

BlueGreen Alliance Policy on S. 697

The BlueGreen Alliance (BGA), a partnership of American labor and environmental groups representing 16 million members and supporters building a cleaner, fairer and more competitive American economy, has worked for many years to support reform of our nation's outdated chemical policies. While we welcome the ongoing bi-partisan effort in the United States Senate to reform the Toxics Substances Control Act this year, we must ensure that TSCA reform sets up an effective framework that EPA can use to protect American children, families and workers from toxic chemicals.

There has been significant progress since the framework included in the Lautenberg Act was initially introduced in 2013. We thank and acknowledge the hard work of those Senators who have pushed for changes that will protect workers and the public.

However, four fundamental concerns keep us from supporting S.697, as amended:

- 1. The scale of the problem and the scope of S.697**
- 2. The states' power to protect and preemption of that power**
- 3. Chemicals that EPA declares unsafe will still be legally available**
- 4. New rollbacks to EPA's ability to regulate new chemicals and uses**

Scale and Scope

Under the provisions of S.697, five years after enactment, EPA must have 25 high priority and 25 low priority chemicals under review. If EPA meets this deadline, it will take 8,000 years for EPA to review the 80,000 chemicals in commerce. Even if EPA were to exclusively focus on the 7,000 chemicals in high use in the U.S. (manufactured or imported in greater than 25,000 pounds), the mandate in S.697 would permit EPA to spend 700 years determining the safety of chemicals currently in use. S.697 is not comprehensive enough to protect our children, our grandchildren or their grandchildren from harmful but not yet regulated chemicals.

Preemption and the States

While the substitute version of S.697 adds some limits to the preemption process in the original bill, the resulting process is so complicated that it will chill state action. States should not be expected to give up their authority to protect their citizens against toxic chemicals until EPA has issue a final

agency action.

Cost Considerations Continue to Weaken Chemical Regulations

S.697's safety standard allows EPA to determine if a chemical is unsafe without "taking into consideration cost or other non-risk factors". But before EPA can do anything with that finding, the Agency must show the quantifiable and non-quantifiable costs and benefits of any regulatory action and the costs and benefits of one or more alternative action the Agency considered. This requirement will dramatically decrease EPA's power to protect the American people from chemicals it has ruled are dangerous. The proposed two step process will result in restrictions that are contrary to the universal principles of industrial hygiene that require the most effective restrictions to be used first.

New Rollbacks to EPA's Ability to Regulate New Chemicals and Uses

The amended version of S.697 contains new provisions that make it more difficult for EPA to promulgate significant new use rules (SNURS) for articles. The provision adds a requirement that EPA justify the need for information about the new use up before being able to require the information. This is an impossible Catch-22. SNURs have served to protect workers who are exposed to new chemicals or new uses of a chemical. Any provision that weakens the ability of EPA to promulgate a SNUR lessens the health and safety protections of workers.