CPSC wants to improve recall notifications

Changing rule requires action from Congress

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USA TODAY

You could learn about recalled products faster, if the Consumer Product Safety Commission has its way. And you get a say.

The CPSC is looking to update a rule that prohibits what it can reveal immediately.

Known as Section 6(b) within the commission, the rule comes with disclosure restrictions, meaning that the commission can't readily reveal the name of the product that identifies the manufacturer, until they give the company at least 15 days to comment. But, the initial process can take between 30 to 60 days.

On Wednesday, Alex Hoehn-Saric, chair of the commission, issued a statement calling the update "long overdue" as the restrictive rules in place today were adopted in 1983.

When the CPSC is delayed in releasing information on product-related deaths and injuries, additional deaths or serious injuries can occur," said Hoehn-Saric, in a statement.

The commission is inviting the public to comment on the rule.

'Not a cure-all'

Recalled products still end up on the market and in people's homes and cause harm, according to a report by Teresa Murray, consumer watchdog at U.S. Public Interest Research Group and author of the "Safe at Home."

In her report, she says the Section 6(b) requirement to wait 15 days after notifying the company of a dangerous product gives companies enough time to file a lawsuit to block the commission from disclosing the product in question.

While Murray said the commission's announcement is welcome, "it's not a cure-all."

"The CPSC is dipping its toe into the water to try and gain more authority to inform consumers when the agency has received dozens or hundreds of incident reports from consumers, hospitals, coroners or other officials about a particular product, whether it's a washing machine that catches fire or a treadmill that suddenly throws people off."

Peloton didn't self-report entrapment incidents from December 2018 to 2019 incurring a $19 million fine. A child had died by the time Peloton notified the CPSC. A recall didn't take place until May 5, 2021. ETHAN MILLER/GETTY IMAGES

Congressional action needed

Murray said the commission is taking a good first step, but only Congress can repeal this section of the law that restricts the commission's warning ability.

> "People die because of Section 6(b). It is that simple."
>
> **Elliot F. Kaye**
> Commissioner in 2019

In 2021, Sen. Richard Blumenthal, D-Conn., and Reps. Jan Schakowsky and Bobby L. Rush, both Democrats from Illinois, introduced the Sunshine in Product Safety Act, to strike down the provision, but there has been no action on the bill since its introduction.

Blumenthal's office did not respond when USA TODAY reached out.

The provision has caught the ire of past commissioners. In 2019, commissioner Elliot F. Kaye said in a congressional hearing that the commission was "tiny" compared to other federal health agencies, needed more funding to do its jobs protecting consumers, and needed revisions to their statutes.

"People die because of Section 6(b). It is that simple," he said.

Peloton treadmill recall

One could point to the Peloton treadmill as an example. The company didn't self-report entrapment incidents from December 2018 to 2019 incurring a $19 million fine.

A child had died by the time Peloton notified the commission, and several consumers reported broken bones, lacerations, friction burns and pets and objects getting pulled under the treadmill.

A recall didn't take place until May 5, 2021.

CPSC Commissioner Mary Boyle issued a statement calling on manufacturers to responsibly share information about harmful products.

"Even if companies can use Section 6 as a means to limit or delay disclosure," she said, "I am challenging them to consider a different question: should they instead be forthcoming with information to help consumers avoid harm? For me, the answer of course is yes."

Audits

Continued from Page 1B

want to run the risk of reverse-engineering or taxpayers taking advantage of it, said one of the researchers, Daniel Ho.

The IRS did give the team access to "underlying data" used to select audits, he said.

The research team used more than 148 million tax returns and 780,000 audits from 2014 to find audit rates among Black and non-Black taxpayers.

The IRS doesn't collect information on taxpayer race and ethnicity, so the researchers used first names, last names and U.S. Census data to predict the likelihood that taxpayers identified as Black. To cross-check those predictions, the team used voter registration records from North Carolina, where citizens had been required to self-report race and ethnicity when they registered, Ho said.

Disparities in audits of those who claim Earned Income Tax Credit

Looking at the data, the team determined the IRS has focused largely on a specific set of mistakes taxpayers make, including mistakes that affect their eligibility for refundable credits.

These mistakes are common among Black taxpayers, despite Black taxpayers being less likely to make the highest dollar value mistakes overall.

"Refundable credit eligibility depends on complicated rules for claiming the right dependents, for example," Smith said. "These are the sorts of mistakes that the IRS has traditionally focused on in its audits."

One of the tax breaks the team examined is the Earned Income Tax Credit, which helps taxpayers reduce the taxes they owe and, in some cases, increase their refunds.

Black taxpayers made up 21% of Earned Income Tax Credit claims and accounted for 43% of EITC audits, the analysis found.

Single Black men with dependents who claim this tax credit are almost 20 times as likely to be audited as a non-Black married taxpayer claiming the EITC, the team found.

Why are Black taxpayers audited more?

The researchers wanted to dig into why this is happening.

Ho said there are two hypotheses:

1. The set of rules to select audits has focused on lower-dollar claims versus taxpayer returns with higher incomes.
2. The IRS' focus has largely been on eligibility for programs such as the Earned Income Tax Credit versus the dollar amount that is at stake.

They suspected part of the problem lies in algorithms the IRS uses, such as the Dependent Database. The program flags potential tax problems and creates audit letters that go to taxpayers.

The majority of the racial disparities the team found were linked to mailed audits versus in-person field audits.

The team also suspected the racial disparities in tax audits stems from concerns among government officials.

According to the researchers, people who claim tax credits can sometimes receive refunds even if they didn't pay any taxes. Some think it's more important to crack down on those who inappropriately claim money than collect tax dollars from those committing tax evasion, the team said.

"We're not treating the dollar that is going toward the Earned Income Tax Credit as the same dollar that might be evaded by a high-income taxpayer," Ho said. "If we treated those similarly, our evidence shows that the disparity would go down significantly."

Another theory the team tested is what would happen if the IRS focused audits on refundable credits such as the EITC and others like it.

The team found those specific adjustments create more disparity, but if the IRS were to broaden its focus to include adjustments such as misreporting outside of refundable credits, the audit disparities could be reduced, said Smith, who worked on the project.

What could also help reduce the disparities is training an algorithm to focus on the total dollar amount of underreporting, Smith said.

Sara LaLumia, a professor of economics at Williams College in Massachusetts, stressed that the IRS can choose different ways to audit taxpayers.

"There's not just one audit selection mechanism," LaLumia told USA TODAY. "Recognizing that there are different ways of going about this part of the process is, I think, a really important area ... of thought as we think about how policymakers might proceed."

Experts say the IRS is working with fewer resources

One contributing factor to such disparities is depleted resources over the past decade, the team said.

"Over a 10-plus-year period, IRS budgets were slashed," Ho said. "(The) IRS lost about 20% to 30% of its examiners, and the examiners that the agency lost were precisely the ones who had more expertise to audit taxpayers in the higher-income brackets."

But while the number of examiners has decreased, the audit rate among lower-income taxpayers hasn't, Ho said.

In January 2021, President Joe Biden signed an executive order requiring all federal agencies to complete equity impact assessments, Ho said.

He said the challenge is that many agencies like the IRS don't have access to race and ethnicity information, so it's hard for them to do those assessments.

"We think the study really provides a very nice model of how to do that going forward," Ho said.

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