



The Alliance for a **HEALTHY TOMORROW**

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To: The Honorable John Shimkus, Chair
House Energy and Commerce Subcommittee on Environment and the Economy

From: Elizabeth Saunders, Alliance for a Healthy Tomorrow

Re: Discussion Draft, Chemicals in Commerce Act

Date: March 10, 2014

The Alliance for a Healthy Tomorrow, a coalition of health, labor, environmental, faith and civic organizations, is united by the goal of preventing harm to our health from toxic chemicals. We support policies that stimulate green chemistry innovation and replace toxic chemicals with safer alternatives. The Discussion Draft of the Chemicals in Commerce Act (Draft) introduced on February 27th quite simply fails to advance these goals.

Moreover, the Draft weakens and blocks the few tools the Environmental Protection Agency (EPA) has in current regulations to attempt to protect health and spur on innovation. As such, it fails the most critical test of any chemical reform bill – it fails to acknowledge or act on the growing scientific evidence linking chronic health damage, including certain types of cancer, birth defects, learning disabilities and behavioral disorders and reproductive damage, to toxic chemical exposures.

One of the strong elements to support public health protection under the Toxic Substances Control Act (TSCA) is EPA's authority to review and restrict new uses of chemicals through issuing Significant New Use Rules (SNURs). SNURs are unfortunately rolled back in section 5(a)(3) of the Act. This would make it very difficult for the EPA to regulate new uses of chemicals in manufacturing processes and products that were not contemplated when EPA originally reviewed the chemical.

The Draft also would weaken the EPA's authority to review and restrict new chemicals, stating that the EPA can only prevent a new chemical from entering commerce if it finds that the chemical is "likely to present an unreasonable risk of injury." This is a much higher standard than in current TSCA, in which EPA may restrict new chemicals that "may present" an unreasonable risk or are expected to have substantial production volume and significant exposure potential.

Moreover, the Draft sets up a “catch-22” on safety assessment because the EPA would also not be able to require testing of new chemicals without the consent of the manufacturer unless the chemical is “likely to present an unreasonable risk.” EPA would have to know that a chemical is hazardous before it is even allowed to require testing to evaluate that hazard.

The Draft lacks a schedule for issuing and updating the list of high-priority chemicals, thereby giving no assurance that chemicals which threaten human health or the environment are assessed for safety and restricted if unsafe. Furthermore, once a chemical is initially listed as low-priority, any further assessment of safety is expressly precluded.

Massachusetts is one of many states that have passed legislation addressing toxic chemicals locally, including the Massachusetts Toxics Use Reduction Act (TURA) of 1989 and the Massachusetts Mercury Management Act of 2006. Over the first ten years of TURA, from 1990 to 2000, Massachusetts companies reduced toxic chemical use by 40% and on-site releases by 90%. Over the next ten years, from 2000 to 2010, Massachusetts companies reduced toxic chemical use by 22% and on-site releases by 65%. These figures are production-adjusted, meaning that they represent true improvements in the efficiency with which companies use toxic chemicals per unit of product. TURA has been good for business’ bottom line as well. During that 20 year period TURA reduced costs for many participating businesses and they overall reported a seven fold increase in production. This law and others addressing toxic chemicals such as mercury would be preempted by the Draft, undoing years of innovative work in Massachusetts to promote safer chemicals and use them most efficiently and cost-effectively.

While the Draft mentions “potentially exposed populations,” there is no requirement for EPA to consider or act on the threats to more vulnerable populations during chemical assessments and provide strong protections for those most vulnerable. The Alliance for a Healthy Tomorrow opposes any proposed policy that fails to explicitly protect the most vulnerable, including workers, children, pregnant women, and communities disproportionately burdened by chemical exposure.

In summary, the Draft completely disregards the recommendations of health and chemicals policy experts while stripping states of the right to regulate chemicals within their borders. We urge you to work with public health, worker and environmental communities to introduce a bill that would actually protect our health and reflect modern science.