

Oct. 6, 2015

Dear Senator:

The groups and organizations listed below urge you to co-sponsor the Hide No Harm Act, sponsored by Senator Richard Blumenthal and Senator Robert Casey.

This important legislation addresses a significant national problem that requires your support – the need for corporate officers who knowingly conceal serious dangers that lead to consumer or worker deaths or injuries to be held personally – and criminally – accountable. This bill requires responsible corporate officers to inform and warn government regulatory agencies, employees and the public of serious dangers created by faulty or defective products produced by the corporation, or unsafe business practices that place employees in danger, and provides for criminal liability for corporate officers who fail to do so.

Recently, in numerous instances, federal enforcement of regulatory standards has failed to impose meaningful penalties adequate to deter future violations and hold individual bad actors responsible for their reckless disregard of the health and safety of consumers and workers.

The bill, originally offered by Sen. Blumenthal in 2014, is in response to the General Motors (GM) recall scandal, in which an ignition switch defect was linked to 124 deaths. Documents released by a congressional committee showed that GM officials knew about problems with the device as early as 2001. Despite this, the U.S. Department of Justice agreed to settle criminal charges with GM through a “deferred prosecution agreement,” which includes a fine but no criminal charges for any individual GM corporate officers and no explicit admission of criminal culpability from GM. Even the prosecutor in the GM case admitted that “there are gaps in the law,” which prevented him from prosecuting corporate executives.

Hide No Harm would give prosecutors the tools they need to go after corporate executives who hide the truth about dangerous products. Other notable cases where corporate officers withheld information about dangerous products include:

- Merck withheld information on the risks of the arthritis drug Vioxx from doctors and patients for more than five years, resulting in up to 139,000 heart attacks;
- Simplicity Cribs sold products company officials knew were defective, leading to the deaths of at least 11 babies and many injuries;
- Toyota officials knew that millions of cars it sold had a defective gas pedal mechanism that could cause unintended acceleration – which led to numerous fatal collisions – yet the company failed to tell the public or federal regulators, the company later admitted in a federal settlement; and
- Freedom Industries corporate officers in West Virginia knowingly failed to inform regulators about an environmental hazard in which a second toxic chemical leaked into the water supply, endangering 300,000 West Virginians, but failed to warn authorities for 11 days.

These corporate concealments impact not only those who suffer the direct consequences of dangerous products, but the broader business sector, as well. The truth about these faulty products invariably is uncovered, often after preventable injuries and deaths have occurred, and civil litigation follows. Shareholders around the world become financially responsible for the damages; depending on the size of the corporation and the extent of the damages, this impact can be felt throughout the market.

Additionally, the irresponsible conduct blemishes the reputation of the vast majority of corporations that take seriously their responsibilities to regulatory agencies, consumers and employees. It also creates unfair competition by allowing a marketplace to exist without consequences for bad actors, thus creating disincentives for good actors.

Currently, corporate officers who knowingly conceal harm from faulty products do not face the threat of prison nor are they held personally responsible for any fines imposed. The penalties for corporate malfeasance in this bill will not only allow law enforcement to hold individuals personally accountable for those whose decisions lead to death or injury of American consumers and workers, but also will also serve as a strong deterrent against future attempts to cover up dangerous products and unsafe workplaces.

We need to ensure that companies take health and safety seriously and that corporate officers no longer consider loss of life a “cost of doing business” that they are willing to absorb because potential fines are paid by the corporation and not by them individually. The threat of imprisonment must be real.

This legislation will serve to ensure that when corporate officers make decisions regarding their operations and products that human life is valued over profit margins and bonuses. Unfortunately, for a very small group of corporate officers in this country, the correct outcome can only be assured when the consequence for failing to do the right thing involves personal criminal liability.

We ask that you join in co-sponsoring this legislation to ensure that corporations’ highest priority is the safety of their workers and consumers.

Sincerely,

AFL-CIO

Center for Biological Diversity

Center for Effective Government

Center for Foodborne Illness Research & Prevention (CFI)

Center for Justice & Democracy

Center for Progressive Reform

Center for Science and Democracy at the Union of Concerned Scientists

Coalition for Sensible Safeguards

Consumer Federation of America

Consumers Union

Economic Policy Institute

National Employment Law Project

NETWORK, A National Catholic Social Justice Lobby

Protect All Children's Environment

Public Citizen