

S. 697, FRANK R. LAUTENBERG CHEMICAL SAFETY FOR THE 21ST CENTURY ACT

On April 28, 2015, the Senate Environment and Public Works Committee approved, on a 15-5 vote, legislation introduced by Senators Tom Udall (D-NM) and David Vitter (R-LA) to reform the decades-old Toxic Substances Control Act (TSCA). S. 697 has strong bipartisan support, and is cosponsored by 52 Senators (23 Democrats and 29 Republicans). TSCA reform legislation was approved by the House of Representatives on a 398-1 vote on June 23, 2015. A manager's substitute to S. 697 further strengthens the bill.

The objective of TSCA modernization is to achieve a more predictable and uniform federal regulatory program that will improve public confidence in the safety of chemicals, promote innovation, and enhance certainty in both federal and state chemical regulation.

S. 697, as approved by the Committee and modified by the manager's substitute —

- ***Subjects all new and existing chemicals to an EPA safety review***
 - All chemicals in commerce will be reviewed for safety in a risk-based process.
- ***Strengthens the safety standard***
 - EPA must consider only risk to public health and the environment in safety assessments using sound and credible science; costs and benefit considerations only apply when EPA proposes any subsequent regulation of chemicals found to be unsafe.
- ***Requires EPA to focus on the highest priorities***
 - EPA will establish a priority list, and increase the number of assessments over time.
 - EPA must give a preference to prioritizing substances using specific criteria, including the recommendation by the Governor of a state.
 - Manufacturers may request that EPA conduct a safety assessment and determination on a chemical if the manufacturer agrees to cover the costs (100% in most cases; 50% for certain other chemicals).
- ***Strengthens transparency and the quality of science used in EPA decisions***
 - Throughout the safety review process EPA must show their work, use the best available science and base decisions on the weight of the scientific evidence.
- ***Expands EPA's authority to require the generation of new information on chemical substances; requires the use of non-animal tests in certain circumstances.***
- ***Provides EPA a full range of regulatory options to address the risks of substances that do not meet the safety standard.***
 - Requires a cost-benefit analysis on any regulatory proposal; provides for appropriate exemptions.
 - Bans and phase-outs must go into effect as soon as practicable; all rules must be effective within 4 years of being made final.
- ***Sets aggressive and attainable deadlines.***
 - EPA must meet strict deadlines for action to ensure that regulators, public health officials, industry, and the public get information and decisions in a timely fashion.
 - Deadlines to complete work on certain chemicals EPA has already identified as priorities cannot be extended without appropriate justification.
- ***Promotes cooperation between state and federal regulators while creating a more uniform regulatory system to ensure interstate commerce is not unduly burdened.***
 - EPA's final decisions preempt all existing and future state law, with certain specified exceptions. Preemption of state restrictions is limited to the scope of EPA safety assessments.
 - Any state prohibition or restriction of a chemical enacted before August 1, 2015, and any other State law enacted before August 31, 2003, is not preempted.
 - New state chemical regulation cannot be enacted while EPA conducts a safety assessment and determination of a high priority chemical; States are free to continue to enforce existing state laws applicable to high priority chemicals.
 - States may apply for waivers from preemption for final preemption or the regulatory "pause."

- ***Modifies requirements to protect Confidential Business Information.***
 - Promotes additional transparency by requiring up-front substantiation of claims to protect confidential commercial information.
 - Requires EPA to enhance access to CBI for medical professionals.
- ***Allows for judicial review of a low priority designation, safety determinations, regulatory rulemakings, and decisions on State waiver applications.***
- ***Authorizes EPA to assess up to \$25 million a year in fees to defray the additional costs of safety reviews.***