

NC Coalition for Environmental Health
c/o Toxic Free North Carolina
Fawn Pattison, Senior Advocate
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Raleigh, NC 27603

March 11, 2014

Representative G.K. Butterfield, Member
House Energy and Commerce Committee

Representative Renee Ellmers, Member
House Energy and Commerce Committee

Representative John Shimkus, Chair
House Energy and Commerce Subcommittee on Environment and the Economy

Representative Paul Tonko, Ranking Member
House Energy and Commerce Subcommittee on Environment and the Economy

Representative Fred Upton, Chair
House Energy and Commerce Committee

Representative Henry Waxman, Ranking Member
House Energy and Commerce Committee

RE: Chemicals in Commerce Act Discussion Draft

Dear Congressmen and Congresswoman,

The undersigned North Carolina health professionals, health affected, environmental and faith-based organizations have been working hard to protect children from the impacts of unregulated toxic chemicals widely used in commerce, including in the products we use every day. We are moved by mounting scientific evidence linking chemical exposures to widespread diseases and conditions, including cancers, learning and developmental disabilities, birth defects, and asthma. These diseases are increasing in the general population and place a significant and costly burden on the nation.

We are deeply disappointed in the discussion draft of the Chemicals in Commerce Act that Representative Shimkus of Illinois unveiled on February 27th. Rather than responding to the concerns with the Toxic Substances Control Act (TSCA) identified by health professionals and environmental groups, this discussion draft removes some of the very few strengths of the existing TSCA. It fails the most critical test of any chemicals reform bill: it fails to protect public health.

The Chemicals in Commerce Act:

- fails to call for immediate action to protect people from existing harmful chemicals;
- allows new chemicals to enter the market without adequate health and safety review;

- allows the chemical industry to keep health and safety information secret from American families; and
- fails to provide for specific action to protect those most vulnerable to chemical hazards.

The weak proposal has implications for the health and health care costs of North Carolinians. Cancer is now the leading cause of death in North Carolina, and is also the most expensive health condition to treat. Children are particularly vulnerable, and while rates of many types of cancers are on the decline for adults, cancer rates in North Carolina's children are actually increasing. We are deeply concerned that exposure to toxic chemicals in everyday products may be contributing to these cancer rates, as well as rates of autism, learning disorders and other neurological conditions. These conditions disrupt lives, often devastating families financially and contributing to the spiraling cost of health care in our state.

One of the few bright spots of public health protection under the existing TSCA is EPA's authority to review Significant New Use Rules (SNURs). Yet, section 5(a)(3) of the discussion draft repeals authority for SNURs. This would make it very difficult for the EPA to regulate significant new uses of chemicals in products for the first time.

The Chemicals in Commerce Act also would weaken the EPA's authority to review and restrict new chemicals, authorizing EPA to prevent a new chemical from entering commerce only if it finds that the chemical is "likely to present an unreasonable risk of injury." This is a much higher standard than current law, under 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 Act sets up a catch-22 for safety assessment: EPA would 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 could require testing to evaluate that hazard.

The discussion 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 regulated if need be. Further, if EPA listed a chemical as low-priority, any further assessment of safety would be expressly precluded.

Moreover, states that have enacted laws to protect public health and the environment would be hamstrung by the Chemicals in Commerce Act. The Chemicals in Commerce Act preempts state laws and regulations in a host of ways, even for chemicals that are essentially unregulated at the federal level.

While the act mentions "potentially exposed populations," it does not require that EPA consider the risks to more vulnerable populations during chemical assessments, or provide appropriate protections for the most vulnerable. Congress should not accept a bill that does not explicitly protect the most vulnerable, including children, pregnant women, and communities disproportionately burdened by chemical exposure.

The undersigned organizations urge you to oppose this proposal and work with public health and environmental communities to introduce a bill that will actually protect our health.

Sincerely,

Alliance of Disability Advocates

Rene Cummins
Executive Director

Disability Rights North Carolina

Corye Dunn
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