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. LIPTINSKI, 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,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Portable Fuel Con-
5 tainer Safety Act of 2019”.
SEC. 2. PERFORMANCE STANDARDS TO PROTECT AGAINST PORTABLE FUEL CONTAINER EXPLOSIONS NEAR OPEN FLAMES OR OTHER IGNITION SOURCES.

(a) Rule on Safety Performance Standards Required.—Not later than 30 months after the date of enactment of this section, the Consumer Product Safety Commission shall promulgate a final rule for flame mitigation devices in portable fuel containers that impedes the propagation of flame into the container, except as provided in subsection (c).

(b) Rulemaking; Consumer Product Safety Standard.—A rule under subsection (a)—

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


(c) Exception.—

(1) Voluntary Standard.—Subsection (a) shall not apply if the Commission determines that—

(A) there is a voluntary standard for flame mitigation devices in portable fuel containers that impedes the propagation of flame into the container;
(B) the voluntary standard is or will be in effect not later than 18 months after the date of enactment of this Act; and

(C) the voluntary standard is developed by Subcommittee F15 of ASTM International or such other standard development organization that the Commission determines to have met the intent of this Act.

(2) Determination required to be published in the Federal Register.—Any determination made by the Commission under this subsection shall be published in the Federal Register.

(d) Treatment of Voluntary Standard for Purpose of Enforcement.—If the Commission determines that a voluntary standard meets the conditions described in subsection (c), the requirements of such voluntary standard shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act beginning on the date which is the later of—

(1) 180 days after publication of the Commission’s determination under subsection (c); or

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

(e) Revision of Voluntary Standard.—
(1) NOTICE TO COMMISSION.—If the require-
ments of a voluntary standard that meet the condi-
tions of subsection (c) are subsequently revised, the
organization that revised the standard shall notify
the Commission not later than 60 days after the
final approval of the revision.

(2) EFFECTIVE DATE OF REVISION.—Not later
than 180 days after the Commission is notified of a
revised voluntary standard described in paragraph
(1) (or such later date as the Commission deter-
mines appropriate), such revised voluntary standard
shall become enforceable as a consumer product
safety rule promulgated under section 9 of the Con-
sumer Product Safety Act, in place of the prior
version, unless within 90 days after receiving the no-
tice the Commission determines that the revised vol-
untary standard does not meet the requirements de-
scribed in subsection (c).

(f) FUTURE RULEMAKING.—The Commission, at any
time after publication of the consumer product safety rule
required by subsection (a), a voluntary standard is treated
as a consumer product safety rule under subsection (d),
or a revision is enforceable as a consumer product safety
rule under subsection (e) may initiate a rulemaking in ac-
cordance with section 553 of title 5, United States Code,
to modify the requirements or to include any additional
provision that the Commission determines is reasonably
necessary to protect public health or safety. Any rule pro-
mulgated under this subsection shall be treated as a con-
sumer product safety rule promulgated under section 9 of
the Consumer Product Safety Act.

(g) ACTION REQUIRED.—

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

(2) SUMMARY OF ACTIONS.—Not later than 2
years after the date of enactment of this Act, the
Commission shall submit to Congress a summary of
actions taken by the Commission in such campaign.

(h) PORTABLE FUEL CONTAINER DEFINED.—In this
section, the term “portable fuel container” means any con-
tainer or vessel (including any spout, retrofit spout, cap,
and other closure mechanism or component of such con-
tainer or vessel)—

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

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

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

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

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

(a) AMENDMENT.—Section 2(c) of the Children’s Gasoline Burn Prevention Act (15 U.S.C. 2056 note; Public Law 110–278) is amended by inserting after “for use by consumers” the following: “and any receptacle for gasoline, kerosene, or diesel fuel, including any spout, retrofit spout, cap, and other closure mechanism and component of such receptacle, produced or distributed for sale to or use by consumers for transport of, or refueling of internal combustion engines with, gasoline, kerosene, or diesel fuel”.

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