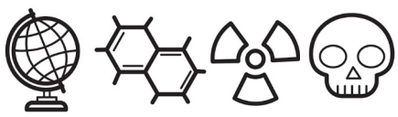
THE FRANK R. LAUTENBERG CHEMICAL SAFETY FOR THE 21ST CENTURY ACT

Improving safety of everday chemicals by reforming TSCA, an outdated environmental law

On March 20, 2015, Sens. Tom Udall (D-NM) and David Vitter (R-La.) introduced the Frank R. Lautenberg Chemical Safety for the 21st Century Act (S.697). The objective of the legislation is to modernize the decades-old Toxic Substance Control Act (TSCA) in order 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.

The Senate Environment and Public Works Committee passed S.697 out of committee on April 28 with a strong bipartisan vote of 15 to 5. The committee included a manager's substitution to S.697 that further strengthened the legislation.

S. 697 is cosponsored by 52 Senators (23 Democrats and 29 Republicans, representing a total of 33 states). On June 23, the U.S. House of Representatives approved TSCA reform legislation by a vote of 398 to 1. S. 697, as approved by the committee and modified by the manager's substitute, achieves the following objectives:



- **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 conduct an extensive safety assessment on any chemical deemed a "high-priority" without taking into consideration any costs or nonrisk factors. These assessments are required to be based on sound and credible science and be very transparent. Should EPA find a chemical to be unsafe and in need of regulating, the agency must then conduct and make available to the public the cost and benefit considerations before any proposed regulation can take into affect.
- **Requires EPA to focus on the highest priorities.**
  - EPA will establish a priority list, and increase the number of chemicals it's assessing over time.
  - EPA must give a preference to prioritizing substances using specific criteria, to include the recommendations made 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 percent in most cases; 50 percent for certain other chemicals).
- **Strengthens transparency and the quality of science used in EPA decisions.**
  - Throughout the safety review process, EPA must make their work available to the public and Congress. The agency must base decisions on the best-available science and using weight of the evidence.
- **Expands EPA's authority to require the generation of new information on chemical substances; and requires the use of non-animal testing in certain circumstances.**
- **Provides EPA a full range of regulatory options to address the risks of substances that do not meet the safety standard.**
  - EPA will be required to restrict any chemical substance that does not meet the safety standard unless the chemical meets criteria for exemption. Any regulatory proposal must go through a thorough cost-benefit analysis before any final regulation can be put into place.
  - All rules must be effective within four years of being made final. For chemicals that are banned or in need of being phased-out, action on these chemicals must happen as soon as practicable.
- **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.
  - EPA will not be able to delay or extend deadlines for reviewing chemicals that have been identified as a priority without providing appropriate public 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 will preempt all existing and future state law, with certain specified exceptions. Pre emption of state restrictions will be 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, will not be preempted.
  - New state chemical regulation will not able to be enacted while EPA conducts a safety assessment and determination of a high priority chemical. State will be free to continue to enforce existing state laws applicable to high priority chemicals.
  - States will be able to apply for waivers from preemption for final preemption or the regulatory "pause."
- **Modifies requirements to protect Confidential Business Information (CBI).**
  - The legislation promotes additional transparency by requiring up-front substantiation of claims to protect confidential commercial information.
  - EPA will be required 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.**