consumers of hazardous products and would authorize $2 million per year to be appropriated for that purpose. Under current law, consumer notification of hazardous products is paid for either by the manufacturer, distributor, or retailer. This bill would allow the commission to fund consumer notification campaigns in certain circumstances: that is, when the commission determines that the parties handling the product are financially unable to do so, and use of the product carries risk of death or serious injury. The bill does not authorize the commission to finance recall campaigns or corrective actions through which products are replaced, repaired, or refunded.

CBO estimates that implementing S. 1261 would cost $53 million in 2004 and $280 million over the 2004-2008 period, assuming the appropriation of the specified amounts.

Revenues

Current law stipulates that any person who knowingly manufactures or sells products that fail to comply with safety standards or rules set under the CPSA faces up to $1.65 million in civil penalties for each violation in 2003. S. 1261 would increase the maximum fine per violation to $20 million. (The maximum amount would be adjusted each year by the Consumer Price Index as under current law.)

Over the past five years, the commission assessed roughly $14 million in civil fines in 32 CPSA cases. The average fine was less than $500,000, or less than 40 percent of the maximum amounts. CBO estimates the bill would increase revenues by $68 million over the 2004-2008 period by raising the maximum civil penalty.

This estimate assumes a small number of cases would be substantially affected by the higher maximum penalty, as suggested by the historical data. Specifically, a few fines per year were assessed at more than 50 percent of the maximum penalty amounts. The highest penalty was 80 percent of the maximum amount, or $1.3 million. According to the commission, these types of cases warranted higher penalties, but the fines were effectively constrained by the current-law limit. Also, firms have been reluctant to pay penalties greater than $1 million or about 60 percent of the current cap because, in settling their cases, they expect the commission to compromise for an amount that would not be perceived as close to the maximum. Moreover, the commission generally has been unwilling to refer such cases to the Department of Justice to litigate, because the difference between the penalty a firm is willing to settle on and the amount that could be awarded by a court is relatively small. CBO assumes that increasing the cap would change the dynamics of settling and litigating the large cases and that in these cases the fines would average 60 percent of the new maximum amount. This estimate also assumes the commission would handle a few large cases each year, although in practice the number of blockbuster cases could vary significantly from year to year.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1261 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Costs: Shawn Bishop
Impact on State, Local, and Tribal Governments: Leo Lex
Impact on the Private Sector: Cecil McPherson

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis