

Problems in Current TSCA, and How the Lautenberg Act (S. 697) and the TSCA Modernization Act (H.R. 2576) Address Them

Problem in TSCA	Senate Bill S. 697	House Bill H.R. 2576
<p>Paralyzing Regulatory Hurdle, Failure to Protect Most Vulnerable</p> <p>Requires onerous cost-benefit analysis that has left dangerous chemicals unregulated.</p> <p>No requirement to consider elevated risks to children, pregnant women, the elderly.</p>	<p>Health-Only Safety Standard that Protects Vulnerable Populations</p> <p>Prohibits EPA from considering costs in safety determinations.</p> <p>Expressly requires the protection of those most susceptible to harm from chemicals.</p>	<p>Health-only Safety Standard that Protects Vulnerable Populations</p> <p>Prohibits EPA from considering costs in risk evaluations.</p> <p>Precludes finding a chemical does not present unreasonable risk if any potentially exposed populations face such risk.</p>
<p>Chemicals are Presumed Innocent</p> <p>No requirement to review the safety of existing chemicals.</p>	<p>Mandate to Review All Chemicals</p> <p>Requires prioritization of all chemicals, safety determinations on all those not deemed low-priority.</p> <p>Limited pathway for industry-requested reviews.</p>	<p>Limited Mandate to Review Chemicals</p> <p>Limited process, evidentiary burden, to identify chemicals for reviews.</p> <p>Unlimited pathway for industry-requested reviews.</p>
<p>New Chemicals Lack Adequate Safety Check</p> <p>New chemicals are allowed onto market without affirmative EPA safety decision.</p>	<p>Safety Finding for New Chemicals Before Use</p> <p>New chemicals can enter the market only after an affirmative safety finding standard by EPA.</p>	<p>No Change Is Made to Status Quo</p> <p>Draft makes no changes to TSCA Section 5.</p>
<p>Weak Testing Powers</p> <p>Test rules take years.</p> <p>EPA must first show potential risk/high exposure, a Catch-22.</p>	<p>New Testing Authority</p> <p>EPA can order testing, with justification.</p> <p>Catch-22 is eliminated.</p>	<p>Some New Testing Authority</p> <p>EPA can order testing.</p> <p>Catch-22 NOT eliminated except for tests needed to do risk evaluations.</p>

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<p>Insufficient Funding</p> <p>Fees only for new chems, \$2,500/co cap. Don't go to EPA.</p>	<p>Broad Dedicated Fees</p> <p>Fees cover all parts of program. Go directly to EPA.</p>	<p>Limited Fees</p> <p>Fees only for industry-requested chemicals. Go directly to EPA.</p>
<p>Excessive CBI Claims</p> <p>Companies can claim virtually any info CBI.</p> <p>Rare EPA reviews.</p> <p>Can't share with public, states, health providers.</p>	<p>Greater Transparency</p> <p>Upfront justification for most claims. EPA review of most claims, past and future.</p> <p>State must be given access, no prior notification.</p> <p>Health providers are given access, prior notification except in emergencies.</p>	<p>Partial Transparency</p> <p>Upfront justification for all new claims. No EPA review of past or future claims mandated.</p> <p>State may be given access, prior notification required.</p> <p>Health providers are given access, no prior notification required.</p>
<p>CBI Kept Indefinitely</p> <p>Claims have no time limits, and remain in place unless the EPA challenges them.</p>	<p>Time Limits, Reviews for Past and New Claims</p> <p>Claims expire after 10 years if not re-justified.</p> <p>EPA to review most past and new claims.</p>	<p>Time Limits Only for New Claims, No EPA Reviews</p> <p>Past claims don't expire, no EPA review.</p> <p>New claims subject to 10 years, but no EPA review.</p>
<p>Limited preemption</p> <p>EPA requirements on new or existing chemicals generally preempt states' existing or new requirements.</p> <p>EPA may grant waivers.</p>	<p>More preemption</p> <p>Preemption after EPA final action limited to state <u>restrictions</u> (e.g., not disclosure).</p> <p>Preemption applies only to existing chemicals.</p> <p>No <u>new</u> state restrictions on a chemical under EPA review except via a waiver.</p> <p>Higher bar for final waiver; state can challenge denial.</p>	<p>More preemption</p> <p>Preemption after EPA final actions extends to any <u>requirement</u> "designed to protect against exposure."</p> <p>Preemption applies to new and existing chemicals.</p> <p>No early preemption of new requirements.</p> <p>Lower bar for final waiver; but state can't challenge denial.</p>