

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Joint Resolution 2 (Delegate Hubbard)
Rules and Executive Nominations

Reform of the Federal Toxic Substances Control Act of 1976

This joint resolution urges the U.S. Congress to enact federal legislation to modernize the federal Toxic Substances Control Act (TSCA) and strengthen chemicals management through policy reforms.

Fiscal Summary

State Effect: The bill does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The joint resolution urges federal policy reforms that:

- require chemical manufacturers to prove that chemicals are not harmful to human health and provide essential information about chemicals to the public;
- require immediate action to reduce or eliminate the worst chemicals;
- preserve the authority of state and tribal governments to operate more protective chemicals-management programs;
- establish health safety standards based on the best available science to protect those who are most vulnerable;
- reward innovation; and
- promote environmental justice.

Current Law: Since 1976, TSCA has functioned as the primary mechanism for regulating chemicals in consumer products in the United States. Under TSCA, the U.S. Environmental Protection Agency (EPA) is charged with ensuring that chemicals manufactured, imported, processed, or distributed in commerce, or used or disposed of in the United States, do not pose any unreasonable risks to human health or the environment. Although there are approximately 84,000 chemicals in EPA's chemical substance inventory, it is very rare for a chemical to be subject to a total prohibition.

Background: On December 2, 2009, a group of 13 states, including Maryland, released the *States' Principles on Reform of the Toxic Substances Control Act*. The document included eight recommendations for reforming chemical policy, including requiring manufacturers to demonstrate that their products and the chemicals they use are safe for the public and the environment, prioritizing the regulation of the most problematic chemicals, promoting safer alternatives, and increasing the availability of information on chemicals and safety. EPA, the National Conference of State Legislatures (NCSL), and the national Safer Chemicals/Healthy Families campaign, have each also developed principles to guide TSCA reform. NCSL's recommendations include (1) phasing out harmful chemicals and promoting safer alternatives; (2) ensuring broad access to mandatory safety data on all chemicals; (3) ensuring environmental justice; (4) protecting all people, and especially vulnerable groups, using the best science; and (5) preserving states' rights.

Although TSCA reform bills were introduced in 2011 (as well as in several of the preceding years), the U.S. Congress has not yet passed any of the TSCA reform measures. In 2008, however, Congress enacted the Consumer Product Safety Improvement Act to regulate lead, cadmium, and certain chemicals known as phthalates, in children's products.

In addition, in 2000, EPA launched the Voluntary Children's Chemical Evaluation Program (VCCEP) as a pilot program to gather information on 23 chemicals to which children have a high likelihood of exposure. EPA requested companies that manufacture or import any of the 23 chemicals to voluntarily provide information, including the health effects, exposure, risk, and additional data needed to fully characterize the risk that the chemicals present to children. In response to EPA's request, 35 companies and 10 consortia volunteered to sponsor assessments of 20 of the 23 chemicals. EPA's website provides links to the chemical assessments, peer evaluations, and EPA's decisions as to whether additional data are needed. EPA has conducted an interim evaluation of the pilot program and plans modifications, including revising the chemical selection process so that future VCCEP candidate chemicals will be selected from those identified as high priority and of special concern for potential risks to children in EPA's Chemical Assessment and Management Program.

At the state level, California, Maine, Minnesota, and Washington have enacted comprehensive chemical policy legislation in some form. Several other states, including Maryland, have regulated specific chemicals or specified uses of toxic chemicals (particularly in products for children), including mercury, cadmium, bisphenol-A, phthalates, lead, and flame retardants.

Additional Information

Prior Introductions: HJ 3 of 2011 received an unfavorable report from the House Rules and Executive Nominations Committee.

Cross File: None.

Information Source(s): National Conference of State Legislatures, U.S. Environmental Protection Agency, Maryland Department of the Environment, Department of Health and Mental Hygiene, Department of Legislative Services

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