

ACC-NAFRA Testimony on SB 447
Before the Maryland Finance Committee
February 13, 2020

Chair Kelley and members of the Finance Committee. My name is Ben Gann, and I am a Director of Consumer Products and Technology at the American Chemistry Council, or ACC, and here today representing ACC's North American Flame Retardant Alliance (NAFRA).¹

We appreciate the opportunity to testify today and look forward to additional opportunities to provide information to the Legislature on the issues of flame retardants, fire safety, and chemical safety.

Our member companies represent the cutting edge of fire-safety chemistry and technology, and are dedicated to improving fire safety performance in a wide-range of products. Our industry is also committed to strong chemical safety regulation, to protect users and those who may be exposed to our products, while also protecting that same population from the dangers of fire by promoting fire safety.

Today, I am respectfully speaking in opposition to SB 447. I would like to highlight NAFRA's primary objections to the bill:

First, this legislation prohibits the use of several classes of chemicals for use in flame retardants without any consideration of the actual safety or risk posed by any specific chemical or product. This is not supported by the state of the science. Flame retardants include a broad range of products with differing characteristics, formulations, and intended uses, so it is not appropriate to make broad conclusions or impose a one-size fits all regulatory approach for this wide range of substances.

Second, fire safety is a real issue and flame retardants are an important tool to help reduce fires, fire deaths, and property damage. This bill does acknowledge that to some degree. However, SB 447, in its current form, could undermine overall product safety and increase fire risk for Maryland's citizens, communities, and emergency responders.

Third, flame retardants are reviewed for their safety by regulators around the world. This legislation would not only ban substances that government regulators have already determined do not present a risk, but also new, innovative substances to be developed in the future that may be approved by regulators for use. A blanket ban that fails to acknowledge science-based regulatory processes and future developments is not good public policy.

¹ NAFRA members include Albemarle Corporation, LANXESS Corporation, and ICL Industrial Products who manufacture flame retardants used in a wide variety of industrial and consumer applications.

Fourth, the regulated community needs predictability and transparency. Any changes require resources from businesses and government to ensure compliance. The costs and benefits of any changes must be analyzed and compared to safety regimes already in place, such as those under the jurisdiction of the Environmental Protection Agency (EPA) and the Consumer Product Safety Commission (CPSC).

Fifth and finally, SB 447 should include an exemption for a flame retardant that is a polymeric material meeting the criteria under federal regulations, or is chemically reacted to form a polymeric material with the materials it is intended to protect.

First, all “flame retardant chemicals” are not the same.

- A variety of different chemicals, with different properties and structures, act as flame retardants. A variety of flame retardants are necessary because the materials that need to be made fire-resistant are very different in their physical nature and chemical composition, as are the end-use performance requirements of the final product.
- The hazard and risk profile of various flame retardant compounds are not all the same. It is scientifically incorrect to apply the same profile for all and this has been repeatedly recognized by government regulators.

Second, the harm caused by fires is real. Yet this bill makes broad, sweeping statements about fire safety, the basis for which is unknown.

- Fires have dropped significantly over the past 40 years. A major contributor to the decline in fires and fire deaths since the 1970s has been the development of a comprehensive set of fire-safety measures that include flame retardants.
- At the same time, fire still represents a very real danger in the United States and this is no less true for Maryland. From 2010-2014, 324 people died in residential fires in Maryland.² In addition, residential fires caused an estimated \$11.6 billion in home property losses in 2014.³
- One area of particular relevance to this Committee is the fire safety risk to children. According to the U.S. Fire Administration’s 2017 data on fire risk to children, 314 children age 14 and younger died as a result of fires and over 40 percent of all child fire deaths affected children age 4 or younger.⁴

² Office of the State Fire Marshall. (2014). Fire Deaths in Maryland January – December 2014. <http://mdsp.maryland.gov/Document%20Downloads/Fire%20Deaths%20-%202014.pdf>.

³ National Fire Protection Association (Ed.). (2015, September 1). Fire loss in the United States. Reports and Statistics: National Fire Protection Association Survey 2014. <http://www.nfpa.org/news-and-research/fire-statistics-and-reports/fire-statistics>.

⁴ U.S. Fire Administration Annual Fire Statistics - <https://www.usfa.fema.gov/data/statistics/>.

- The reality is that the changing nature of our homes and consumer products has increased the fire risk of many products. Our homes and offices have more synthetic materials than they did 30 years ago. On their own, many of these synthetic materials can be quite fast burning. This has changed the nature of fire risk by increasing the potential flammability of products. It is worth noting that in recent years there have been upwards of 7,000 product recalls of consumer products due to fire hazards.
- Because of the danger of fire, NAFRA supports robust fire protection measures and multiple layers of protections to address the risk of fire, including flame retardants. Flame retardants have been proven effective in preventing fires. And in instances where fires do occur, slowing the fire's progression so individuals and families have extra time to escape from potentially dangerous fire situations.

Third, regulatory agencies with scientific expertise have reviewed and made pronouncements on the safety of some of the substances – and will continue to do so for new, improved, and innovative substances that have yet to be developed.

- SB 447 would restrict a broad range of substances, including substances that government authorities have determined do not present a significant risk to human health or the environment.
- SB 447 would also restrict all new flame retardant chemicals, including those not even developed yet. Our industry has invested millions of dollars to develop new technologies that improve fire protection and have an enhanced environmental, health and safety profile. Yet, these new products would also be banned. The approval process for new chemicals globally, including in the United States, is extremely rigorous. It is unclear why Maryland would want to prevent the development and use of new, innovative and sustainable products.
- SB 447 in its current form would impose a significant deterrent for manufacturers and product designers to use products in the R&D pipeline that have not yet come to market and could be essential to helping meet current and future fire safety and product safety standards. It is doubtful that Maryland really wants to remove forever and always the possibility of using new technologies that could help save lives and property from fire.

Fourth, the impact of any new regulation needs to be clear. There is already robust regulatory oversight of flame retardants. It is impossible for anyone to fully contemplate the practical requirements authorized by SB 447 – let alone the regulated community.

- SB 447 effectively bans flame retardants for no reason other than the substance is called a flame retardant, and would have unintended consequences that would not only hurt businesses, but also consumers.

- SB 447 will create significant supply chain issues for retailers and impose new, costly compliance obligations for Maryland's businesses, businesses that are already subject to numerous other safety laws and regulations.
- Furthermore, the state likely has insufficient resources to ensure compliance of covered products ordered on line and therefore this bill would unfairly burden Maryland's brick-and-mortar businesses.

Fifth and finally, SB 447 should include an exemption for flame retardants that are polymeric materials.

- Polymeric flame retardants are used in a wide variety of consumer products such as camping tents, child car seats, and televisions to meet fire safety standards.
- Currently, the broad class-based restrictions included in SB 447 would restrict the use of most flame retardants chemically built into polymeric materials.
- Federal agencies have consistently found that high molecular weight polymers have limited bioavailability and therefore are not expected to be readily absorbed, distributed, or metabolized in the body. And without absorption there cannot be systemic effects.
- The exemption criteria would exclude polymers that may substantially degrade, decompose, or depolymerize into smaller substances upon exposure to heat, light, microbial action, or other conditions.

In conclusion, ACC and NAFRA support a strong, transparent, and science-based regulatory system that provides both strong fire protection and chemical safety. We look forward to additional opportunities to provide information to the Legislature on the issues of fire safety, chemical safety, and flame retardants.