

A Bipartisan Opening to Reform Chemical Safety Oversight

The main chemical safety law on the books today is simply broken. The Toxic Substances Control Act (TSCA, or “Tosca”) provides almost no protection to the public from the thousands of chemicals Americans encounter every day in household products and materials. There is growing evidence that exposure to chemicals may have serious adverse health effects, from cancer to infertility to learning disabilities. Yet, only a small fraction of the estimated 85,000 chemicals available for use have ever been evaluated for safety.

Unlike every other major environmental law, the TSCA statute has never been significantly amended since it was adopted, in 1976. TSCA fails to ensure chemical safety in the U.S. Specifically, the statute:

- has failed to deliver the information needed to identify unsafe — as well as safer — chemicals,
- forbids the federal government from sharing much of the limited information it *does* obtain,
- imposes an impossible burden on government to prove harm in order to control a dangerous chemical, and
- thereby fails to provide incentives for the chemical industry to innovate safer chemicals and products.

Bipartisan breakthrough on TSCA reform: Lautenberg’s legacy

Senator Frank Lautenberg worked tirelessly to reform TSCA for many years right up until his death in June. Just weeks before he died, he joined Senator David Vitter (R-LA), a key ally of chemical manufacturers, to introduce a new bill to address the problems with TSCA. This bill would give the Environmental Protection Agency (EPA) critical tools it needs to significantly strengthen health protections for American families.

The notable improvements in the Lautenberg-Vitter compromise include:

- mandating safety evaluations for *all* chemicals in active commerce,
- requiring new chemicals to be deemed likely safe *before* entering the market,
- fixing the key flaws in TSCA’s safety standard that led to EPA’s inability even to ban the deadly carcinogen asbestos,
- allowing EPA to issue orders to require testing without the *Catch-22* of first having to show potential risk, and
- making more information about chemicals available to states, health professionals and the public by limiting current trade secret allowances.

To effectively and efficiently utilize these tools, however, important changes to the legislation are needed.

Making needed improvements while maintaining bipartisan support

The Lautenberg-Vitter bill is a compromise that has raised concerns in both the chemical industry and the environmental community. Some industry interests are troubled by the new requirement that EPA find new chemicals to be likely to be safe before market entry, and seek total pre-emption of state authority.

The environmental community has serious concerns as well, including that the bill doesn't assure protection of vulnerable populations and goes too far in limiting state authority. EDF shares these concerns and is working to address them and others, including by:

- adding more deadlines and significantly trimming back the bill's extensive procedural requirements to ensure EPA expeditiously initiates and completes actions,
- defining and explicitly protecting vulnerable populations, including infants and children and workers, as well as "hotspot" communities that have disproportionately high exposure to chemicals,
- providing EPA with adequate resources to carry out its responsibilities, with a fair share coming from industry,
- narrowing the bill's preemption of state authority to ensure that states can act when EPA does not, and
- ensuring low-priority designations of chemicals are based on sufficient hazard and exposure information and that such designations do not preempt state authority.

For the last decade, Frank Lautenberg led the cause of chemical safety reform in the Senate. His colleagues should carry that work forward, rather than letting it dwindle with the loss of its main champion. The Lautenberg-Vitter compromise represents the first real chance in nearly 40 years to enact a law that would fix the biggest flaws of TSCA. The Senate can and must make the improvements required to pass a strong bill that protects all Americans. Washington needs to act on this rare opportunity to get something this significant accomplished.