



National Post – Sarah Schmidt

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OTTAWA -- Invoking concerns about a police state coming to Canada, the Liberal-dominated Senate voted Tuesday to weaken the government's product safety bill -- delaying the effort to update the country's 40-year-old consumer-protection law until next year.

One set of the sweeping amendments narrowly passed by a vote of 45 to 42 when two independents lined up behind the Liberals and one independent voted with the Conservatives. Another set passed by five votes, 46 to 41.

The dramatic development was part of a last-ditch manoeuvre by Liberal senators to curtail the power of Health Canada inspectors to conduct random safety checks at home-based offices and facilitate toy companies and other distributors of consumer goods to avoid fines for violating Canada's safety standards.

The amendments also limit Health Canada's ability to share incident reports with international partners as part of joint safety investigations.

Health Minister Leona Aglukkaq issued an immediate statement, expressing her "outrage" that the Senate had amended the Consumer Product Safety Act.



"Liberal Senators are putting the health and safety of Canadian families at risk. The bill would have been a significant step toward replacing 40-year-old legislation. Now, Canadians are no further ahead than before our Government tabled this bill nearly a year ago.


"The Liberal Senators' amendments do nothing to help protect the health and safety of Canadians. Instead, they attempt to introduce loopholes, administrative delays and an uneven playing field for industry," said Ms. Aglukkaq, citing a "significantly limited" ability to prevent home-based businesses from putting dangerous products on the marketplace.

The amendments by senators George Furey and Tommy Banks, introduced at third reading, were approved after several Liberals spoke about the threat to civil liberties if the government's consumer protection bill becomes law.

Liberal Senator George Baker warned about a possible scenario where Health Canada inspectors could enter homes in the middle of the night, "and that to me, could be called a police state."

Liberal colleague Mobina Jaffer added that if "one thread unravels," others could follow.

"We cannot let those rights get eroded," Ms. Jaffer told the Senate.



The amendments prevent government inspectors from conducting spot checks in home offices as part of a safety investigation without first obtaining a warrant from a judge; the

unamended bill stated that if inspectors do not receive consent to enter, they must first obtain a warrant from a justice of the peace.

The unamended bill also stated Health Canada can issue a notice of violation after a company ignores an order issued by the department to comply with safety standards. And if the company ignores the notice of violation, the company cannot get around paying the fine by arguing they exercised "due diligence" to avoid the safety-standard violation, or "honestly believed" there were facts to exonerate the business.

Another newly approved Liberal amendment proposed by Banks allows businesses to use these arguments to fight a fine.

Instead of becoming law, the amended bill will now be sent back to the House of Commons for consideration, putting federal Liberal Leader Michael Ignatieff in a tough spot because it pits Liberal senators against Liberal MPs.

MPs unanimously approved the unamended legislation in June after concluding the bill gave Health Canada inspectors the necessary powers to get unsafe toys and other consumer goods off the market quickly. During the Senate proceedings, Ignatieff said he wouldn't pressure Liberal senators to get behind the bill.

If the tussle between the two chambers drags out, and a federal election is called or Parliament is prorogued in the interim, the bill will die.

Trueman Tuck, a "sovereign rights advocate" who led the lobbying blitz at the Senate against the bill, was delighted by the development.


More than 650,000 form e-mails complaining the bill "violates the supreme laws that protect the rights of individuals" were sent to parliamentarians through his website, the Canadian Campaign for Health Freedom; the site circulates conspiracy theories and decries that "federal regulatory harassment is destroying Canada."

"We were told that there's no way to stop royal assent and third reading in the Senate. We were also told by very shrewd people that the only chance we had was to create one or more amendments to the bill. They would lose control and it would have to go back to the House [of Commons], and we had the potential to create a ping-pong ball. We've worked diligently since August to create that ping-pong ball," said Tuck, managing director of the group.

"My work is done. We as a movement have set this into motion," he added. "This, to me, is the Boston Tea Party of the Canadian revolution."

Prior to the vote on Liberal amendments, many Liberal senators said they couldn't ignore the onslaught of e-mails from Canadians about their concerns about their individual rights.

In a statement following the vote, the Liberal leader in the Senate, James Cowan, commended the Conservative government for "not resorting to procedural tactics in order to prevent the Senate from completing its work" on this bill; the Conservatives



could have a plurality of seats in the new year following the retirement of a few Liberal senators.

Mr. Cowan also defended the outcome.

"The Senate has played its traditional role -- it has examined important government legislation and has now made recommendations to the House of Commons on how they could be approved. It is now up to the members of the House of Commons to examine and then to decide what they think of these amendments," Mr. Cowan said.

Tuesday's vote comes a week after the Senate narrowly voted down other Liberal amendments to weaken the power of Health Canada inspectors, proposed by Joseph Day, the Liberal critic for the bill in the Senate.

The Conservatives were able to win the vote last week by a tiny margin -- 44 to 42 -- because enough Liberal senators skipped the vote in the upper chamber.

