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116TH CONGRESS
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H. R. 806

[Report No. 116-]

To require compliant flame mitigation devices to be used on portable fuel containers for flammable liquid fuels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2019

Mr. THOMPSON of California (for himself, Ms. CLARKE of New York, Ms. DEGETTE, Ms. DELAURO, Mr. DUNN, Ms. ESHOO, Mr. FITZPATRICK, Mr. GALLEGO, Mr. GARAMENDI, Mr. JOYCE of Ohio, Mr. LIPINSKI, Mr. LYNCH, Mr. MARSHALL, Mr. MAST, Ms. MATSUI, Ms. PINGREE, Mr. PRICE of North Carolina, Mr. RYAN, Ms. SPEIER, Mr. SUOZZI, Mr. SWALWELL of California, and Ms. MUCARSEL-POWELL) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER --, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 28, 2019]

A BILL

To require compliant flame mitigation devices to be used on portable fuel containers for flammable liquid fuels, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Portable Fuel Container*
5 *Safety Act of 2019”.*

6 **SEC. 2. PERFORMANCE STANDARDS TO PROTECT AGAINST**
7 **PORTABLE FUEL CONTAINER EXPLOSIONS**
8 **NEAR OPEN FLAMES OR OTHER IGNITION**
9 **SOURCES.**

10 *(a) RULE ON SAFETY PERFORMANCE STANDARDS RE-*
11 *QUIRED.—Not later than 30 months after the date of enact-*
12 *ment of this section, the Consumer Product Safety Commis-*
13 *sion (referred to in this Act as the “Commission”) shall pro-*
14 *mulgate a final rule to require flame mitigation devices in*
15 *portable fuel containers that impede the propagation of*
16 *flame into the container, except as provided in subsection*
17 *(c).*

18 *(b) RULEMAKING; CONSUMER PRODUCT SAFETY*
19 *STANDARD.—A rule under subsection (a)—*

20 *(1) shall be promulgated in accordance with sec-*
21 *tion 553 of title 5, United States Code; and*

22 *(2) shall be treated as a consumer product safety*
23 *rule promulgated under section 9 of the Consumer*
24 *Product Safety Act (15 U.S.C. 2058).*

25 *(c) EXCEPTION.—*

1 (1) *VOLUNTARY STANDARD.*—*Subsection (a) shall*
2 *not apply if the Commission determines that—*

3 (A) *there is a voluntary standard for flame*
4 *mitigation devices in portable fuel containers*
5 *that impedes the propagation of flame into the*
6 *container, or a combination of more than one*
7 *voluntary standard which taken together serve*
8 *such purpose for the full scope of this Act;*

9 (B) *the voluntary standard or combination*
10 *of voluntary standards described in subpara-*
11 *graph (A) is or will be in effect not later than*
12 *18 months after the date of enactment of this*
13 *Act; and*

14 (C) *the voluntary standard or combination*
15 *of voluntary standards described in subpara-*
16 *graph (A) is developed by ASTM International*
17 *or such other standard development organization*
18 *that the Commission determines to have met the*
19 *intent of this Act.*

20 (2) *DETERMINATION REQUIRED TO BE PUB-*
21 *LISHED IN THE FEDERAL REGISTER.*—*Any deter-*
22 *mination made by the Commission under this sub-*
23 *section shall be published in the Federal Register.*

24 (d) *TREATMENT OF VOLUNTARY STANDARD FOR PUR-*
25 *POSE OF ENFORCEMENT.*—*If the Commission determines*

1 *that a voluntary standard meets the conditions described*
2 *in subsection (c), the requirements of such voluntary stand-*
3 *ard shall be treated as a consumer product safety rule pro-*
4 *mulgated under section 9 of the Consumer Product Safety*
5 *Act (15 U.S.C. 2058) beginning on the date which is the*
6 *later of—*

7 (1) *180 days after publication of the Commis-*
8 *sion's determination under subsection (c); or*

9 (2) *the effective date contained in the voluntary*
10 *standard.*

11 *(e) REVISION OF VOLUNTARY STANDARD.—*

12 (1) *NOTICE TO COMMISSION.—If the require-*
13 *ments of a voluntary standard that meet the condi-*
14 *tions of subsection (c) are subsequently revised, the or-*
15 *ganization that revised the standard shall notify the*
16 *Commission after the final approval of the revision.*

17 (2) *EFFECTIVE DATE OF REVISION.—Not later*
18 *than 180 days after the Commission is notified of a*
19 *revised voluntary standard described in paragraph*
20 *(1) (or such later date as the Commission determines*
21 *appropriate), such revised voluntary standard shall*
22 *become enforceable as a consumer product safety rule*
23 *promulgated under section 9 of the Consumer Product*
24 *Safety Act (15 U.S.C. 2058), in place of the prior*
25 *version, unless within 90 days after receiving the no-*

1 *tice the Commission determines that the revised vol-*
2 *untary standard does not meet the requirements de-*
3 *scribed in subsection (c).*

4 *(f) FUTURE RULEMAKING.—The Commission, at any*
5 *time after publication of the consumer product safety rule*
6 *required by subsection (a), a voluntary standard is treated*
7 *as a consumer product safety rule under subsection (d), or*
8 *a revision is enforceable as a consumer product safety rule*
9 *under subsection (e) may initiate a rulemaking in accord-*
10 *ance with section 553 of title 5, United States Code, to mod-*
11 *ify the requirements or to include any additional provision*
12 *that the Commission determines is reasonably necessary to*
13 *protect the public against flame jetting from a portable fuel*
14 *container. Any rule promulgated under this subsection shall*
15 *be treated as a consumer product safety rule promulgated*
16 *under section 9 of the Consumer Product Safety Act (15*
17 *U.S.C. 2058).*

18 *(g) ACTION REQUIRED.—*

19 *(1) EDUCATION CAMPAIGN.—Not later than 1*
20 *year after the date of enactment of this Act, the Com-*
21 *mission shall undertake a campaign to educate con-*
22 *sumers about the dangers associated with using or*
23 *storing portable fuel containers for flammable liquids*
24 *near an open flame or any other source of ignition.*

1 (2) *SUMMARY OF ACTIONS.*—*Not later than 2*
2 *years after the date of enactment of this Act, the Com-*
3 *mission shall submit to Congress a summary of ac-*
4 *tions taken by the Commission in such campaign.*

5 (h) *PORTABLE FUEL CONTAINER DEFINED.*—*In this*
6 *section, the term “portable fuel container” means any con-*
7 *tainer or vessel (including any spout, cap, and other closure*
8 *mechanism or component of such container or vessel or any*
9 *retrofit or aftermarket spout or component intended or rea-*
10 *sonably anticipated to be for use with such container)—*

11 (1) *intended for flammable liquid fuels with a*
12 *flash point less than 140 degrees Fahrenheit, includ-*
13 *ing gasoline, kerosene, diesel, ethanol, methanol, dena-*
14 *tured alcohol, or biofuels;*

15 (2) *that is a consumer product with a capacity*
16 *of 5 gallons or less; and*

17 (3) *that the manufacturer knows or reasonably*
18 *should know is used by consumers for receiving,*
19 *transporting, storing, and dispensing flammable liq-*
20 *uid fuels.*

21 (i) *RULE OF CONSTRUCTION.*—*This section may not*
22 *be interpreted to conflict with the Children’s Gasoline Burn*
23 *Prevention Act (Public Law 110–278; 122 Stat. 2602).*

1 **SEC. 3. CHILDREN'S GASOLINE BURN PREVENTION ACT.**

2 (a) *AMENDMENT.*—Section 2(c) of the Children's Gaso-
3 line Burn Prevention Act (15 U.S.C. 2056 note; Public Law
4 110–278) is amended by inserting after “for use by con-
5 sumers” the following: “and any receptacle for gasoline, ker-
6 osene, or diesel fuel, including any spout, cap, and other
7 closure mechanism and component of such receptacle or any
8 retrofit or aftermarket spout or component intended or rea-
9 sonably anticipated to be for use with such receptacle, pro-
10 duced or distributed for sale to or use by consumers for
11 transport of, or refueling of internal combustion engines
12 with, gasoline, kerosene, or diesel fuel”.

13 (b) *APPLICABILITY.*—The amendment made by sub-
14 section (a) shall take effect 6 months after the date of enact-
15 ment of this section.