



Honorable John Shimkus  
Chairman, House Energy and Commerce Subcommittee on Environment and the  
Economy

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

March 11, 2014

Dear Chairman Shimkus and Ranking Member Tonko,

On behalf of Safer States, a national network of state-based environmental health coalitions composed of health professionals, parents, advocates and labor interests around the country working to protect citizens from toxic chemicals, I am writing to express our opposition to the recently released discussion draft titled the "Chemicals in Commerce Act" (CICA). The proposed draft does not reform the Toxic Substances Control Act of 1976 (TSCA) in ways that would deliver on the law's original intent: to prevent "unreasonable risk of injury to health or the environment." Rather, the proposal would roll back the limited protections we have now, and do nothing to ensure that the health of the most vulnerable in society be protected from harmful chemicals.

Among the concerns we have identified, the draft proposal:

- Violates states' right to protect public health from harmful chemicals. Over decades, states have stepped up to pass policies that fill major gaps left by the inadequacy of federal law. State laws have led the way to market and federal action, as in the case of PBDE flame retardants. A number of states passed bans on PBDEs, which led to a voluntary phase out by U.S. companies, and an Environmental Protection Agency (EPA) rulemaking on significant new uses. State disclosure and assessment initiatives have also provided some of the best available data for chemicals in the marketplace. However, the proposed CICA contains far-reaching language that would prevent states from enforcing existing laws, passing new ones, collecting information or creating warnings for chemicals of concern, with absolutely no flexibility for exemptions or exceptions. States have a right to protect their children and communities from harmful chemicals, and have led the way in demonstrating innovative approaches to achieve this important goal.
- Prevents EPA from having the ability to ban or restrict harmful chemicals. In June 2005, the U.S. Government Accountability Office reported that EPA has historically faced insurmountable challenges in banning or limiting chemicals. CICA fails to address these challenges, and in fact creates greater obstacles that would make it impossible for EPA to ban or phase out the worst of the worst toxic

chemicals on the market. EPA has not even been able to ban asbestos, a known chemical that contributes to thousands of deaths a year. This bill does nothing to fix this problem.

- Fails to protect pregnant women and children from harmful chemicals. The bill does not establish a safety standard to protect the most vulnerable. Instead, it ensures that cost, not public health, is the deciding factor for regulatory decisions.
- Ignores the resounding scientific evidence on Persistent Bioaccumulative Toxic (PBT) chemicals, and the urgent need for action to phase them out of commerce. PBT chemicals are the worst of the worst chemicals that build up in the environment, increase in concentration as they move up through the food chain, are passed on in the womb, and are extremely toxic at low levels. Babies are born contaminated with a numerous PBT chemicals that can cause cancer, learning disabilities or reproductive problems. Many PBT chemicals can still be used in consumer products and others, including PBDE flame retardants that will be a problem for years to come due to challenges with disposal. Our children deserve to be born free of PBTs, and not to inherit a costly toxic legacy that will last a lifetime.
- Fails to include basic requirements for minimum data. One of the biggest current challenges in determining the safety of a chemical is a lack of data. This draft does not address this problem, and in fact chemicals without adequate data could be identified as "low-priority" and off-limits for regulation.
- Lacks deadlines to ensure safety. The discussion draft provides no deadlines or minimum requirements for identifying high-priority chemicals warranting action, and no schedule for assessing and regulating such chemicals. Which means that the chemical status quo can remain unchanged. When EPA does take action, CICA blocks it from limiting releases of chemicals into the environment, a further rollback of existing law.

As Congress works to reform TSCA, we urge you to address the concerns outlined above regarding CICA's critical flaws. To be clear, many of the concerns we highlight above with CICA are also concerns we have with the proposed Senate Bill 1009, which we believe should also be addressed. Thank you for your attention to this matter.

Sincerely,



Sarah Doll  
National Director  
Safer States

Cc: Representative Fred Upton, Chair, House Energy and Commerce Committee

Representative Henry Waxman, Ranking Member, House Energy and Commerce Committee