



NATIONAL CONFERENCE *of* STATE LEGISLATURES

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*Executive Director*

July 24, 2013

The Honorable Barbara Boxer  
Chairman  
Environment and Public Works Committee  
United States Senate  
112 Hart Senate Office Building  
Washington D.C., 20510

The Honorable David Vitter  
Ranking Member  
Environment and Public Works Committee  
United States Senate  
516 Hart Senate Office Building  
Washington D.C., 20510

Re: S. 1009, "The Chemical Safety Improvement Act"

Dear Chairman Boxer and Senator Vitter:

On behalf of the National Conference of State Legislatures (NCSL), we applaud the decision by the Environment and Public Works Committee to convene a hearing aimed at understanding and examining issues surrounding the history and impact of the Toxic Substances Control Act (TSCA). While efforts such as these will serve as key components to update the statute to reflect advances in science and technology to better evaluate and regulate chemicals, we write today to also express serious concerns with current TSCA reform legislation, S.1009, "The Chemical Safety Improvement Act."

NCSL encourages Congress to reform and modernize TSCA and appreciates the attempt of this legislation to include elements outlined in NCSL's Federal Chemical Policy Reform Policy Directive. This includes ensuring chemical manufacturers bear the burden of proof of safety of their products and be required to provide full information on the health hazards associated with their chemicals as well as ensuring research into chemicals and chemical processes designed to reduce or eliminate negative environmental impacts of chemicals.

However, NCSL cannot support any reform of TSCA that preempts state regulations in this area. Section 15 of the bill entitled "Preemption" is a broad state preemption provision that adversely impacts states' abilities to protect their citizens. First, Section 15 prohibits states from enacting stricter or stronger chemical safety regulations than those provided for in the bill. Section 15 also greatly hinders states' abilities to protect their citizens by prohibiting states from continued testing and development of standards for chemical substances. This approach appears to contradict public safety and is an inappropriate exercise of federal authority in an area where states have acted appropriately.

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In the absence of federal action to address issues related to TSCA implementation, many state legislatures have enacted legislation to regulate individual chemicals. States have also begun to develop comprehensive state chemical policies that aim to establish broad and permanent frameworks to systematically prioritize chemicals of concern, close data gaps on those chemicals and restrict their uses in those states. We would encourage the federal government to engage in meaningful consultation with state legislatures before attempting to preempt such laws.

For nearly all federal environmental statutes, there are provisions to extend the reach of the federal government by delegation of program authority and/or provision of federal grants to support state implementation of environmental requirements in lieu of or in addition to the federal requirements. Any reform of TSCA should both preserve state rights to manage chemicals and provide resources for state level implementation, as NCSL supports the preservation of state authority to enforce chemical security standards that are more stringent than those established by the federal government. As such, NCSL has serious concerns with S. 1009 as it is currently structured.

NCSL welcomes the opportunity to work with the Committee as it moves forward on this legislation to ensure that state authority is maintained. Please contact NCSL staff, Melanie Condon ([Melanie.condon@ncsl.org](mailto:Melanie.condon@ncsl.org)) on environmental issues and Susan Parnas Frederick ([susan.frederick@ncsl.org](mailto:susan.frederick@ncsl.org)) on issues related to preemption of state authority.

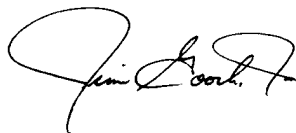
Sincerely,



Representative John McCoy, Washington  
Co-Chair, NCSL Natural Resources and  
Infrastructure Committee



Senator Ross Tolleson, Georgia  
Co-Chair, NCSL Natural Resources and  
Infrastructure Committee



Representative Jim Gooch Jr., Kentucky  
Co-Chair, NCSL Natural Resources and  
Infrastructure Committee



Senator John C. Watkins, Virginia  
Co-Chair, NCSL Natural Resources and  
Infrastructure Committee

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A handwritten signature in black ink, appearing to read "W. C. Horne". The signature is stylized with a large, sweeping loop at the end.

Assemblymember William C. Horne,  
Nevada, Co-Chair NCSL Law and Criminal  
Justice Committee

A handwritten signature in black ink, appearing to read "Eric Watson". The signature is written in a cursive style.

Representative Eric Watson, Tennessee,  
Co-Chair NCSL Law and Criminal Justice  
Committee

Attached: NCSL Federal Chemical Policy Reform Policy Directive