



To: Interested Parties

From: Reproductive Health Technologies Project

Date: June 22, 2016

Re: Chemical Policy Reform Update

Today, President Barack Obama signed into law HR 2576, the “Frank R. Lautenberg Chemical Safety for the 21st Century Act” to reform the outdated Toxic Substances Control Act (TSCA). Although important improvements were made to the legislation since its introduction, the bill does not sufficiently protect the public health, including reproductive health.

Burden of Proof

At a theoretical level, TSCA reform strove to shift the burden of proof from the government to chemical companies to demonstrate the safety of chemicals used in their products. Unfortunately, this common sense approach – which is used to regulate other products such as pharmaceuticals - was not adopted.

Instead, under the new law, the Environmental Protection Agency (EPA) retains the burden of proof to prove that a chemical is harmful before it can regulate it and places a significant burden on the EPA to justify the restrictions that it proposes.

Nevertheless, there are important improvements over current law, which largely resulted from the advocacy of groups aligned with the Safer Chemicals Health Families (SCHF) coalition and its allies in Congress. For instance, the law contains a new “health only” safety standard that removes cost as a consideration when determining the safety of a chemical. In addition, the law requires the EPA to consider the effect on vulnerable populations (workers, communities near hot spots and pregnant women and children). Moreover, the new law also priorities chemicals that accumulate and persist in our bodies for regulation.

Preemption

Our biggest concern remains state preemption. State laws have been an essential driver of chemical policy reform. Advocates have made progress on limiting chemicals precisely because states have been willing to tackle the problems. Over the last decade, 174 bills have been enacted by 35 states, benefiting people in those states as well as providing incentives for manufacturers to reformulate their products for sale in other states, thus creating an important ripple effect. For instance, in 2014, Minnesota banned the use of the chemical triclosan in hand sanitizers and soap. Triclosan is a hormone disrupting chemical that can

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interfere with pregnancy and impact male and female fertility. Citing the Minnesota ban, Bed, Bath and Beyond, a national retailer, has prohibited triclosan in soaps available through their stores starting in 2016.

SCHF and its allies worked strongly tirelessly to prevent the sweeping preemption provision that was included in the original Senate bill. As a result, some safeguards were included in the final bill, such as grandfathering important state laws such as California's Prop 65. Still, under the new law, states will be hampered in acting to protect public health – thereby weakening pressure on industry and the EPA to regulate chemicals.

Why It Matters

When we think about threats to our reproductive and sexual health, we don't tend to think of our sofas, food containers, or lotion. Unfortunately, mounting scientific evidence indicates that the consumer products we use every day, as well as the air, soil, and water around us, contain chemicals that harm our reproductive health.

Chemicals in the environment have been linked to:

- Male and female infertility
- Reduced sperm count and quality
- Alterations in ovarian function and menstruation
- Endometriosis
- Altered fetal development
- Miscarriage and pre-term birth
- Altered prostate development, breast development, and puberty onset

Moreover, the harm caused by chemicals in our environment is not shared equally. Low-income communities and communities of color are much more likely than other groups to be directly exposed to harmful chemicals at work, at home, and through consumer products. Increased exposure to these chemicals puts these communities at greater risk for reproductive health problems. Compounding the problem, communities of color and low-income communities are less likely to have access to health insurance or quality, affordable care to prevent and address health issues. For this reason, comprehensive chemical policy reform is critically important. However, in the absence of comprehensive federal reform, states must be free to lead the way to better health by reducing harmful exposure to toxic chemicals and addressing the systems that create disproportionate impacts on vulnerable communities.

RHTP will continue to advocate for better regulation and information about chemicals that harm reproductive health. The bold and sweeping changes we had hoped for at the federal level did not come to pass.