



CONSUMER FEDERATION OF AMERICA

## House Pushes Anti-consumer Insurance Plan

**H**ouse Financial Services Chairman Michael Oxley (R-OH) has indicated he intends to push ahead this year with deregulatory insurance legislation that would, among other things, override state regulation of insurance rates.

After holding a series of hearings on the issue over several years, Oxley announced in late March that he plans to mark up his insurance "roadmap" later this year.

"This plan is a roadmap to disaster for consumers," said CFA Director of Insurance J. Robert Hunter. "Millions of Americans have been hit hard by rising home and auto insurance rates, but Chairman Oxley wants to handcuff the states that try to ensure that rates are fair and reasonable.

"This unprecedented federal intrusion into state insurance regulation will leave millions of consumers vulnerable to price gouging, as well as abusive and possibly discriminatory insurance rating practices," he added.

In March testimony before the House Financial Services Committee, Hunter called on Chairman Oxley to withdraw his anti-consumer proposal. That was also the message of a letter sent by more than 80 consumer, low income, housing, minority, and labor organizations from throughout the country.

### Plan Would Override Vital State Protections

In addition to threatening to raise insurance prices, the plan would open the door to insurance redlining, since the deregulation of prices would include the lifting of state controls on territorial line drawing.

States would be unable to stop the misuse of "risk classification" information—such as credit scoring, territorial data, and the details of consumers' prior insurance history—for pricing purposes.

"This proposal shows a fundamental misunderstanding of the way the insurance marketplace works," Hunter said. "Insurance is not just any product that can be regulated solely through free market competition."

For one thing, he said, "insurance policies are exceedingly complex legal documents." For another, "insurers can maximize profits by denying old and sick people health insurance or denying inner city residents home and auto insurance."

Consumers would also be harmed by the roadmap's "choice of law" provision, which would allow only the state of domicile of commercial policy holders to regulate the terms of these policies.

Such an approach could provoke states to compete to place further restrictions on legal rights of their residents, as they rush to please large corporations with tremendous economic clout that are based in their state, Hunter warned.

In developing his plan, Chairman Oxley

has cited Illinois, which does not regulate rates, as a model for federal oversight. But rates in Illinois have been shooting up sharply, Hunter noted.

Since 1989, auto insurance rates in Illinois have risen by 35 percent, compared with increases of 30 percent nationally. In California, where voted-approved Proposition 103 has led to both tight rate regulation and vigorous competition by insurers, auto insurance rates have dropped by eight percent during the same period.

"Chairman Oxley's extreme proposal is grievously flawed," Hunter said. "It would override state laws that guarantee fair pricing and open the door to the reintroduction of some of the worst insurance abuses that have occurred in the last 30 years, such as redlining. It would then tie the hands of states in addressing these abuses.

"The consumers who are most likely to be harmed are our nation's most vulnerable—the oldest, the poorest, and the sickest," he concluded.

### Terrorism Insurance Act Should Be Allowed To Expire

Meanwhile, a CFA study released in April found the nation's terrorism insurance law is not necessary to ensure the availability of affordable terrorism coverage for most areas of the country and should be allowed to expire.

In November of 2002, President George Bush signed the Terrorism Risk Insurance Act

(TRIA) into law. TRIA created a three-year program in which the federal government covers 90 percent of all terrorism-related insurance losses (up to \$100 billion a year) after individual insurance companies pay an initial deductible.

The act is due to end on December 31, 2005 unless renewed by Congress.

The CFA study, "The Terrorism Risk Insurance Act: Should It Be Renewed," assesses current prices for terrorism insurance and the ability of the property/casualty insurance industry to cover terrorism losses without taxpayer back-up.

It found that:

- terrorism rates are relatively low in most areas of the country and will continue to be so when TRIA expires;
- the private sector will be responsible for covering all terrorism losses in all but nine large cities by 2005, before TRIA expires, and will be covering the vast majority of the risk by then even in those nine areas;
- commercial insurance buyers in most of the nation are reluctant to buy taxpayer backed insurance coverage;
- terrorism losses to the insurance industry will be relatively modest, according to industry experts' projections; and
- insurers are in an excellent financial con-

dition to cover all terrorism losses after TRIA expires.

"The insurance industry got a helping hand in the wake of 9-11, when Congress and the President agreed to offer free terrorism reinsurance backed by taxpayer dollars," Hunter said.

"Our study clearly documents that the insurance industry is more than ready to stand on its own two feet and that taxpayer back up should end," he added. "The ability of the industry to insure against terrorism is enormous and growing, profits are quite substantial, and the financial condition of insurers overall is rock solid."

"This law is no longer necessary, because the insurance industry is more than able to pay for most terrorism insurance losses in the future," added CFA Legislative Director Travis Plunkett.

"However, if Congress decides to keep some form of back-up, it should only target the few areas of the country where getting affordable terrorism coverage might be a problem," he added. "Congress should also require insurers to broaden the amount of coverage they offer, pay for the back-up that taxpayers provide, and increase incentives for the development of a private insurance market that can cover all terrorism losses."

### On the Web

[http://www.consumerfed.org/terrorism\\_insurance\\_release.html](http://www.consumerfed.org/terrorism_insurance_release.html)  
[http://www.consumerfed.org/terrorism\\_insurance\\_report.pdf](http://www.consumerfed.org/terrorism_insurance_report.pdf)

## White House Broadband Goal Requires Policy Reversal

**C**ampaigning for reelection in March, President George Bush set a national goal of making high-speed Internet access available to every American home within three years.

In announcing that goal, the president said he intends to ensure that consumers have plenty of choices when selecting a broadband carrier, because "the more choices there are, the more prices will go down."

"Given that 80 percent of Americans today do not have broadband access, we applaud your declaration of a progressive goal for the digital information age, but it will require a 180-degree change of direction from recent policies," CFA Research Director Mark Cooper and Consumers Union Director of Public Policy and Advocacy Gene Kimmelman wrote in a letter to the president.

Instead of promoting competition, admin-

istration policies have actually strengthened cable and phone monopolies, which have in turn led to higher prices and less choice in broadband, Cooper and Kimmelman wrote.

For example, since the president took office, the cost of buying the services that connect cable customers to high-speed Internet has skyrocketed.

Specifically, the price for a package of cable modem and expanded basic cable programming has shot up three times the rate of inflation. A consumer who wants high-speed service and their own Internet Service Provider must pay their cable company \$55 to \$75 a month for that option.

The letter urged the president to:

- support "a la carte" choice for video and Internet content over cable lines;

- adopt a "non-discrimination" policy for broadband services to foster an entrepreneurial environment;

- appeal the anti-consumer local phone service decision by the D.C. District Court in *USTA v. FCC*; and

- pursue a policy to ensure all Internet services are affordable and that Americans are computer literate.

The letter noted that the number of American households that do not have any in-home Internet access far surpasses those that have broadband access.

"In the rush to stimulate the march to the broadband Internet, it is critical that we do not leave millions of Americans out of the Information Age," the letter warned.

### On the Web

<http://www.consumerfed.org/0330%20bushletter.pdf>  
<http://www.consumerfed.org/Response%20to%20Bush%20Broadband.doc>

## Federal Regulators Discuss Policy Priorities

Officials from the Federal Trade Commission, Food and Drug Administration, and Federal Communications Commission laid out their policy priorities on consumer issues in Consumer Assembly '04 keynote addresses.



FTC Chairman  
Timothy Muris

In a session conducted as Q&A, without prepared remarks, FTC Chairman Timothy Muris covered a wide range of issues, but identified building up the agency's effectiveness as a "cop against fraud" and promoting privacy as his top priorities.

Efforts to strengthen enforcement have included working with criminal authorities to bring cases and working with Congress on legislation to "make it easier to deal cross-border with law enforcement officers outside the United States." That is crucial in an increasingly global market, he said.

On privacy, the primary focus has been on implementation of the do-not-call registry, he said. "We also have a very active identity theft program," he added.

Muris expressed skepticism, however, that recently adopted legislation to eliminate junk email, or "spam," will be more than marginally effective in addressing that problem.

"There are two really big obstacles that make spam such a difficult issue," he said. One is the "anonymity of the Internet. It is very difficult to find these people," he said.

The other obstacle is "the economies of spam," Muris said. While making an additional 10,000 phone calls or sending an additional 10,000 letters carries a significant cost, "sending an additional 10,000 spam messages is virtually costless."

"At the end of the day, I don't think FTC law enforcement is going to solve the spam problem," he said.

### FDA Commissioner Details Ambitious Agenda

On the heels of the announcement that he had been confirmed as the new head of Medicare and Medicaid, FDA Commissioner Mark McClellan gave a Consumer Assembly keynote address in which he described recent accomplishments and current challenges facing the agency.

Prompted by passage in the last Congress of bioterrorism legislation, the agency is now "in the midst of implementing the most substantial expansion of FDA's food safety program in more than a generation," McClellan said.

"While the main thrust of the legislation was on food security," the resulting rules provide "an unprecedented arsenal to protect Americans from food-borne attacks, both unintentional and deliberate," he said. "They are just as useful for naturally occurring illness outbreaks as they are for deliberate ones."

Among the other agency priorities identified by McClellan were:

- working with the Environmental Protection Agency to develop guidance regarding consumption of fish and other foods where there is a significant risk from contaminants;
- working with the U.S. Department of Agriculture on a "comprehensive program to protect Americans from the spread of bovine spongiform encephalopathy;"
- developing medical counter-measures for use "against specific types of agents of terrorism," including radiological attack;
- taking enforcement actions against potentially unsafe dietary supplements and the fraudulent marketing of dietary



Former FDA  
Commissioner  
Mark McClellan

supplements;

- taking enforcement actions against counterfeit drug manufacturers, including working with international authorities to "develop better steps globally to detect and prevent counterfeiting;"
- combating medical errors;
- promoting health literacy and combating obesity; and
- promoting drug affordability by speeding up the approval of generic drugs.

"We've been able to make a lot of progress on issues that are important to millions of Americans," McClellan said.

### FCC Commissioner Calls on Agency To Put Consumers First

In his keynote address, Federal Communications Commissioner Michael Copps called for "an always-on and always aggressive campaign for consumers" at the FCC.

"Technology has developed at a blistering pace and created so many opportunities for each of us," he said. "Our job is to keep up with these changes and make sure that the opportunities are shared by all of our people."

"All of our citizens deserve access to the best, most advanced, most accessible and cost-effective telecommunications system in the world," Copps added.

To achieve that goal, "competition is critical and we need to promote it," Copps said. While competition is finally beginning to develop, he said, "truth is, when it comes to competition, we're still nursing an infant."

He also expressed grave concern about the future of competition in light of a recent D.C. circuit court decision.

Unless the Supreme Court reverses that decision, "the prospect now is for competition to fall prey to consolidation," he said. If that happens, "the consumer benefits of a truly competitive marketplace will never be enjoyed."



FCC Commissioner  
Michael Copps

Despite the problems, Copps said he is an optimist about "our ability to get a handle on all this and help put the country on the right course." His optimism stems, he said, from "a rising tide of citizen power intent on reclaiming consumer rights and building media democracy."

"If we can harness this energy and send it into battle, victory on all these fronts can yet be ours. And all these potentially liberating new technologies coming our way will really prove liberating," he said.

In a response to Copps' speech, Link Hoewing, Verizon Communications Assistant Vice President for Internet and Technology Issues, argued that the FCC, with its deregulatory approach, is already "going in the right direction" to provide fiber-based technology to people.

"We've got a lot of competition," he said. "We've actually accomplished a lot in the telecommunications industry in the last few years, and a lot of it is because of deregulation. We do have to try to eliminate a lot of extra regulations on these technologies so they can grow."

Gene Kimmelman, Senior Director of Public Policy and Advocacy for Consumers Union, argued that deregulation had driven up costs to consumers, denying them affordable access to the services they rely on to "communicate in our society."

Deregulation has also led to consolidation, that gives "one or two companies a lot of say" about what information we receive and how we receive it, Kimmelman said. "This is all about civil rights," he said. "It really is one of the critical elements of our civil society."

## Speakers See Hopeful Signs for Consumer Movement

Despite an extremely challenging political situation, there is real hope for the consumer movement, U.S. Public Interest Research Group Executive Director Gene Karpinski said in the closing speech of Consumer Assembly '04.

The political system "is stacked against us more than ever before," Karpinski said. But he added that "there is a lot of good news."

Despite a "massive effort" to roll back consumer and environmental protections, the administration "hasn't won a lot of things yet," Karpinski said, pointing as examples to the failure to pass an energy bill and reversal in Congress of the administration's media ownership rules.

Consumers have even won new protections in areas where problems "got so big" Congress and the administration could no longer ignore them, such as on corporate reform, he said.

And, "despite the efforts by people in Congress to wipe out states' rights ... the states across the country can proudly point to real progress on all kinds of issues," he said.

Karpinski added, however, that if the consumer movement is to make real progress, "we need to expand and bring in new partners and allies."

That is possible, he said, because "on issue after issue, the public still supports us."

Meanwhile, the political situation shows signs of shifting in ways that have the potential to benefit the consumer movement, said David Cantor, a Vice President with Lake, Snell, Perry and Associates.

The public is very uneasy about the state of the economy, he said, and that is undermining their support for the current administration.

Despite news reports that the economy is getting better, "the public doesn't buy it at

all," Cantor said. "The definition of a recovery to the public is jobs."

As a result, a majority now has a negative view of President Bush on these issues, and Democratic candidate John Kerry is seen as "a very attractive alternative."

Surveys indicate the top concerns of voters are the economy and jobs, terrorism and the war in Iraq, health care affordability, and the deficit, Cantor said.

Voters have a slightly positive view of the president on taxes, but, except on terrorism, have a negative view on all the other top issues, he said, even the war in Iraq. "Basically what is buoying his overall ratings is the terrorism issue," he said.

"But it is not just the war on terrorism that matters to people," he said. In fact, concerns about the economy overwhelm terrorism as a likely influence on voting, he said.

# CFAnews

Consumer Federation of America

1424 16th Street, N.W., Washington, D.C. 20036  
(202) 387-6121 • www.consumerfed.org

President: Kenneth McEldowney  
Chairman: Sen. Howard M. Metzenbaum  
Executive Director: Stephen Brobeck  
Research Director: Mark Cooper  
Public Affairs Director: Jack Gillis  
Director of Consumer Protection: Jean Ann Fox  
Legislative Director: Travis Plunkett  
Associate Director: Nancy Register  
Director of International Issues: Mark Silbergeld  
Director of Administration: Betty Leppin  
Director of Financial Education: George Barany  
Project Director: Susan Peschin  
Public Policy Associate: Diana Neidle  
Conference Manager: Adele Ellis  
Project Manager: Mel Hall-Crawford  
Project Manager: Jodi Shullimson  
Assistant General Counsel: Rachel Weintraub  
Comptroller: Debra Winfield  
Administrator: Miguel Carpio  
Executive Assistant: Lydia Grogan  
Health and Safety Associate: Chris Waldrop  
Project Coordinator: Michelle Watts  
Legislative Assistant: Anna Petrin  
Office Assistant: Milena Carpio

CFA's Center for Insurance Policy  
Director of Insurance: J. Robert Hunter  
Life Insurance Actuary: James H. Hunt  
Insurance Counsel: Kathleen O'Reilly

CFA's Food Policy Institute  
Director: Carol Tucker Foreman  
Associate Director: Jeff Nesbit

CFA's Center for Housing/Credit Policy  
Director: Allen Fishbein  
Coordinator: Brad Scriber

CFAnews Editor: Barbara Roper

CFAnews is published eight times a year. Annual subscription rate is \$25 per year.  
© Copyright 2004 by Consumer Federation of America. CFA should be credited for all material. All Rights Reserved.  
Design & Typeset by: Dahlman/Middour & Nolan Design

## Members of Congress Outline Consumer Agenda

Three members of Congress outlined their pro-consumer legislative priorities in Consumer Assembly keynote addresses, covering a range of initiatives to protect consumers' privacy and pocketbooks and to promote their safety.



Sen. Bill Nelson (D-FL)

Sen. Bill Nelson (D-FL) said that, while significant progress has been made in safeguarding consumer privacy, "there's still so much more to do."

On the positive side, he cited: creation of the national do-not-call registry; passage of anti-spam legislation; inclusion of provisions designed to safeguard against identity theft in the Fair Credit Reporting Act; and passage of a measure he introduced that requires federal regulators to adopt strict rules for the disposal of credit reports.

"One huge remaining problem," Sen. Nelson said, "is the outsourcing of private consumer information to foreign companies."

Because many companies use foreign workers to help process paperwork, "your bank account numbers, social security numbers, stock holdings, and credit card numbers are being shipped abroad, beyond the reach of U.S. privacy laws," he said.

Sen. Nelson said he has directed his staff to draft a bill that addresses the following key issues:

- whether U.S. companies should be held liable for misuse of consumer information by the company's foreign affiliates or agents;
- whether foreign companies should be subject to U.S. privacy protections under their contracts with American firms;
- whether the U.S. government should have a role in deciding which foreign countries have strict enough privacy protections before U.S. companies can outsource private consumer information to those countries; and
- whether U.S. companies should be required to tell customers that their private information is being sent overseas.

Sen. Nelson said he is hopeful that Congress will pass legislation. "After all, American consumers demand and deserve the very best privacy protections, especially in an economy that reaches across the world," he said.

### Mutual Fund Reforms Proposed

Sen. Peter Fitzgerald (R-IL), author of the most comprehensive mutual fund reform bill introduced in this Congress, outlined his reasons for pushing tough new fund reforms in his keynote address.

One goal of his bill is to make fund fee disclosures complete and comprehensible to average investors, Sen. Fitzgerald said.

Investors don't understand the importance of fees, because disclosures are "incomprehensible," he said. If you tell an investor they are paying expenses of 1.56 percent, the average for equity mutual funds, "most Americans just don't know

what that means," he said.

But the investor who pays expenses of just 0.5 percent over 30 years will have 35 to 40 percent more money at retirement than the investor who pays 1.5 percent. "The fees really do matter," he said.

"Even if you could understand the disclosures, they only disclose about half the cost of the mutual fund," Sen. Fitzgerald said, because the expense ratio leaves out portfolio transaction costs.

He said his bill would address those problems by including commission and spread costs on portfolio transactions in expenses, by requiring that expenses be disclosed in dollars and cents, and by limiting "the universe of fees that funds can charge."

In the interest of both simplification and elimination of conflicts, he said, the bill also bans certain types of charges, includ-



Sen. Peter Fitzgerald (R-IL)

ing soft dollar payments, directed brokerage, revenue sharing payments, and 12b-1 fees.

"These are all shadow transactions that have the effect of skimming money out of shareholder accounts," he said.

### New Direction Needed For Consumer Protection

Rep. Janice Schakowsky (D-IL) accused the administration of "working systematically to dismantle the framework of consumer protection that has been established in this country in past decades" and said a "new direction for consumer protection" is needed.

"While President Bush is worried about threats from abroad and talks a lot about homeland security, his administration appears not to be worried about threats to our safety and security that already exist literally within our homes," she said.

Rep. Schakowsky outlined a number of areas where she believes the administration:

- is failing to act to address hazards, including the Consumer Product Safety Commission's failure to act on yo-yo balls



Rep. Janice Schakowsky (D-IL)

and arsenic-treated wood in playground equipment;

- is resisting enhanced protections, including new highway and auto safety standards, such as rollover standards, and new food safety standards, such as testing for E. coli and listeria; or

• is actually dismantling protections currently in place, by exempting more banks from the Community Reinvestment Act, by exempting national banks from state lending laws, and by allowing power plants to emit more mercury.

"This is a dismal list, but I'm not here to depress you," Rep. Schakowsky said. "You have the power to make change."

"We need to defend against erosion of existing standards, but we also need to move forward, so that we are not just striving to sustain the status quo but working to achieve new consumer protections wherever and whenever needed," she said.

## Consumers Face Information Challenges

Consumers today are both overloaded with information and under-informed about the products and services they purchase, Consumers Union President Jim Guest said in a Consumer Assembly luncheon address.



CU President Jim Guest

"Consumers literally have billions of sources they can mine when making a decision, but it's difficult to know who and what to trust, and where to turn," he said.

"Despite the fact that we have so much material at our fingertips, consumers still lack critical basic information, especially about the health and safety of the products and services we buy," he added.

In the "world of information overload," consumers turn to each other, even more than before, for information, he said. They don't just listen to word of mouth, "they're proactively creating information for others and proactively engaging with each other online."

The consumer movement needs to "find ways to support and focus this new and exciting energy, so consumers can benefit both from interacting with each other and also from interacting with consumer organizations like those in this room," he said.

"We should help create a growing nucleus of well-informed consumer ambassadors and word-of-mouth infor-

mation providers by being a source of accurate and timely advice in areas where we have expertise or can get access to the expertise," he added.

### Credible Health and Safety Information Lacking

One challenge is the lack of "credible, useful information in areas of health, safety, and other crucial concerns," Guest said.

"When consumers are fully informed, competition in the marketplace can work, and be of great benefit. But when informing consumers is done poorly, or not at all, the marketplace doesn't work and public health and safety are severely compromised," he said.

Guest outlined six key areas where consumer advocates need to continue to push the government and manufacturers for better information: food recalls, hazardous consumer products, hospital infection rates, lawsuit settlement secrecy agreements, dangerous herbal supplements, and prescription drug prices.

Consumer organizations "can serve as lighthouses for consumers—pointing them in the right direction for information they can trust and rely on, helping them inform and educate one another, and fighting for their access to information they need and deserve to choose wisely and protect their health, safety and financial well-being," he concluded.

### Journalists See Consumer Reporting In Decline

A panel of consumer journalists discussed challenges facing another crucial

source of consumer information—the media.

"These are really kind of sad times in the consumer arena," said Roberta Baskin, a former Senior Correspondent for *NOW with Bill Moyers*. "There's a lot of advertising pressure that I think is developing a climate of self-censorship."

Paula Lyons, a former Correspondent with *Good Morning America*, agreed that "the state of consumer reporting, on local television at least, is not good." The news hole is shrinking, and more and more stations are relying on general assignment reporters, instead of specialists, to cover consumer news, she said.

Jayne O'Donnell, a Reporter with *USAToday*, said that, while she has a lot of latitude in the stories she chooses to cover, and is completely insulated from advertising pressure, there are still challenges for consumer reporters even at a major national newspaper.

"We just don't have the staffing," she said. Also, there is an increased wariness about the motives of sources. "The lawyering has gotten to levels that I haven't seen in ten years at *USAToday*," she said.

Bob Read, Senior Producer for *Inside Edition*, presented a more optimistic view. "We're always looking for a good story that will protect the consumer," he said.

The keys to determining their interest is whether there's a new issue or new angle to the story, whether viewers are likely to care about it, whether the victims are compelling, and whether the story can be documented.

"Keep doing a great job, and we'll keep doing the stories," he said.

## On the Hill

### Congress Joins Debate Over OCC Preemption Rules

Members of Congress have entered the fray over the Office of the Comptroller of the Currency's recently adopted rules to block state enforcement of most state consumer protection laws against nationally chartered banks.

The strict preemption rules apply even to the state-licensed non-bank operating subsidiaries of national banks, and even where no federal law adequately protects consumers from predatory lending and other deceptive credit practices.

In March, the House Financial Services Committee adopted an amendment to its portion of the budget bill sharply criticizing the OCC rule for increasing OCC responsibility without any corresponding increase in resources.

Although the amendment is non-binding, it does send the message that a clear majority of the committee opposes the OCC action, which could spur the agency to withdraw the rules.

Meanwhile, Sen. John Edwards (D-NC) introduced joint resolutions in April to repeal the preemption rules under the "legislative veto" law. Similar resolutions are expected to be offered soon in the House.

Consumer advocates, who strongly opposed the OCC rules, cheered both moves.

"It is regrettable that the OCC has chosen an approach that will block states' efforts to protect their citizens while failing to substitute meaningful and stronger national consumer protections," said Allen Fishbein, CFA's Director of Housing and Credit Policy.

"We look forward to working with those in Congress seeking to undo these rules should they not be withdrawn," he added.

While the OCC has thus far shown little sign of giving ground, opposition continues to build.

### SEC Civil Authority Bill Advances Without Preemption Provision

The House Financial Services Committee approved legislation in February to enhance the Securities and Exchange Commission's civil enforcement authority after removing an anti-consumer provision that would have restricted state securities regulators' enforcement authority.

In its place, the committee adopted a provision directing the SEC and state regulators to study how they can better coordinate their efforts, an action the SEC and state regulators had already pledged to take.

The House bill, and a companion measure that has passed the Senate, would:

- expand the universe of firms and individuals the SEC could fine directly for securities law violations to include, for example, publicly traded companies, corporate officers, and auditors;

- raise the maximum civil administrative fines the agency is allowed to impose, with new limits ranging from \$100,000 to \$2 million per violation, depending on the nature of the violation; and

- give the SEC the same authority federal banking agencies have to subpoena financial records as part of an official agency investigation without first notifying the subject of the records request.

The House bill contains additional provisions not included in the Senate bill to: improve SEC access to grand jury information, to allow for nationwide service of subpoenas in agency civil actions, and to allow the Commission to hire private debt collection attorneys to assist in collecting disgorgement funds and financial penalties from securities law violators.

"The preemption provision should never have been added to what is otherwise largely a pro-investor bill," said CFA

Director of Investor Protection Barbara Roper. "We are pleased that the measure enhancing SEC authority is moving again, and we urge the Congress to adopt a final bill this year."

### Anti-consumer Gun Liability Bill Dies in Senate

Legislation granting special liability protections to the gun industry went down to defeat in the Senate on a 8-90 vote in March after several gun control measures were added, causing the gun industry to pull its support.

Despite the Bush Administration's call for a bill without any amendments, the Senate added measures to extend the assault weapons ban, close the gun show loophole, and require child safety locks on handguns.

A companion gun liability measure passed the House last year, without any gun safety provisions. Both the House and Senate bills would give gun manufacturers, sellers, and trade associations new immunity from civil liability for damages resulting from negligent manufacturing or selling practices.

"The immunity bill battle would not have been won were it not for the winning gun control amendment votes," said CFA Firearms Project Manager Susan Peschin. "This was the first time in five years that gun control won with strong bipartisan support."

While the firearms industry has said it intends to push for a clean immunity bill before Congress adjourns, the prospects for

another vote before 2005 are considered dim.

### Advocates Push Passage of Highway Safety Measures

A coalition of consumer and safety advocates, including CFA, called on Congress in March to adopt a pending bill to reauthorize the National Highway Traffic Safety Administration that contains a number of important safety provisions.

The bill has passed the Senate, but has not been acted on in the House.

Among the key safety measures in the bill are provisions to require better roll-over protections by requiring vehicle roofs to be stronger and vehicles to be less rollover prone.

Also included in the bill are provisions dealing with: frontal protection in crashes where the corners of vehicles collide, side impact crash protection, vehicle mismatch, 15-passenger van safety, child booster seats, back-over prevention technologies, crash testing with child-sized dummies, tire safety, seatbelts, side head air bags, and better consumer information for new car buyers.

"Americans are dying in record numbers on our neighborhood streets and highways," said CFA Public Affairs Director Jack Gillis.

"Unfortunately, the most promising federal motor vehicle safety standards to prevent deaths and injuries are stuck in neutral," he added. "The bill passed by the Senate directs NHTSA to move the safety agenda forward on these critical issues."

## Free Video Urges Firearm Safety Regulation

In order to raise public awareness, CFA is making a free video available that focuses on the need for consumer product safety protections for firearms.

The 21-minute video, "Unregulated, Untested, Unsafe: The U.S. Gun Industry," was developed and is being distributed with support from The Joyce Foundation. It provides an overview of gun violence as a public health issue and offers a comprehensive proposal to reduce gun-related deaths and injuries in America by subjecting them to product safety regulation.

Unlike practically every other consumer product made in America, firearms are not regulated for health and safety. This, despite the fact that guns are the second leading cause of product-related fatal injury in America, just behind cars. Since 1960, more than a million people in America have died from gun violence. Every year, guns kill more than 28,000 Americans and injure more than 60,000 others.

"While shocking incidents such as school massacres and sniper sprees grab media attention, the vast majority of gun deaths tell a different story," said CFA Firearms Project Director Susan Peschin. The video focuses on the root cause of these deaths—the widespread distribution of an inherently dangerous, and unregulated, consumer product.

"Congress has given regulatory authority to federal agencies to assure that virtually every other consumer product in America is safe," Peschin said. "Our video reveals the results of the gun industry's immunity from regulation, from marketing of deadly 'pocket rockets' to evasion of the 1994 federal ban on assault weapons," she added. "Many believe it's time that changed."

CFA is distributing copies of the video free and encouraging recipients to share it with others. To receive a copy, contact Peschin at (202) 939-1017 or email her at [speschin@consumerfed.org](mailto:speschin@consumerfed.org) for more information.

PSRST STD  
U.S. POSTAGE  
PAID  
WASHINGTON, D.C.  
PERMIT NO. 8772

**CFAnews**  
CONSUMER FEDERATION OF AMERICA  
1424 16th Street, N.W. • Washington, D.C. 20036  
(202) 387-6121 • [www.consumerfed.org](http://www.consumerfed.org)

