

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 806
OFFERED BY M. _____**

Strike all after the enacting clause and insert the following:

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)—

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

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

6 (c) EXCEPTION.—

7 (1) VOLUNTARY STANDARD.—Subsection (a)
8 shall not apply if the Commission determines that—

9 (A) there is a voluntary standard for flame
10 mitigation devices in portable fuel containers
11 that impedes the propagation of flame into the
12 container, or a combination of more than one
13 voluntary standard which taken together serve
14 such purpose for the full scope of this Act;

15 (B) the voluntary standard or combination
16 of voluntary standards described in subpara-
17 graph (A) is or will be in effect not later than
18 18 months after the date of enactment of this
19 Act; and

20 (C) the voluntary standard or combination
21 of voluntary standards described in subpara-
22 graph (A) is developed by ASTM International
23 or such other standard development organiza-
24 tion that the Commission determines to have
25 met the intent of this Act.

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

5 (d) TREATMENT OF VOLUNTARY STANDARD FOR
6 PURPOSE OF ENFORCEMENT.—If the Commission deter-
7 mines that a voluntary standard meets the conditions de-
8 scribed in subsection (c), the requirements of such vol-
9 untary standard shall be treated as a consumer product
10 safety rule promulgated under section 9 of the Consumer
11 Product Safety Act (15 U.S.C. 2058) beginning on the
12 date which is the later of—

13 (1) 180 days after publication of the Commis-
14 sion's determination under subsection (c); or

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

17 (e) REVISION OF VOLUNTARY STANDARD.—

18 (1) NOTICE TO COMMISSION.—If the require-
19 ments of a voluntary standard that meet the condi-
20 tions of subsection (c) are subsequently revised, the
21 organization that revised the standard shall notify
22 the Commission after the final approval of the revi-
23 sion.

24 (2) EFFECTIVE DATE OF REVISION.—Not later
25 than 180 days after the Commission is notified of a

1 revised voluntary standard described in paragraph
2 (1) (or such later date as the Commission deter-
3 mines appropriate), such revised voluntary standard
4 shall become enforceable as a consumer product
5 safety rule promulgated under section 9 of the Con-
6 sumer Product Safety Act (15 U.S.C. 2058), in
7 place of the prior version, unless within 90 days
8 after receiving the notice the Commission determines
9 that the revised voluntary standard does not meet
10 the requirements described in subsection (c).

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

25 (g) ACTION REQUIRED.—

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

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

12 (h) PORTABLE FUEL CONTAINER DEFINED.—In this
13 section, the term “portable fuel container” means any con-
14 tainer or vessel (including any spout, cap, and other clo-
15 sure mechanism or component of such container or vessel
16 or any retrofit or aftermarket spout or component in-
17 tended or reasonably anticipated to be for use with such
18 container)—

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

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

1 (3) that the manufacturer knows or reasonably
2 should know is used by consumers for receiving,
3 transporting, storing, and dispensing flammable liq-
4 uid fuels.

5 (i) **RULE OF CONSTRUCTION.**—This section may not
6 be interpreted to conflict with the Children’s Gasoline
7 Burn Prevention Act (Public Law 110–278; 122 Stat.
8 2602).

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

10 (a) **AMENDMENT.**—Section 2(c) of the Children’s
11 Gasoline Burn Prevention Act (15 U.S.C. 2056 note; Pub-
12 lic Law 110–278) is amended by inserting after “for use
13 by consumers” the following: “and any receptacle for gaso-
14 line, kerosene, or diesel fuel, including any spout, cap, and
15 other closure mechanism and component of such recep-
16 tacle or any retrofit or aftermarket spout or component
17 intended or reasonably anticipated to be for use with such
18 receptacle, produced or distributed for sale to or use by
19 consumers for transport of, or refueling of internal com-
20 bustion engines with, gasoline, kerosene, or diesel fuel”.

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

