

April 30, 2015

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
U.S. Senate
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
U.S. Senate
Washington, DC 20510

Re: Groups Strongly Oppose the Energy Star Program Integrity Act

Dear Chairman Murkowski and Ranking Member Cantwell:

This week, the Senate Energy & Natural Resource Committee will hold a hearing on energy efficiency legislation including, S. 1038, the “Energy Star Program Integrity Act,” which would eliminate consumers’ ability for redress when they have purchased non-compliant Energy Star appliances. The undersigned organizations strongly oppose this bill.

The Energy Star Program Integrity Act would eliminate a key enforcement tool to ensure manufacturers stay compliant with the Energy Star program and to prevent them from committing fraud. The Energy Star program is an important initiative that incentivizes manufacturers to make greener, more energy efficient products. Consumers rely on the Energy Star certification, as it indicates that while they may pay more at the time of purchase, they will save money on their energy bills in the long run. Currently, if consumers purchase an Energy Star product and that product does not achieve the energy savings promised, they can hold the manufacturer accountable for breaching an express or implied warranty. Breach of warranty claims are an important tool to ensure that manufacturers’ products are what they purport to be. Eliminating this avenue of recourse will not only hurt consumers, but will undermine the integrity of the entire Energy Star program.

Barring breach of warranty claims will also shift the burden of enforcement wholly upon the government. While the government already has the responsibility to take corrective action upon discovery that a product is not compliant, this is simply not enough to protect consumers. The government cannot repay taxpayers for the extra money they spent on Energy Star products. Nor does the government have the time or resources to verify energy-savings data reported by manufactures or to monitor every Energy Star certified product to discover which products are not working as promised. And the bill’s vague mention of possible “consumer compensation” approved by the Administrator of the Environmental Protection Agency cannot possibly take the place of private enforcement. Assuming that it is even appropriate for Congress to delegate such authority the Executive Branch, the legislation itself has no compensation requirement or mechanism to enforce payment even if awarded.

Allowing this bill to go forward would allow manufacturers to defraud consumers with legal impunity while wholly diminishing the integrity of the Energy Star program. In a time when Americans are so closely watching their pocketbooks, Congress should be looking for ways to protect consumers from unknowingly overpaying for falsely labeled products bearing a government certification. We therefore urge you to oppose S. 1038.

Thank you for your consideration.

Sincerely,

Alliance for Justice

American Association for Justice

Center for Justice & Democracy

National Consumers League

Public Citizen