



January 26, 2016

To: The Honorable Mia Costello, Chair  
Members of the Alaska Senate Labor & Commerce Committee

From: Tim Shestek  
American Chemistry Council

Re: **SB 111 - OPPOSE**

The American Chemistry Council (ACC) must respectfully oppose SB 111, legislation that would prohibit the use of a variety of flame retardants that may be present in upholstered furniture or in specified “children’s products.” Safety is a top priority our member companies and we believe that consumers deserve to have confidence that the products they buy are safe for their intended uses. ACC members invest significant resources in product and environmental stewardship and share a common commitment to advancing the safe and secure management of chemical products and processes.

Chemical and product safety assessments must be grounded in sound scientific principles and integrate hazard, use and exposure information. Unfortunately, we have several concerns with the bill as drafted, including:

- The presumption that the presence and use of any of these identified chemical flame retardants automatically means the product is somehow harmful to consumers;
- Lack of recognition for existing state and federal regulations governing chemical and consumer product safety and recent Congressional efforts to improve these standards;
- Failure to integrate existing flame retardant risk assessment information currently being conducted by the United States Environmental Protection Agency (USEPA); and
- Lack of recognition for the role these chemistries play in improving fire safety.

#### **The Importance of Science in Chemical Regulation --- Presence Does Not Equal Harm**

The bill undercuts the integrated nature of hazard and exposure by presuming that the mere presence of a chemical indicates that when it is used or disposed it will likely result in exposure, or more specifically, exposure leading to harm. Presence of a chemical in a product cannot be a surrogate for “exposure” without any notion of whether or to what extent there may be an actual exposure to a level sufficient to cause harm.

A consumer product that contains a chemical flame retardant does not necessarily mean that the product is harmful to human health or the environment or that there is any violation of existing safety standards or laws.



Risks associated with a chemical in a product are dependent upon the potency of the chemical and the magnitude, duration and frequency of exposure to the chemical.

For example, the Washington State Department of Ecology maintains a “Reporting List of Chemicals of High Concern to Children” yet is careful to point out that the reporting of the presence of chemicals in products does not allow for any conclusions to be reached about the safety of these products. In fact, Ecology clearly states on its website the following:

- **The presence of a chemical in a children's product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws.**
- **The data should not be used to determine the safety of an individual product.**

(Reference: <http://www.ecy.wa.gov/toxics/testing.html>)

### **Existing Federal Regulations**

Flame retardants, like all chemicals are subject to review by USEPA and other regulatory agencies around the world. Bear in mind that the USEPA is currently conducting an updated review of a number of flame retardants under its “Work Plan Chemicals Program.” At a minimum and given that this work will include the analysis of specific use and exposure information, any action by Alaska ought to be informed by this scientific assessment.

The committee should also know that more than a dozen federal laws govern the safe manufacture and use of chemicals. Primary among these is the Toxic Substances Control Act (TSCA) but there several other federal laws (see attached chart) in place to regulate the safety of chemicals and products in commerce, including the Consumer Product Safety Improvement Act (CPSIA) and the Federal Hazardous Substances Act (FHSA).

The FHSA gives the Consumer Product Safety Commission authority to ban by regulation a hazardous substance if it determines that the product is so hazardous that the cautionary labeling required by the act is inadequate to protect the public. Any toy or other article that is intended for use by children and that contains a hazardous substance is also banned under the FHSA if a child can gain access to the substance.

### **Recent Assessments of Flame Retardants**

This bill would restrict several flame retardants without full consideration of their actual safety or risk. Flame retardants include a broad range of products with differing characteristics, structures and intended uses, so it is not appropriate to make broad conclusions or impose a one-size fits all regulatory approach for these substances.

A key example of this is the inclusion of tetrabromobisphenol A (TBBPA). A recent comprehensive assessment of exposure to all uses of TBBPA showed that human exposure to this chemical is **seven million times below recognized health and safety thresholds**. This is consistent with multiple government assessments, including those by Canada and the European Union, which have demonstrated that consumer exposures to TBBPA are not likely to cause adverse health effects. In fact, in its Final Screening Assessment Report on TBBPA, Canada specifically determined that the chemical is not present in “quantities or concentrations or under conditions that constitute or may constitute a danger in Canada to human life or health.” Yet this substance would be banned under SB 111.

### **A Better Approach – Congressional Update of TSCA**

Though we oppose SB 111, the Committee should know that both the US House of Representatives and the US Senate – in bipartisan fashion - have approved versions of bills to make significant changes to TSCA. In fact, Alaska Senator Lisa Murkowski is a co-sponsor of the Senate version.

A national, uniform standard makes sense from a policy and economic perspective. While these bills will soon face reconciliation, the intent is to give US EPA more authority to review chemicals in commerce, strengthen the safety standard, and strengthen protections for the most vulnerable. Passage of a federal bill would create a cohesive, effective national chemical management system that will give consumers, retailers, manufacturers, public health advocates and regulators across all 50 states the kind of predictability, consistency, and certainty that the national marketplace needs, while also strengthening oversight and providing Americans with more confidence in the safety of chemicals.

In short, it provides a robust, national chemical regulatory system that responds to the concerns that SB 111 attempts to address. For the above listed reasons, ACC urges you to oppose SB 111. Thank you for the opportunity to provide these comments.