

[Home](#) / [Senate](#)

Obama Regulatory Czar's Confirmation Held Up by Hunting Rights Proponent

Cass Sunstein's views on litigating on behalf of animals has raised concerns for Sen. John Cornyn, who placed a hold on the nominee until he gets a chance to hear his views one-on-one.

By Kelley Beaucar Vlahos
FOXNews.com

Wednesday, July 22, 2009

[ShareThis](#)

WASHINGTON -- President Obama's nominee for "regulatory czar" has hit a new snag in his Senate confirmation process -- a "hold" by Texas Sen. John Cornyn, who's says he's not convinced that Harvard professor Cass Sunstein won't push a radical animal rights agenda, including new restrictions on agriculture and even hunting.

Senators are permitted "holds" to prevent a vote on a nominee from coming to the floor. They are often secretive and for very specific reasons.

"Sen. Cornyn finds numerous aspects of Mr. Sunstein's record troubling, specifically the fact that he wants to establish legal 'rights' for livestock, wildlife and pets, which would enable animals to file lawsuits in American courts," the Republican's spokesman, Kevin McLaughlin, said in a statement to FOXNews.com.

Cornyn's hold on Sunstein comes just as Sen. Saxby Chambliss, R-Ga., last week lifted his own hold on the nominee, whom Obama tapped in April to become the administrator of the Office of Information and Regulatory Affairs at the Office of Budget and Management.

Chambliss said he was dropping his hold because Sunstein had convinced him that he "would not take any steps to promote litigation on behalf of animals," and that he believes the "Second Amendment creates an individual right to possess guns for purposes of both hunting and self defense."

Both statements were included in a letter Sunstein sent to Chambliss on July 14.

Chambliss added in a Senate floor speech last Wednesday that "Professor Sunstein comes highly recommended by a number of folks from the conservative side of the philosophical divide in this country."

One of Sunstein's top jobs would be to review and provide guidance for draft federal regulations at different federal agencies. It is a wide-ranging and largely unrestrained position in the executive branch.

That's a large part of the reason Sunstein's positions on animal rights have become worrisome to his critics. Despite his assurances to the contrary, Sunstein has spoken stridently in favor of allowing people the right to bring suit on behalf of animals in animal cruelty cases and to restrict what he calls the more horrific practices associated with industrial breeding and processing of animals for food.

In a [2007 speech](#) at Harvard, Sunstein also advocated restricting animal testing for cosmetics, banning hunting and encouraging the general public to eat less meat.

The Center for Consumer Rights' David Martosko, a Sunstein critic, said those positions make the agricultural industry -- major stakeholders in the states represented by both Chambliss and Cornyn -- nervous.

Martosko said there are plenty of ways to pursue a "stealth campaign" on any one of these fronts -- guns or animal rights -- by putting pressure on the regulatory heads of the different agencies.

"He is the gatekeeper between the president and the secretaries," he said, noting that "as a regulatory czar, he won't be a judge or a legislator, so he cannot make laws. ... What he can do is nudge the departments in the direction of his philosophy," which is very much in line with "hard core animal rights zealots."

But Sunstein, who is married to National Security Council Director of Multilateral Affairs Samantha Power, has earned widely varied reviews among the political left and right, and from some of the unlikeliest of quarters.

"We still don't know much about how Barack Obama plans to overhaul our financial regulatory system, but his reported appointment of Cass Sunstein to an important post is a promising sign," Wall Street Journal editors wrote in January, when Sunstein's possible nomination was being floated.

The paper's editors said they were cheered by Sunstein's long-held beliefs in using cost-benefit analysis in regulation -- a concept that worries proponents of greater and tighter regulations.

"We have concerns about some of his academic writings regarding his approach to regulatory policy and regulatory review," Bill Samuel, AFL-CIO legislative director, told The Chicago Tribune. "We want to hear more from him about how he intends to approach regulatory policy."

Environmentalists also say Sunstein's nomination is a potential blow to their efforts to roll back what they call Bush-era deregulation. Frank O'Donnell, director of Clean Water Watch, wrote that "progressives would've screamed" if President Bush had nominated someone with similar views for the OIRA post." In fact, Bush did, O'Donnell noted, much to the chagrin of progressives.

Adding to animal rights and cost-benefit analysis is concern over Sunstein's positions on freedom of speech.

News of Sunstein's latest book, "On Rumors: How Falsehoods Spread, Why We Believe Them, What Can Be Done," lit up the blogosphere last week when The New York Post ran a column by a reviewer who received an advance copy.

Writer Kyle Smith suggested Sunstein threatens to tweak libel laws for the Internet and make online writers, particularly bloggers, legally responsible for falsehoods and rumors that get generated in cyberspace.

"Sunstein calls for a 'notice and take down' law that would require bloggers and service providers to 'take down falsehoods upon notice,' even those made by commenters -- but without apparent penalty," Smith wrote. "How long would it take for a court to sort out the truth? (Presidential daughters) Sasha and Malia will be running for president by then. Nobody will care anymore. But it will give politicians the ability to tie up their online critics in court."

[Advertise on](#)

Sunstein, a prolific writer who has penned 35 books since 1990, has plowed the issue of rumors and how they are spread, and leaves much of the policy debate in the air.

For instance, in a paper titled, "'She Said What?' 'He Did That?' Believing False Rumors," for Harvard Law School in November 2008, Sunstein wrote: "In discussions of possible restrictions on free speech, it is standard to speak of, and to deplore, the 'chilling effect' that is created by the prospect of civil or criminal sanctions."

"Libel law, for example, might chill speech about public figures and public issues, in a way that could damage democratic debate. And if there is a 'marketplace of ideas,' we should be especially concerned about the risk of chilling effect because it will undermine processes that will ultimately produce the truth," he wrote.

Sunstein, who once taught alongside Obama at the University of Chicago Law School, did not return an interview request from FOXNews.com.

But being taken for both a liberal activist and a free market cheerleader makes the nominee a true "wild card," observers say.

John Lott, conservative author of "The Bias Against Guns and Freedomnomics: Why the Free Market Works," called Sunstein "open minded" and a "true academic," but also warned that in its opposition, the left might be looking a gift horse in the mouth.

"My guess is that these progressives are unlikely to find anyone who could champion many of their views as well as Cass can."

Tom Firey, managing editor of the Cato Institute's Regulation magazine, said, "Sunstein really doesn't fit readily, politically or ideologically, in any box.

"I think this is going to be a very interesting nomination to watch on Capitol Hill. He's going to be getting some shots from the right and from the left. You are never going to make anyone who is a stakeholder in these debates happy," he said.

Cornyn's spokesman said the senator will be happy when he gets direct assurances from Sunstein that he will not pursue an agenda akin to some of his past writings, particularly on the animal rights issue.

"Sen. Cornyn hasn't had a chance to speak with him yet, that's the reason for the hold," said McLaughlin. "He wants to have a chance to before moving forward."

ADVERTISEMENTS

Free Penny Stock Alerts

Stocks that Move up over 500%. Free Reports. Join Today
www.StockPickss.com

Best Penny Stock Alerts

+400% Gain. Free Stock Alerts. Join Now to Catch the next Hot Stock
<http://www.pennystockss.com>

[Buy a link here](#)

[FOXNews.com](#), [FOX News Channel](#), and [FOX News Radio](#), Advertising Specifications (PDF)

[Terms of Use](#) [Privacy Statement](#) For FOXNews.com comments, write to foxnewsoline@foxnews.com; For FOX News Channel comments, write to yourcomments@foxnews.com

This material may not be published, broadcast, rewritten, or redistributed. © 2008 FOX News Network, LLC. All rights reserved. All market data delayed 20 minutes.