



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

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*Senator
Oregon
President, NCSL*

Thomas W. Wright
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William T. Pound
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The Honorable John Shimkus
Chairman
Environment and the Economy Subcommittee
United States House of Representatives
2452 Rayburn House Office Building
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member
Environment and the Economy Subcommittee
United States House of Representatives
2463 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Shimkus and Representative Tonko,

We are writing on behalf of the National Conference of State Legislatures (NCSL), the bi-partisan organization representing the legislatures of all our nation's states, commonwealths and territories, to oppose the latest draft of the Chemicals in Commerce Act (CICA).

While NCSL appreciates all of the committee's efforts to amend legislation based on input from stakeholders, the newly released draft does not take into account the concerns of our nation's state legislatures. We had hoped the revisions would remove harmful language preempting state authority contained in the original CICA draft. However, the new draft serves only to prolong the preemption process rather than eliminate it. As EPA makes a determination on a particular chemical in piecemeal fashion, state laws regulating this same chemical will be preempted also in piecemeal fashion. In reality, the new language does nothing to assuage state legislatures' concerns that comprehensive regulatory processes and laws will be eventually eradicated in favor of a one-size-fits all federal framework that may not be as responsive to the needs of the states.

Additionally, under CICA states would not be able to effectively protect the health and welfare of their citizens because states would be entirely left out of the regulatory process. State lawmakers will not be able to protect their constituents because they cannot legislate on the issue of toxic chemicals, yet states will be the ones that will have to respond to citizen concerns, not Congress, and not the Environmental Protection Agency (EPA). All preemption of state laws language and scope of intent must be removed from the draft.

The change to the original draft that states that a "low priority designation" for a chemical would preempt only new state laws and not existing laws relating to that chemical does not allow states to truly protect their citizens, nor does it appease state legislatures' worries of state chemical laws being invalidated. States must have the flexibility and the authority to quickly respond to emerging local conditions. States have more than risen to the occasion by passing sound and protective laws and

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regulations that are specifically responsive and helpful to our citizens. (See, Attachment 1 for the scope of state chemical regulations). EPA simply cannot respond as quickly as states can to uniquely local issues.

NCSL continues to caution that the overall broad and vague language in the revised draft could preempt a host of state environmental protection laws other than just those explicitly regulating toxic chemical products. The draft must contain language that clearly and unequivocally states that it does not apply to air or water pollution issues.

NCSL appreciated the opportunity to testify in front of the committee on these concerns and hopes that the committee continues to solicit our advice and expertise before moving on the legislation.

NCSL would welcome the opportunity to work with Congress to develop appropriate statutory language that modernizes TSCA while respecting state laws that address chemical regulation. Please feel free to contact NCSL staff Susan Frederick (susan.frederick@ncsl.org) or Melanie Condon (melanie.condon@ncsl.org) or by phone at (202)624-5400 for more information.

Sincerely,



Senator Bruce Starr
Oregon Senate
President, NCSL



Senator Debbie Smith
Nevada Senate
President-Elect, NCSL

Attached: [List of State Statutes Related to Chemical Regulation](#)