

US to debate tightening legislation on safety of chemicals

US Congress is to debate major reforms to the way chemicals are regulated in the country. The new push for a change to legislation comes in the wake of a series of public-health scares from toxic chemicals found in children's toys, many of which were imports. Samuel Loewenberg reports.

The US Congress is preparing to debate a new legislative overhaul that would substantially change the way that chemicals are regulated in the country, bringing them much closer to the European Union (EU) system, which came into effect last year.

The chemicals overhaul has strong support from not only Democrats and health advocates, but also groups representing medical professionals, trade unions, and churches.

The new push for a reform of chemical laws comes in the wake of a series of public-health scares from toxic chemicals in children's toys, many of which were imported from China. Congress, reacting to the public outcry, passed a sweeping reform of the Consumer Products Safety Commission, which until then many had considered moribund.

Health advocates are hopeful that this success, which introduced the so-called "precautionary principle" into US chemicals regulation, will pave the way for an even more far-reaching overhaul next year.

The precautionary approach has long been opposed by the petro-chemical industry, both in Washington and in Brussels. Until now, applying it in US chemicals regulation had seemed impossible, said Hilda L Solis—a California Democrat who is the vice-chairman of the House Commerce subcommittee on environment and hazardous materials. But the current legislative environment is now open to broad public-health reforms, she said. US consumers "are expecting the Federal government to do something. They do not want to hear about it at the last minute, after their children have been exposed", she said.

Introducing the precautionary principle in the USA is a substantial

paradigm shift. Currently, it is up to regulators to show that substance is harmful before it can be removed from the market. Under the new regime, manufacturers have to prove a chemical is safe before putting it out for sale.

"Phthalates have already been banned in Europe because of concerns that they damage the reproductive system of children."

With only a few weeks left in Congress, the supporters of the Kids' Safe Chemical Act are hopeful they will be able to put it into law early next year. They are now working to prepare the ground with hearings, staff briefings, and lobbying visits by religious organisations, medical professionals, and non-governmental organisations.

They are also hopeful they will win the support of the retail industry, which also played an important, if at times reluctant, part in the passage of the EU's chemical legislation—Registration, Evaluation,

Authorisation and Restriction of Chemical (REACH).

When the Kids' Safe Chemical Act was first introduced in the Senate in 2005, it gained little traction. But after a rash of high profile recalls of toys and other children's products during the past 2 years, the need for reform of laws on consumer products protection was clear and had support from Republicans as well as Democrats.

One aspect of the legislation, the ban on some types of phthalates, emerged as a crucial sticking point. A fierce lobbying campaign by the petro-chemical industry, and particularly ExxonMobil, sought to eliminate the phthalates ban. The industry was concerned that not only would it prohibit one of its lucrative products, but also it would introduce the precautionary principle into US chemicals law.

Phthalates have already been banned in Europe because of concerns that they damage the reproductive system of children. California has moved to outlaw the chemicals, which are used to soften plastics used in children's products.

The printed journal
includes an image merely
for illustration

Greenpeace activists in Hong Kong campaign about chemicals in children's toys

The printed journal includes an image merely for illustration

Reuters

Democrat Hilda L Solis says US consumers want the government to act on chemicals

The passage of the phthalates ban was a major shift because it introduced the precautionary principle into US consumer products law, said Stephanie Lester, vice president for international trade for the Retail Industry Leaders Association, which represents large chains such as Wal-Mart and Target. The group has not announced its position on the Kids Safe Chemical Act.

The chemical industry opposes the precautionary principle on the grounds that it could cause chemicals to be banned unfairly and overly broadly. Instead, say lobbyists, US regulators should try to control the riskiest chemicals, rather than “throwing the baby out with the bath water”, said Marty Durbin of the American Chemistry Council, the Washington lobby for chemical manufacturers.

Durbin said he was sceptical that the children’s chemical reform bill would pass in its current form, even with the success of the consumer and health groups on phthalates.

“But that is exactly what health advocates hope to achieve”, said Janet Nudelman, chief lobbyist for the Breast Cancer Fund, which was a major force in pushing the phthalates ban through. She called it “a referendum on chemical policy reform”.

The public-health groups are planning to use an array of grassroots lobbying techniques, which proved effective with the consumer products

law overhaul. In that initiative, over 100 000 mothers wrote to members of Congress asking for the ban of phthalates use in children’s toys and products, because of risks of the chemical plastic softener leaching into children’s bloodstream.

One of the biggest questions with the new bill is how retailers will react. They are concerned that the new law might not give them sufficient time to introduce changes into their supply chain, said Lester of the Retail Leaders group, and that they will not be forced to immediately pull items off store shelves. “We need clarity” about what the industry’s responsibilities are, she said.

The new bill seeks to revamp the current US chemicals law, the Toxic Substances Control Act, which is widely acknowledged to be out of date and too weak. The bill would require that everyday chemicals used in children’s toys and products, from the plastic used in baby bottles to the paint on cribs, are proven safe before they are allowed to be sold.

In the current system, the burden is on regulators to show that a product is dangerous before regulators are forced to take it off the shelves. Of the 80 000 chemicals used in household products, the Environmental Protection Agency has required toxicity testing of only 200, according to the bill’s sponsors.

“We already have strong regulations for pesticides and pharmaceuticals—it’s commonsense that we do the same for chemicals that end up in household items such as bottles and toys”, said Senator Frank R Lautenberg, one of the legislation’s chief sponsors.

The current legislation is modelled on REACH, the sweeping overhaul passed by the EU, which came into force last year. The law was passed despite strident opposition by the US chemical industry in coordination with the Bush Administration. The White House mobilised its diplomatic missions around the globe in opposition. A cable from then-

Secretary of State Colin Powell to American diplomats called for them to argue that the European legislation “would be significantly more burdensome to industry” than current approaches.

Details of that effort can be found on the website of the investigations division of the House Government Reform Committee, chaired by Henry Waxman. The California Democrat is one of the co-authors of the new legislation.

The new legislation is likely to be bolstered by the actions of the states, a handful of which are working on their own precautionary laws, including California, New York, and Maine.

Meanwhile, many state environmental groups have already signed on to the new federal legislation, including ones from traditional Republican strongholds such as Alaska, Kentucky, and Texas.

Other supporters include the American Nurses Association, the National Autism Association, and the Service Employees International Union.

The National Council of Churches, which represents 45 million people in 100 000 churches, is preparing to flex its grassroots muscles. “We are educating and engaging congregations to take action to improve our system to regulate chemicals and protect God’s creation”, said Chloe Schwabe, the council’s assistant director of environmental health. The precautionary approach is especially important, she said, because it “can protect people first, before they or their children are exposed to toxic chemicals”.

Schwabe said she is hopeful that the legislation will surpass partisan boundaries, especially with the Christmas shopping season fast approaching. Legislators should be “guided by their faith in making that decision to protect children and the most vulnerable among us”, said Schwabe. “It should not matter if you are a Democrat or a Republican.”

Samuel Loewenberg