

**Suspend the Rules and Pass the Bill, H.R. 806, With an Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

116TH CONGRESS  
1ST SESSION

# H. R. 806

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

---

## 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Portable Fuel Con-  
3 tainer Safety Act of 2019”.

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

8 (a) **RULE ON SAFETY PERFORMANCE STANDARDS**  
9 **REQUIRED.**—Not later than 30 months after the date of  
10 enactment of this section, the Consumer Product Safety  
11 Commission (referred to in this Act as the “Commission”)  
12 shall promulgate a final rule to require flame mitigation  
13 devices in portable fuel containers that impede the propa-  
14 gation of flame into the container, except as provided in  
15 subsection (c).

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

18 (1) shall be promulgated in accordance with  
19 section 553 of title 5, United States Code; and

20 (2) shall be treated as a consumer product safe-  
21 ty rule promulgated under section 9 of the Con-  
22 sumer Product Safety Act (15 U.S.C. 2058).

23 (c) **EXCEPTION.**—

24 (1) **VOLUNTARY STANDARD.**—Subsection (a)  
25 shall not apply for a class of portable fuel containers

1 in the scope of this Act if the Commission deter-  
2 mines at any time that—

3 (A) there is a voluntary standard for flame  
4 mitigation devices for those containers that im-  
5 pedes the propagation of flame into the con-  
6 tainer;

7 (B) the voluntary standard described in  
8 subparagraph (A) is or will be in effect not  
9 later than 18 months after the date of enact-  
10 ment of this Act; and

11 (C) the voluntary standard described in  
12 subparagraph (A) is developed by ASTM Inter-  
13 national or such other standard development or-  
14 ganization that the Commission determines to  
15 have met the intent of this Act.

16 (2) DETERMINATION REQUIRED TO BE PUB-  
17 LISHED IN THE FEDERAL REGISTER.—Any deter-  
18 mination made by the Commission under this sub-  
19 section shall be published in the Federal Register.

20 (d) TREATMENT OF VOLUNTARY STANDARD FOR  
21 PURPOSE OF ENFORCEMENT.—If the Commission deter-  
22 mines that a voluntary standard meets the conditions de-  
23 scribed in subsection (c), the requirements of such vol-  
24 untary standard shall be treated as a consumer product  
25 safety rule promulgated under section 9 of the Consumer

1 Product Safety Act (15 U.S.C. 2058) beginning on the  
2 date which is the later of—

3 (1) 180 days after publication of the Commis-  
4 sion's determination under subsection (c); or

5 (2) the effective date contained in the voluntary  
6 standard.

7 (e) REVISION OF VOLUNTARY STANDARD.—

8 (1) NOTICE TO COMMISSION.—If the require-  
9 ments of a voluntary standard that meet the condi-  
10 tions of subsection (c) are subsequently revised, the  
11 organization that revised the standard shall notify  
12 the Commission after the final approval of the revi-  
13 sion.

14 (2) EFFECTIVE DATE OF REVISION.—Not later  
15 than 180 days after the Commission is notified of a  
16 revised voluntary standard described in paragraph  
17 (1) (or such later date as the Commission deter-  
18 mines appropriate), such revised voluntary standard  
19 shall become enforceable as a consumer product  
20 safety rule promulgated under section 9 of the Con-  
21 sumer Product Safety Act (15 U.S.C. 2058), in  
22 place of the prior version, unless within 90 days  
23 after receiving the notice the Commission determines  
24 that the revised voluntary standard does not meet  
25 the requirements described in subsection (c).

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

15 (g) ACTION REQUIRED.—

16 (1) EDUCATION CAMPAIGN.—Not later than 1  
17 year after the date of enactment of this Act, the  
18 Commission shall undertake a campaign to educate  
19 consumers about the dangers associated with using  
20 or storing portable fuel containers for flammable liq-  
21 uids near an open flame or any other source of igni-  
22 tion.

23 (2) SUMMARY OF ACTIONS.—Not later than 2  
24 years after the date of enactment of this Act, the

1 Commission shall submit to Congress a summary of  
2 actions taken by the Commission in such campaign.

3 (h) PORTABLE FUEL CONTAINER DEFINED.—In this  
4 section, the term “portable fuel container” means any con-  
5 tainer or vessel (including any spout, cap, and other clo-  
6 sure mechanism or component of such container or vessel  
7 or any retrofit or aftermarket spout or component in-  
8 tended or reasonably anticipated to be for use with such  
9 container)—

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

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

16 (3) that the manufacturer knows or reasonably  
17 should know is used by consumers for transporting,  
18 storing, and dispensing flammable liquid fuels.

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

23 **SEC. 3. CHILDREN’S GASOLINE BURN PREVENTION ACT.**

24 (a) AMENDMENT.—Section 2(c) of the Children’s  
25 Gasoline Burn Prevention Act (15 U.S.C. 2056 note; Pub-

1 lic Law 110–278) is amended by inserting after “for use  
2 by consumers” the following: “and any receptacle for gaso-  
3 line, kerosene, or diesel fuel, including any spout, cap, and  
4 other closure mechanism and component of such recep-  
5 tacle or any retrofit or aftermarket spout or component  
6 intended or reasonably anticipated to be for use with such  
7 receptacle, produced or distributed for sale to or use by  
8 consumers for transport of, or refueling of internal com-  
9 bustion engines with, gasoline, kerosene, or diesel fuel”.

10 (b) APPLICABILITY.—The amendment made by sub-  
11 section (a) shall take effect 6 months after the date of  
12 enactment of this section.