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How chemical industry hoodwinked California Legislature

By John Diaz | May 16, 2015 | Updated: May 18, 2015 5:50pm

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Grant David Gillham, former legislative staffer and veteran political consultant, knows how to work the system. Three major manufacturers of fire retardants went to the right person in 2007 when they enlisted him to help defeat legislation that would ban two classes of retardants believed to cause cancer.

“This sent shock waves through the chemical industry,” Gillham said of the proposal. “I was on the phone with CEOs pleading for help.”

Their instructions to him: Don’t worry about the science, the evidence supports their position that the chemicals are safe. His job was to run a political campaign.

Oh, and by the way, he was not to reveal his association with the industry.

Now Gillham is speaking out in a big way, and his story of creating a bogus front group,

saturating the state's airwaves and mailboxes with fear — and even bringing in a physician whose testimony was later found to have been fabricated — illustrates the extent to which the legislative process can be manipulated by a well-heeled special interest with no bounds of ethics.

State Sen. Mark Leno, the San Francisco Democrat who wrote several measures on fire retardants over the past eight years, said the chemical industry's tactics were as reprehensible as anything he's seen in his 13 years in the state Capitol.

“To learn of Mr. Gillham's revelations really just confirmed what I had suspected — these guys will stop at nothing,” Leno said.

The chemical industry's main trade group, the American Chemistry Council, denied any connection with Gillham after a 2012 Chicago Tribune series exposed that the advocacy group he created, Citizens for Fire Safety, was not as it claimed, “a coalition of fire professionals, educators, community activists, burn centers, doctors, fire departments and industry leaders.” It was funded by three manufacturers who controlled 40 percent of the global market for the targeted chemicals.

As first reported by the Center for Public Integrity, Gillham now has detailed how representatives of the chemistry council were closely involved in the campaign from the moment he was interviewed in Sacramento to lead the advocacy campaign.

The industry group tried to give the impression after the expose on Citizens for Fire Safety that “this was some rogue organization run by some cowboys out west,” Gillham said.

“All the lobbyists I hired knew exactly where the money was coming from,” he told me in a phone interview. “The companies thought they were being too cute by half, I guess, to

think this was going to hoodwink anyone. A group run by Grant Gillham with a staff of two, including my puppy, just doesn't spend \$22 million (as it did in 2007) on an advocacy program. It just doesn't happen."

However, the strategy worked in California — Leno's bill to ban chlorinated and brominated fire retardants died on the Senate floor on Aug. 26, 2008 — and Citizens for Fire Safety went on to help defeat similar bills in other states.

The manufacturers' claims of the lifesaving benefits of fire retardants have been contradicted by scientific studies that suggests their flame-resisting properties are minimal, and are more than offset by their negative effect in making fires more toxic. Firefighter groups have been among the prominent advocates of Leno's bill.

One of its most egregious lobbying acts involved the testimony of Dr. David Heimbach, Seattle burn surgeon and former president of the American Burn Association, who told of treating a 7-week-old girl who was burned in a fire when a candle ignited a pillow that was not treated with fire retardants. The Chicago Tribune concluded that no such victim existed. Heimbach told the Tribune that his Sacramento testimony was "an anecdotal story rather than anything which I would say was absolutely true under oath, because I wasn't under oath."

Heimbach was paid \$240,000 from the flame retardant manufacturers.

Gillham insisted that he was not aware that the doctor was using "composite cases" instead of actual patient experiences.

"It wasn't a conspiracy to give false testimony," Gillham said. However, in March 2014, the state of Washington issued disciplinary charges against the doctor for his testimony at hearings in Washington, California and Alaska.

Gillham is again getting involved in flame-retardant legislation, but this time guided only by his conscience, and in support of Leno's new bill (SB763) to require a disclosure tag when fire retardants are used on child products ranging from bassinets to booster seats to play mats.

The manufacturers had plenty of scientists on the payroll, but they were unable to persuasively back up their claims about the safety of the fire retardants, Gillham said.

“When it came time to put up or shut up with their science, then these guys either wouldn’t do it or their science was old and dated,” Gillham said. “We spent millions of dollars on public advocacy, but they wouldn’t spend a few thousand to have their science peer-reviewed.”

Also spent is the industry’s credibility in Sacramento.

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It wasn’t a fair fight from the start

The bill: In 2007, then-Assemblyman Mark Leno, D-San Francisco, introduced AB706 to ban two classes of potentially carcinogenic fire retardants in furniture.

The response: Three fire-retardant manufacturers enlisted a Sacramento political consultant, Grant David Gillham, and set up a group called Citizens for Fire Safety to work for the defeat of Leno’s bill. Gillham revealed that he worked in close coordination with the American Chemistry Council, the industry trade group that claimed for years to have no involvement in the campaign. “They flat-out lied,” Gillham said last week.

The money: Gillham said he spent \$22 million in 2007 alone to defeat AB706.

The tactics: Highly compensated witnesses. Full-page newspaper ads, a TV and radio blitz, mailers and robocalls suggesting — disingenuously — that the bill was a threat to rules that helped reduce fire deaths by 64 percent. In fact, other rules — electrical codes, smoke detectors — played a big role.

The outcome: The bill cleared the Assembly but died on the Senate floor: 15 yes, 19 no and — shamefully — 6 senators failing to vote.

The aftermath: The possibility of banning chlorinated and brominated fire retardants has

been all but abandoned. The state, however, did adopt regulations in 2013 that no longer required them in upholstered furniture — and last year Gov. Jerry Brown signed a Leno bill that requires disclosure on furniture of whether those chemicals were present.



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