

DONATE

How Two Women Teamed Up to Take on the Chemical Industry—and Won

Earthjustice attorney Eve Gartner and scientist Arlene Blum worked together to convince the Consumer Product Safety Commission to ban an entire class of toxic flame retardants.

By [Jessica A. Knoblauch](#) | January 24, 2018



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A phone call between Earthjustice attorney Eve Gartner (left) and scientist Arlene Blum in 2011 led to breakthroughs in the effort to remove flame retardant chemicals from household items.

In the early 2000s, scientist Arlene Blum set out on a quest to reduce the amount of flame retardants in homes across America.

Research showed that these chemicals—found in many consumer products—are harmful to people and don’t protect us against most household fires. Armed with science, Blum rallied others to her side. But she was up against a powerful chemical industry willing to play dirty and spend millions to stop her. And she lost every time she tried to get flame retardants out of furniture—a common source of the chemicals.

Blum wasn’t giving up, however. She had to find another way.

That’s when she got a call from Earthjustice attorney Eve Gartner. In Blum’s retelling, that exchange in May 2011 and their subsequent partnership proved to be “transformational.”

Over the next six years, Gartner and Blum would carry out a multifaceted campaign that eventually compelled federal regulators to call for banning an entire class of flame retardants. This groundbreaking decision, if implemented and not undermined by the Trump administration, could signal a major shift in how regulators decide whether certain chemicals are safe.



Earthjustice litigator Eve Gartner has petitioned the Consumer Product Safety Commission to ban organohalogen flame retardant chemicals.

MATT ROTH / EARTHJUSTICE

First, though, Gartner and Blum had to build a solid legal case—as well as a coalition broad and strong enough to withstand the attacks of the chemical industry.

Today, flame retardants are everywhere, from sofas and sperm whales to toys and Tasmanian tree bark. They're even in our blood—showing up in about 97 percent of the U.S. population.

Back in the 1970s, manufacturers began adding flame retardants to kids' pajamas and other consumer products to address public concern over the increase in household fires caused by smoldering cigarettes.

Around the same time, Blum and her colleague Bruce Ames found that “brominated Tris,” the main flame retardant in children’s pajamas, was likely

to cause cancer. Their research, published in 1977, prompted the Consumer Product Safety Commission to swiftly ban it from children's sleepwear. The industry then switched to using a similar flame retardant, "chlorinated Tris," that Blum and Ames also found to be mutagenic. Though it was never banned, manufacturers largely agreed to stop using it in kids' pajamas.

With both chemicals restricted, Blum decided to pour her energy into her other great passion, mountaineering, and spent the next few decades atop the world's highest peaks. Along the way, she met resistance in the climbing world, which, like the chemistry world, is dominated by men. Once, when she applied to climb Denali, she was told that women could only go as far as base camp to help cook. Instead, she created her own, often women-led, expeditions.

In 2006, Blum's mountain highs were put on hold after discovering that chlorinated Tris was back in use—this time in upholstered furniture. After California passed a new law in 1975 that required furniture and children's products to be fire resistant, retailers across the country began selling products that would meet the new California standard. As a practical matter, this meant that couches and love seats, as well as children's products like strollers and changing pads, were now often manufactured with flame retardants.



Arlene Blum on a hike with her daughter.

PHOTO COURTESY OF ARLENE BLUM

But these chemicals don't stay in products for long; they migrate to the air or dust and eventually into our bodies, where they build up over time. Hundreds of studies have linked flame retardants to health impacts like cancer, sterility, thyroid disorders, developmental impairment and birth defects, even at very low doses.

Blum began recruiting top experts in toxicology and fire safety to help build the scientific case against flame retardants. She also joined with advocacy organizations to push for reforming the California fire standard.

Over the next few years, the coalition helped push several bills in the California legislature that would have reduced the unnecessary use of flame retardants. All of them were defeated by the chemical industry, which spent more than \$20 million on a lobbying effort, employing a bogus front group and false testimony about flame retardants' benefits.



Arlene Blum talks with one of her colleagues at the Green Science Policy Institute in Berkeley.

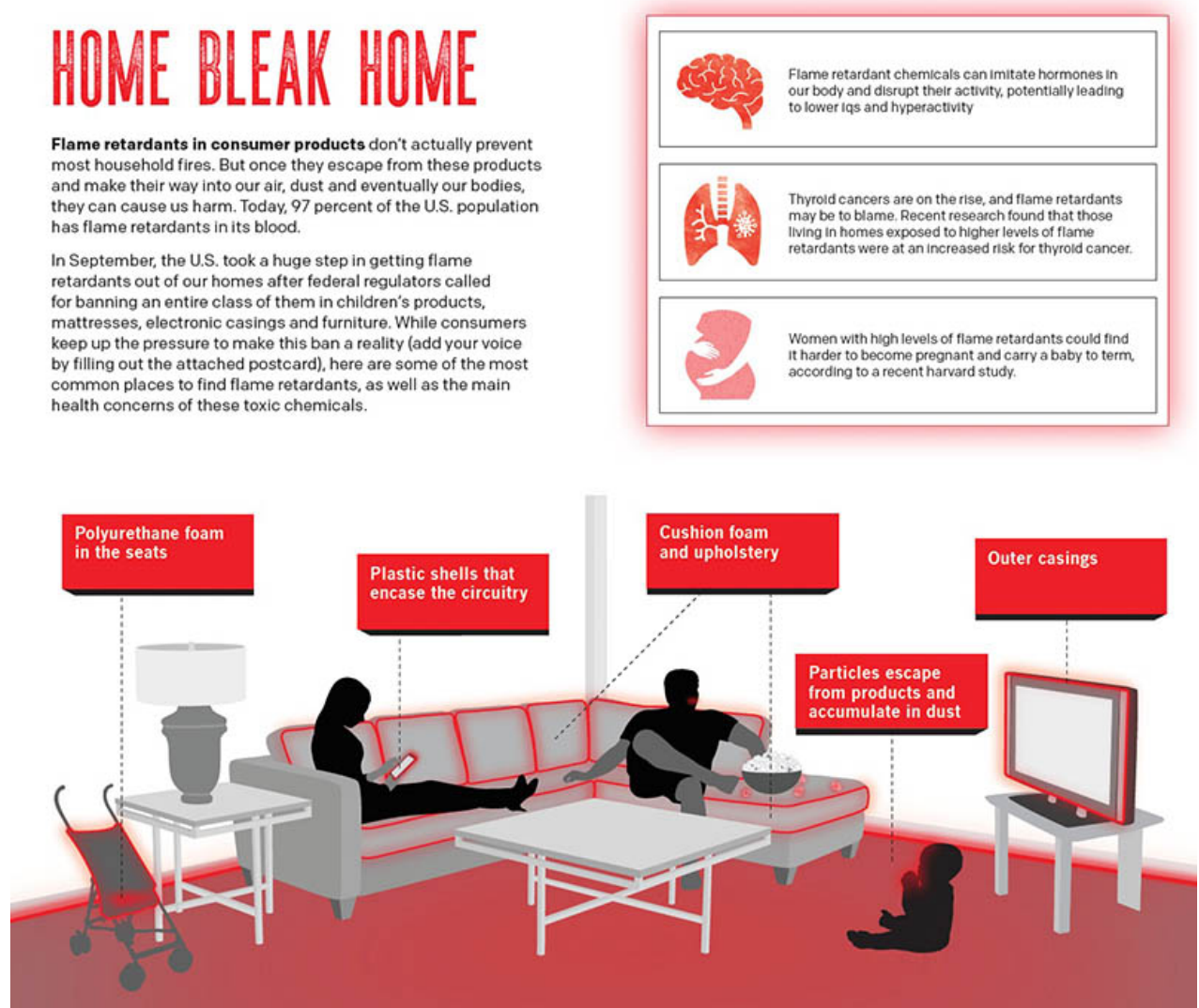
CHRIS JORDAN-BLOCH / EARTHJUSTICE

"Everything was getting defeated because of the extreme lobbying of the chemical industry," says Blum. "We needed new help."

Before coming to Earthjustice, Gartner defended reproductive rights as an attorney for groups like Planned Parenthood. At that point, “flame retardants were not on my radar,” she says.

That all changed when her new boss suggested that she look into the issue.

“I was struck by how safe medications like birth control are extensively regulated in this country,” says Gartner. “And yet toxic chemicals like flame retardants, which are truly dangerous, are essentially unregulated. I wanted to do something to address that.”



INFOGRAPHIC BY ROB CHAMBLISS

Gartner called Blum, whose name kept popping up during her research, and told her what she had discovered: They didn't need the legislature to change

the law in order to reduce the use of flame retardants. Instead, they could go directly to the regulatory agencies, which are tasked with carrying out the law by adopting specific regulations. "Eve came up with a different approach," says Blum. "And that was the beginning."

Together, they began pushing California officials to update the state's regulations so that furniture foam was no longer required to withstand an open flame for 12 seconds before igniting. This regulation, which doesn't address the vast majority of furniture fires caused by cigarettes, was what led manufacturers to douse their products with flame retardants in the first place.

In 2013, officials updated the regulation to better protect against household fires while also allowing manufacturers to meet it without using flame retardants. Earthjustice later successfully defended the new regulation in court. The same coalition then sponsored legislation in California, passed in 2014, requiring furniture manufacturers to label their products indicating whether they contain flame retardants. Both developments were huge wins for consumers, but they weren't enough. After all, not everyone has the time, money or resources to find and purchase flame-retardant-free furniture. In addition, there was no guarantee that manufacturers would stop using the chemicals. "Voluntary compliance is a great first step, but we needed to protect our most vulnerable populations," says Gartner.

It was time to push for a full-on ban. But instead of targeting the EPA, typically the go-to agency for chemical reform, Gartner and Blum set their sights on the commission that took on flame retardants in the first place.

At first, the Consumer Product Safety Commission wasn't an obvious target. The courts eventually struck down its '70s-era ban on brominated Tris in kids' pajamas, and its budget is modest compared to other agencies. But the commission best known for product recalls like the 2016 combustible Samsung Galaxy Note 7 recall is actually one of consumers' strongest defenders against unscrupulous corporations and their harmful products.

“Everyone else was focused on the EPA,” says Gartner. “But taking a step back, we realized there’s this other agency that implements statutes that are actually very protective of consumers.”



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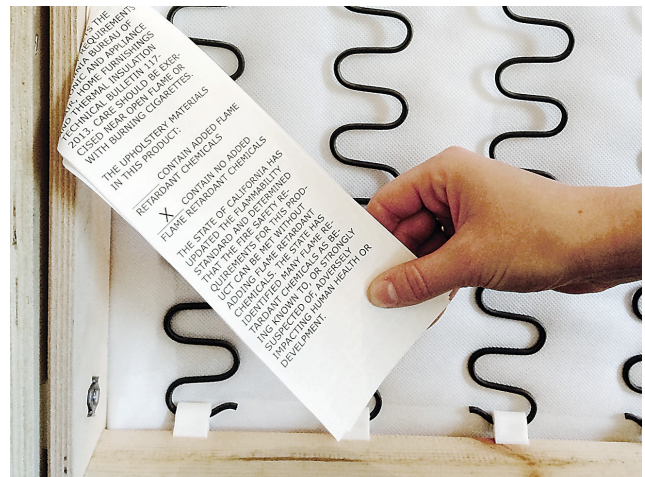
Safety on Fire

Gartner and Blum began preparing to petition the commission to ban an entire class of flame retardants known as organohalogens in four categories of consumer products: furniture, kids’ products, mattresses and electronics. To present the strongest legal case, they teamed up with Rachel Weintraub, an attorney at Consumer Federation of America, which represents hundreds of nonprofit consumer groups around the country.

By focusing on an entire class of chemicals, rather than just one type, the commission could end the industry’s decadeslong practice of swapping in one bad chemical after another.

Blum and Gartner already had the scientific data necessary to petition the commission—now they needed to build a coalition powerful enough to withstand the chemical industry’s inevitable attacks. Gartner began reaching out to different stakeholders by following the path of where these chemicals had the most impact.

That led her to groups like the League of United Latin American Citizens, or LULAC, the oldest and largest Latino civil rights organization in the U.S. Studies have found that children from low-income communities and communities of color have the highest levels of flame retardants in the U.S. She also reached out to the International Association of Fire Fighters and the Learning Disabilities Association of America, as well as Consumers Union and a workers' rights group called Worksafe.



Thanks to the coalition's advocacy work, furniture manufacturers must now disclose whether their products contain toxic flame retardants.

PHOTO COURTESY OF EDEN BRUCKMAN

Over the next year, Gartner spent countless hours working with these groups to draft and revise the petition. The work culminated with more than 50 witnesses, featuring coalition members as well as leading scientists in the field, testifying before the commission in two public hearings to call for a ban.

Professor Tom Zoeller from the University of Massachusetts described how flame retardants are like stealth bombers attacking our children's brains. Abi Zapote, of LULAC, spoke about how staying indoors as an undocumented child to avoid deportation—a common practice in her community— may have put her at greater risk of flameretardant exposure. And a union representative noted how firefighters have higher levels of flame retardants in their body than the general population, and that occupational-related cancers now account for more than half of the line-of-duty deaths each year.



Abigail Zapote, an executive with the League of United Latin American Citizens, testified against flame retardants before the Consumer Product Safety Commission.

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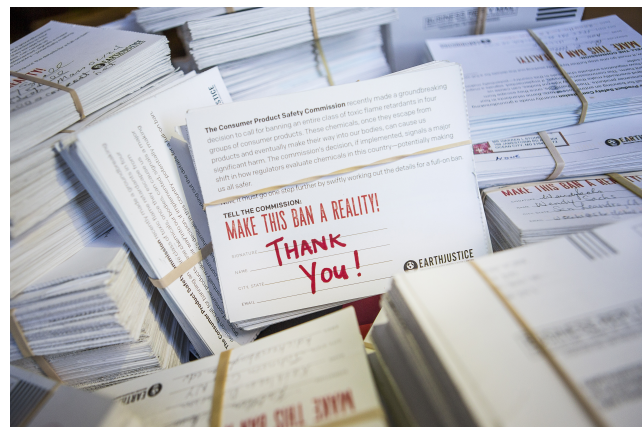
In addition to the oral testimony, Earthjustice supporters sent in more than 100,000 comments expressing their concerns over flame retardants and their wish for a ban. Meanwhile, the only witnesses at the hearings who supported the continued use of this class of flame retardants were from the chemical industry itself. "The expertise of witnesses who described the extensive harms associated with this chemical class could not be denied," says Gartner.

In September, the coalition's hard work paid off. The commission granted the petition and directed staff to move forward to ban organohalogen flame retardants in the four categories of consumer products listed in the petition. It was the first time that a federal agency had agreed to ban an entire class of chemicals in these products.

Now, the agency's staff is tasked with working out the details of a comprehensive ban. Unfortunately, President Trump is intent on disrupting that process. In September, he nominated [Dana Baiocco](#), a longtime defender of companies who sell dangerous or defective products, for a spot on the commission. If confirmed, Baiocco will be able to weigh in on whether to implement the flame-retardant ban. Currently, the coalition is asking its members to keep the pressure on the consumer agency to see through the ban.

In the meantime, consumers can reduce their exposure by choosing furniture labeled "contains no added flame retardants," urging retailers to stock only organohalogen-free products, and wet dusting or mopping frequently to reduce dust.

But as Gartner says, "We can't shop or mop our way out of this problem," adding that government regulations, in addition to market pressure, are necessary to enact real change. "We need to keep pressure on the commission to make this ban a reality."



A stack of signed petitions from Earthjustice supporters

Update: *More than 2,000 Earthjustice supporters have mailed in postcards to petition the Consumer Product Safety Commission to finalize its ban on organohalogen flame retardants. Follow the link below and sign the online petition to keep the pressure on!*

TAKE ACTION! Help enact a ban on toxic flame retardants. ►

Tags: [Flame Retardants](#), [Take on Toxics](#)