



House and Senate Bill Analysis: Legislation Introduced to Reform U.S. Chemical Law

On April 15, 2010, Senator Frank Lautenberg (D-NJ) unveiled the Safe Chemicals Act (S. 3209) to reform the Toxic Substances Control Act of 1976 (TSCA), the outdated law widely acknowledged to have failed in its goal of protecting people and the environment from toxic chemicals. The long-awaited, landmark legislation would overhaul the way the federal government regulates chemicals commonly found in our homes, workplaces, and communities.

In July, Representatives Henry Waxman (D-CA) and Bobby Rush (D-IL) unveiled House legislation—the Toxic Chemicals Safety Act (H.R. 5820)—which also would amend TSCA to better protect public health and the environment.

According to the Safer Chemicals, Healthy Families coalition, the House bill is stronger because it affords greater protections for public health and the environment than the Senate version, as currently drafted. The important reforms in both the House and Senate legislation include:

- **Safety Standard:** Both versions of the legislation require the chemical industry to demonstrate the safety of their chemicals rather than requiring EPA to prove harm. The bills also specify a standard of safety that explicitly protects pregnant women, children, and other vulnerable populations.
- **Basic Information for All Chemicals:** The legislation proposed in both the House and Senate requires the chemical industry to provide to EPA basic health and safety information for all chemicals, and it requires most information to be made public. Manufacturers, retailers, and consumers will be able to use this information to transition from harmful to safer chemicals.
- **Hot Spots:** Both the House and Senate proposals include a new program for EPA to identify communities where chemical exposure is grossly disproportionate and to develop action plans to bring such exposures down. This is a practical solution to the long-standing problem that many communities are effectively left out of our national health and safety protections because of the severity of contamination.

House Only

- **Immediate Action on the Worst Chemicals:** The House legislation requires EPA to take action on chemicals that are known as the “worst of the worst”—persistent, bioaccumulative, and toxic chemicals (PBTs). In addition, the bill puts

other high hazard chemicals, such as formaldehyde and TCE, at the front of the line for EPA to evaluate for safety. The provision responds to the unfortunate reality that EPA assessments of well-established toxic chemicals have dragged on for decades. The Senate version fails to require expedited action on these notorious bad actor chemicals, leaving it up to EPA to work with the chemical industry to identify priority chemicals.

The Senate bill presents three serious shortcomings:

- **New Chemicals Allowed without Safety Determination:** By creating a major loophole, the Senate proposal allows new chemicals onto the market without having to be proven safe as long as EPA believes they are not “reasonably anticipated” to pose a risk. **This provision undermines one of the core goals of reform that is widely understood by the public—that chemicals, like prescription drugs, should have to be proven safe before they are permitted on the market.**
- **Deferring on Persistent, Bioaccumulative, and Toxic Chemicals (PBTs):** The Senate bill fails to directly address PBTs. This failure is simply not good enough for a class of chemicals already subject to restrictions all over the world by governments and by major businesses that shun the use of PBTs.
- **National Academy of Sciences Recommendations:** The Senate legislation does not require EPA to implement important recommendations from the National Academy of Sciences (NAS), our nation’s premier scientific body. NAS issued eight detailed recommendations for how EPA should reform its practices after finding that the agency’s assumptions and scientific practices in assessing chemicals are out of date. Yet only one recommendation is required in the Senate bill. **Because the NAS recommendations could lead to immediate improvements in our health and safety, Safer Chemicals, Healthy Families will ask Congress to incorporate scientific best practices into the proposed legislation.**

Safer Chemicals, Healthy Families promises a robust campaign to educate the public about both the positive aspects of the House and Senate legislation to reform TSCA, and we look forward to working with Congress to strengthen the Senate bill to keep dangerous chemicals out of the marketplace.

September 2010