



WHY IS MOMS CLEAN AIR FORCE ASKING CONGRESS TO TAKE UP A NEW CHEMICAL SAFETY BILL?



For years, moms across the country have been demanding safeguards against dangerous chemicals.

The Frank R. Lautenberg Chemical Safety for the 21st Century Act contains important improvements to our current broken and inadequate law.

Right now, there are thousands of chemicals on the market and in the products we use every day. Under current law, the vast majority of these have been given a free pass. Many of them are in our homes, schools, and workplaces – and our bodies, too. They were just assumed to be safe, with little to no testing or evaluation by the US Environmental Protection Agency (EPA).

The Lautenberg Act, for the first time, gives EPA the mandate to evaluate the safety of all chemicals in commerce. This is a significant shift in chemical protection.

We urge Congress to take up this legislation. The problem of toxic chemical exposure is much too large for individual consumers, manufacturers, retailers, or even states, to handle on their own. We need a robust, national law that protects our kids from toxic chemicals. Moms Clean Air Force will continue to work to ensure that we get reform that truly leads to an era in which mothers everywhere can trust the safety of the products we are buying.



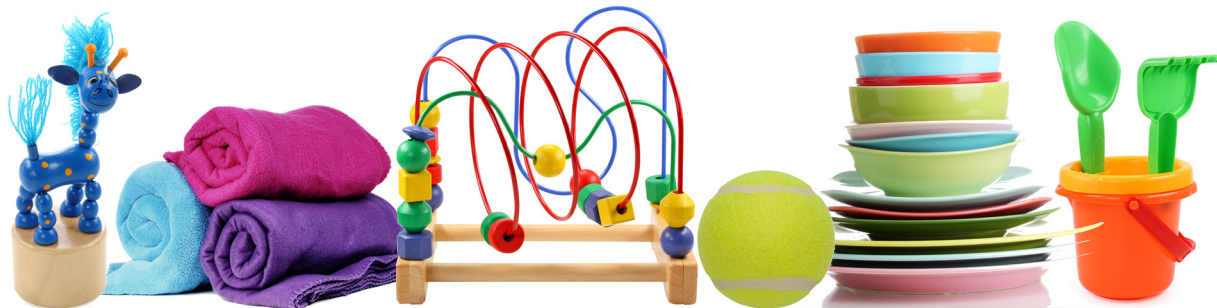
HOW BAD IS OUR CURRENT LAW, THE 1976 TOXIC SUBSTANCES CONTROL ACT (TSCA)?

Americans are exposed to thousands of chemicals every day. Tens of thousands of chemicals on the market have never been evaluated for their safety. And hundreds of new chemicals enter the market each year with inadequate evaluation of their health impacts.

Our current law is 40 years old, and it has never been updated. It doesn't reflect all that scientists and doctors have learned about how chemicals enter our bodies and what continued daily exposure, even in minute doses, can do to us over time. The law has not been updated to cover what we have learned about fetal development and how chemicals pass from mothers into their babies.

From the outset, the Toxic Substances Control Act (TSCA) didn't work. The law has been so ineffective that EPA has been nearly powerless to restrict known deadly carcinogens – such as formaldehyde, lead, and asbestos, which kills 10,000 Americans every year.

Some states regulate some chemicals. They have provided leadership for greater protections. But this patchwork does not protect all Americans everywhere.



WHY SHOULD I CARE ABOUT CHEMICALS IN MY PRODUCTS?

Science has linked common industrial chemicals to diseases such as childhood cancers, infertility, asthma, diabetes, and Parkinson's disease.

Some chemicals are disrupting the way our endocrine systems function, and as a result, they may negatively interfere with reproduction, behavior, and metabolism. Such chemicals are found in nearly everything we use: cleaning products, clothing, and furniture.

WHY DO WE THINK THIS BILL IS BETTER THAN CURRENT LAW?

A new chemical safety bill – the Chemical Safety for the 21st Century Act – offers some major improvement over current law:

A requirement to review all chemicals. The new bill would shift how EPA determines whether a chemical is safe. Under current law, chemicals are assumed to be safe and can be used in products, often until people start getting sick. Even then, given how many chemicals we are exposed to every single day, it is very difficult to pinpoint what might be causing a problem, and often nothing is done. We become the guinea pigs for the industry. When the old law was created in 1976, it grandfathered in 62,000 chemicals that have never been reviewed for safety. Under the new bill, EPA is required to determine the safety of all chemicals in commerce and determine their safety.

A health-based safety standard. The new bill would establish a health-based safety standard. Right now, EPA has to include cost considerations in its evaluations of chemicals. This burdensome standard compromises public health. Under the new bill, EPA would have to evaluate whether chemicals are safe based on considerations of health alone – not cost.

Consideration of vulnerable populations. The new bill would require that EPA consider vulnerable populations in its safety assessments. EPA would have to ensure these populations are protected when imposing restrictions on a chemical. This would help protect infants and pregnant women from toxic chemical exposures.

High-priority chemicals. The new bill would require EPA to create a list of high-priority chemicals. All high-priority chemicals must undergo safety determinations. Initially, at least 10 chemicals would be put on the high priority list. EPA could start with chemicals already on its current “work plan” on day one to jumpstart its effort. Within five years, a minimum of 25 chemicals must be on the high priority list. For chemicals that fail the safety standard, EPA must ban them or restrict their production and use in a manner sufficient to ensure that they meet the safety standard. As final action is taken on a high-priority chemical, it must be replaced with at least one new one for assessment.

New chemicals must be affirmed “likely to be safe” before they can get on the market. Under the new bill, chemicals would be allowed to be registered for sale only if EPA makes an affirmative finding that they are likely safe. Our current law shuttles hundreds of chemicals onto the market every year with only a perfunctory safety review, with the burden falling on EPA to identify a problem even in the absence of any safety data.

Enforceable timelines. The new bill has judicially enforceable deadlines for EPA decisions. For each step of chemical assessment, the new bill imposes deadlines the agency must meet and gives us the ability to hold them accountable to this work.

Limits on chemical secrets. Under the new bill, more information would be made available about chemicals by limiting companies' abilities to claim that information is confidential. The new bill would also give states and health and environmental professionals access to confidential information they need to do their jobs. Today, under our broken law, companies are free to claim that just about any information is confidential, and EPA can't share that information with public health professionals or state agencies.

Do we think this is the perfect bill? No. That's because it represents a compromise. In these hyper-partisan times, compromise might sound quaint, but compromise is more necessary than ever if we are to get the bipartisan support any bill needs to pass. After evaluating all the compromises made on both sides, we get down to one essential question: Is this bill better than current law? We think it is.



HOW HAS THIS BILL GOTTEN STRONGER?

In April, 2015, Senators on the Environment and Public Works Committee addressed some of the major concerns about the bill. Here are some things the April 2015 version addressed. These changes will help protect families from toxic chemicals.

1. Timing of state preemption

The new bill would preempt states from taking action on some chemicals in some cases. In the latest version of the bill:

- Any state action taken on a chemical by August 1, 2015, remains in place regardless of future EPA actions.
- California's Proposition 65, which requires clear labeling of carcinogenic chemicals, remains in place regardless of future EPA actions.
- States may not impose new restrictions on a high-priority chemical during EPA's review of the chemical, until EPA issues a final safety determination.
- States may not impose new restrictions on a high-priority chemical during EPA's review of that chemical.
- Limitations on new state regulatory actions on a high-priority chemical begin when EPA defines the scope of uses it will evaluate. Such limitations end when EPA makes its final safety determination.
- State regulations already in place when EPA begins the review of the chemical remain in place until EPA makes its final safety determination.
- If the deadline for the safety determination is missed, states are automatically permitted to regulate that chemical.
- States may apply for a waiver to allow them to regulate high priority chemicals during the EPA evaluation process, under certain conditions.
- If EPA fails to make a decision on a state waiver within 90 days, the waiver is automatically approved.
- If EPA finds that a chemical does not meet the safety standard, states can impose new regulations on that chemical, or continue to enforce existing restrictions, until EPA puts in place its own federal regulation addressing that chemical.
- If EPA finds that a chemical does meet the safety standard, states may not act to restrict that chemical except through the pursuit of a waiver.
- States may regulate low-priority chemicals.

2. State co-enforcement of federal law

The bill has restored states' rights to co-enforce federal regulations. Co-enforcement is standard procedure in environmental laws, and had been excluded from a prior version of the bill. We believe that states should be able to continue to enforce requirements EPA places on a chemical. More 'cops on the beat' means more safety for our citizens.



TELL ME MORE ABOUT STATE PREEMPTION?

“State preemption” means that once a federal law is in place, it overrides state laws.

Here’s how the Lautenberg Act would affect state restrictions on hazardous chemicals.

There are basically three categories:

1. All actions taken by August 1, 2015, would be preserved in their current form under the new bill -- and never preempted regardless of what EPA does subsequently. Most of the nearly 200 laws that address toxics in consumer products, enacted in 33 states, would remain on the books. California has the strongest chemical laws in the country, including its robust Prop 65 program. Prop 65 would be preserved in its current form under the new bill.
2. Chemical laws enacted after August 1, 2015, would stay in place unless EPA designated as high priority a chemical that had been restricted or banned. The state law would then remain in place until EPA took final action on that chemical; and only uses of that chemical within the scope of the EPA’s assessment would be preempted.
3. Once EPA determined the scope of its evaluation of a high-priority chemical, a state could not impose a new requirement that addressed uses of that chemical within the scope of the EPA’s assessment, except through the pursuit of a waiver. EPA would be required to determine the scope within 6 months of a high priority designation. States would remain free to act on any other use of a chemical outside that scope.

If EPA finds that a chemical does not meet the safety standard, states can impose new regulations on that chemical, or continue to enforce existing restrictions, until EPA puts in place its own federal regulation addressing that chemical.

If EPA finds that a chemical does meet the safety standard, states may not act to restrict that chemical except through the pursuit of a waiver.

Preemption of state laws would impact restrictions of chemicals. Many states have taken many other types of actions on chemicals, such as reporting of use, assessments, prioritization and monitoring. None of these actions would be preempted.

If EPA designates a chemical as “low priority,” states would be allowed to act on that chemical. The limits on state authority only apply to “high priority” chemicals.

The proposed system is a compromise that would limit state power in some important ways, while helping to protect people who live in states without any state-level chemicals policies.

While the federal government’s regulations on “high priority” chemicals could preempt some state restrictions, in the absence of robust federal action, even under the new bill, states can continue to take action.



HOW MANY CHEMICALS HAVE BEEN REGULATED BY STATE PROGRAMS?

About 13 chemicals or groups of chemicals have had some restriction by the states, according to our analysis. This is in totality over time. Here's the list:

- Arsenic compounds*
- Lead
- Mercury
- Cadmium
- Chromium compounds*
- Copper compounds*
- Formaldehyde
- Perchloroethylene
- BPA
- Certain Phthalates
- Certain Brominated Fire Retardants
- Certain Chlorinated Fire Retardants

[*These include Hexavalent Chromium and Chrominated Copper Arsenate.]

HOW DOES THIS BILL AFFECT CHEMICAL PROGRAMS IN CALIFORNIA?

California has passed 16 laws that affect 10 chemicals regulated under TSCA and another six laws restricting chemicals in cosmetics, food, and some baby products – which wouldn't fall under TSCA authority.

All 16 laws that overlap with TSCA would be grandfathered in. This means that federal regulations could not preempt these laws, ever.

Proposition 65, the California law that provides a listing of carcinogens and reproductive toxins and requires businesses to notify the public about the presence of such substances, is protected for both past and future decisions under that state law.

HOW DOES THIS BILL AFFECT CHEMICAL LAWS IN NEW YORK STATE?

New York has enacted 11 laws to regulate toxic chemicals. Just like in California, ALL of these laws will remain intact under the new bill since all laws enacted prior to August 1, 2015, are grandfathered in.

MOMS *clean air* FORCE

FIGHTING FOR
OUR KIDS' HEALTH



WHAT ABOUT “LOW PRIORITY” CHEMICALS?

EPA may deem chemicals “low priority.” Under this new bill that means that EPA must affirmatively find and publicly justify that a chemical is “likely” to meet the safety standard based on “sufficient information” in order to designate it a low-priority chemical. The criteria and process EPA will use to make these assignments must be developed in a rule that is open to public comment and can be challenged in court if deemed inadequate.

Decisions to prioritize a given chemical as high or low must be made public and subjected to public comment.

Low-priority chemicals that are set aside can still be judicially challenged by states that disagree with EPA's designation, and states may regulate low-priority chemicals in any manner they wish.

WHAT HAPPENS NOW?

As of June 2015, the Chemical Safety for the 21st Century Act is sponsored by 40 Senators (19 Democrats and 21 Republicans). The bill has moved out of the Environment and Public Works Committee, and is waiting to be taken up on the floor of the Senate for discussion.

Many bills die even after moving out of committee. Right now, your Senators need to hear that this is an important issue to you.

MOMS CLEAN AIR FORCE WILL FIGHT TO ENSURE THAT WE GET THE STRONGEST REFORM POSSIBLE.

WE WILL WAGE THIS FIGHT WHILE MAINTAINING BIPARTISAN SUPPORT FOR THE BILL.

IT'S TIME TO PROTECT OUR KIDS FROM UNTESTED, POTENTIALLY HARMFUL CHEMICALS.