# HR 2576

Frank R. Lautenberg Chemical Safety for the 21st Century Act

**Congress:** 114 (2015–2017, Ended)
**Chamber:** House
**Policy Area:** Environmental Protection
**Introduced:** May 26, 2015
**Current Status:** Became Public Law No: 114-182.
**Latest Action:** Became Public Law No: 114-182. (Jun 22, 2016)
**Law:** 114-182 (Enacted Jun 22, 2016)
**Official Text:** https://www.congress.gov/bill/114th-congress/house-bill/2576

## Sponsor

**Name:** Rep. Shimkus, John [R-IL-15]
**Party:** Republican • **State:** IL • **Chamber:** House

## Cosponsors (16 total)

| Cosponsor | Party / State | Role | Date Joined |
|---|---|---|---|
| Rep. Pallone, Frank, Jr. [D-NJ-6] | D · NJ | | May 26, 2015 |
| Rep. Tonko, Paul [D-NY-20] | D · NY | | May 26, 2015 |
| Rep. Upton, Fred [R-MI-6] | R · MI | | May 26, 2015 |
| Rep. Green, Gene [D-TX-29] | D · TX | | Jun 2, 2015 |
| Rep. Harper, Gregg [R-MS-3] | R · MS | | Jun 2, 2015 |
| Rep. Latta, Robert E. [R-OH-5] | R · OH | | Jun 2, 2015 |
| Rep. Bilirakis, Gus M. [R-FL-12] | R · FL | | Jun 4, 2015 |
| Rep. DesJarlais, Scott [R-TN-4] | R · TN | | Jun 16, 2015 |
| Rep. Moolenaar, John R. [R-MI-4] | R · MI | | Jun 16, 2015 |
| Rep. Schweikert, David [R-AZ-6] | R · AZ | | Jun 17, 2015 |
| Rep. Schakowsky, Janice D. [D-IL-9] | D · IL | | Jun 18, 2015 |
| Rep. Schrader, Kurt [D-OR-5] | D · OR | | Jun 18, 2015 |
| Rep. Carter, Earl L. "Buddy" [R-GA-1] | R · GA | | Jun 23, 2015 |
| Rep. Richmond, Cedric L. [D-LA-2] | D · LA | | Jun 23, 2015 |
| Rep. Rush, Bobby L. [D-IL-1] | D · IL | | Jun 23, 2015 |
| Rep. Thompson, Bennie G. [D-MS-2] | D · MS | | Jun 23, 2015 |

## Committee Activity

| Committee | Chamber | Activity | Date |
|---|---|---|---|
| Energy and Commerce Committee | House | Reported By | Jun 23, 2015 |

## Subjects & Policy Tags

**Policy Area:**

Environmental Protection

## Related Bills

| Bill | Relationship | Last Action |
|---|---|---|
| 114 S 1916 | Related bill | **Oct 27, 2016:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 659. |
| 114 HRES 742 | Procedurally related | **May 24, 2016:** Motion to reconsider laid on the table Agreed to without objection. |
| 114 HR 4111 | Related bill | **May 23, 2016:** Placed on the Union Calendar, Calendar No. 452. |
| 114 S 697 | Related bill | **Jun 18, 2015:** By Senator Inhofe from Committee on Environment and Public Works filed written report. Report No. 114-67. Minority views filed. |

## Summary (as of Jun 22, 2016)

**Frank R. Lautenberg Chemical Safety for the 21st Century Act**

TITLE I--CHEMICAL SAFETY

This bill amends the Toxic Substances Control Act (TSCA) to revise the process and requirements for evaluating and determining whether regulatory control is warranted for manufacturing, distributing, processing, using, and disposing of chemicals. (For purposes of TSCA, the term “chemicals” does not include food, drugs and cosmetics.) The bill revises several provisions in TSCA, including those relating to: (1) chemical testing; (2) review and regulation of new chemicals, new uses of existing chemicals, and existing chemicals; (3) information reporting; (4) confidential business information (CBI); (5) preemption of state regulations; and (6) fees.

(Sec. 4) The bill revises TSCA requirements on testing chemicals and gives the Environmental Protection Agency (EPA) additional testing authority, including by giving the EPA the authority to develop new information for: (1) evaluating unreasonable risks to human health and the environment, (2) prioritizing the risk evaluations, and (3) implementing risk management control actions. The bill also allows the EPA to require the development of information through a consent agreement or an order as well. Currently, the EPA is limited to requiring the development of information through a rule.

When developing new information, the EPA must employ a tiered screening and testing process that uses the results of screening-level tests or assessments of available information to inform the decision as to whether additional tests are necessary. The EPA may require more advanced testing without conducting screening-level testing when other information available to the EPA justifies the advanced testing.

The EPA must: (1) reduce and replace the use of vertebrate animals in testing chemicals to the extent practicable and when scientifically justified, (2) develop a strategic plan to promote alternative test methods and strategies that reduce or replace vertebrate animals testing; and (3) ensure that the elements in the strategic plan are reflected in the development of testing requirements. Any person who voluntarily develops information under TSCA must first attempt to develop the information by an alternative test method or strategy before conducting new vertebrate animal testing.

(Sec. 5) The bill modifies the process of reviewing new chemicals and significant new uses of existing chemicals for unreasonable risks to human health or the environment. The EPA must review new chemicals or significant new uses of existing chemicals, make one of three determinations with respect to those chemicals, and take required risk management control actions.

The EPA must affirmatively make determinations before those chemicals may be manufactured or processed. During the review, the EPA: (1) may not consider costs or other nonrisk factors; and (2) must consider subpopulations that may be at a greater risk than the general population of adverse health effects from exposure to a chemical, such as infants, children, pregnant women, workers, or the elderly (potentially exposed or susceptible subpopulation).

The three risks determinations that the EPA may make are as follows. First, the EPA may determine that the new chemical or new use presents an unreasonable risk of injury to human health or the environment. If the EPA makes this determination, then it must take action to protect against the risk by issuing a rule, such as a rule that limits or prohibits the amount of the chemical that may be manufactured, processed, or distributed.

Second, the EPA may determine that: (1) the information available to the EPA is insufficient to permit a reasoned evaluation of a new chemical or new use; (2) in the absence of sufficient information, the chemical may present an

unreasonable risk; or (3) the chemical will be produced in substantial quantities and it either enters (or may be anticipated to enter) the environment in substantial quantities or there is or may be significant or substantial human exposure to the chemical. If the EPA makes any of those determinations, then it must: (1) issue an order prohibiting or limiting the manufacture, processing, distribution, use or disposal of the chemical in order to protect against an unreasonable risk of injury, and (2) consider issuing a significant new use rule or explain why the EPA will not be issuing the rule.

Third, the EPA may determine that the chemical is not likely to present an unreasonable risk. In this case, the chemical may be manufactured or processed.

If the EPA fails to make a determination by the applicable review period, then the EPA must refund applicable fees to manufactures and processors that notified the EPA of their intention to manufacture or process a chemical.

(Sec. 6) The bill: (1) revokes the requirement that the EPA must apply the least burdensome regulatory option to restrict a chemical that warrants regulation, (2) establishes a process for conducting and prioritizing risk evaluations for chemicals, and (3) revises requirements concerning risk management control actions.

Within a year after enactment of this bill, the EPA must establish a risk-based screening process and criteria for designating chemicals as high priority chemicals for risk evaluations or low priority chemicals for which risk evaluations are not warranted at the time. The process must include consideration of chemicals': (1) hazard and exposure potential (including persistence and bioaccumulation, potentially exposed or susceptible subpopulations, and storage near significant sources of drinking water); (2) conditions of use; and (3) volume. The conditions of use means the circumstances under which a chemical is intended, known, or reasonably foreseen to be manufactured, processed, or disposed of, or used.

The EPA must designate a chemical as high priority if it concludes that the chemical may present an unreasonable risk of injury to human health or the environment because of a potential hazard and a potential route of exposure under the chemical's conditions of use, including an unreasonable risk to a potentially exposed or susceptible subpopulation. If a chemical does not meet the high priority standard, then the EPA must designate it as a low priority chemical. The EPA, in making these designations, may not consider costs or other nonrisk factors.

The EPA must ensure that the time required for making a priority designation be at least nine months and no more than one year. If at the end of that period the EPA does not have sufficient information on a chemical to support a low priority designation, it must designate a chemical as high priority. The bill establishes deadlines for requirements under the risk-based screening process.

The EPA must: (1) initiate risk evaluations for all high priority chemicals; and (2) designate at least one high priority chemical upon the completion of each risk evaluation, other than a risk evaluation conducted upon the request of a manufacturer.

The EPA may revise a low priority designation for a chemical based on information provided to the EPA about the chemical.
Within 180 days after enactment, the EPA must ensure that risk evaluations are being conducted on 10 chemicals from the 2014 update to the TSCA Work Plan for Chemical Assessments (i.e. existing chemicals that the EPA has already prioritized for review).

Within three and one half years after enactment, the EPA must ensure that: (1) risk evaluations are being conducted on at least 20 high priority chemicals, and (2) designations of low priority chemicals have been made for at least 20

chemicals. At least at least 50% of all chemicals on which risk evaluations are being conducted must be drawn from the 2014 update.

The EPA must: (1) continue to designate priority chemicals in accordance with the deadlines established by the bill; and (2) conduct the evaluations to determine whether a chemical presents an unreasonable risk of injury to human health or the environment, including an unreasonable risk to a potentially exposed or susceptible subpopulation. Costs or other nonrisk factors may not be considered in the evaluations.

In designating high-priority substances, the EPA must give preference to: (1) chemicals listed in the 2014 update as having a persistence and bioaccumulation score of three, and (2) chemicals listed in the 2014 update that are known human carcinogens and have high acute and chronic toxicity.

In prioritizing and assessing metals and metal compounds, the EPA must use the Framework for Metals Risk Assessment of the Office of the Science Advisor, Risk Assessment Forum, and dated March 2007, or a successor document that addresses metals risk assessment and is peer reviewed by the EPA's Science Advisory Board.

The scope of the risk evaluation must be published within six months after initiation.

Manufacturers may request and pay for risk evaluations for chemicals. Risk evaluations requested by manufacturers must account for at least 25% of ongoing evaluation (if sufficient requests are made) and no more than 50% of ongoing evaluations. The EPA must give preference to the requests if they involve a chemical that has had a significant impact on interstate commerce due to state regulations of the chemical.

The bill establishes requirements for the EPA to follow when conducting risk evaluations, including: (1) integrating and assessing available information on hazards and exposures information; (2) describing whether aggregate or sentinel exposures to a chemical substance under the conditions of use were considered, and the basis for that consideration; and (3) describing the weight of the scientific evidence for the identified hazard and exposure.

The EPA must complete risk evaluations as soon practicable, but no later than three years after the evaluation was initiated. The deadline may be extended for six months.

If the EPA determines from the risk evaluation process that a chemical presents an unreasonable risk of injury to health or the environment, the EPA must: (1) propose a rule presenting risk management control options within a year of the risk evaluation being published, and (2) issue the rule within two years of the risk evaluation. The deadlines may be extended under certain circumstances. In selecting risk management options, the EPA must consider, to the extent practicable, the effects and magnitude of exposure, the benefits of the chemical, the reasonably ascertainable economic consequences of the rule, and the costs and benefits of the regulatory action and technically and economically feasible alternatives to that action. The EPA must apply restrictions to a chemical only to the extent necessary to address the identified risks from exposure to the chemical. The bill establishes certain exemptions and limitations from control actions.

The bill: (1) revises provisions concerning administrative procedures and the effective dates of chemical regulation; and (2) establishes a procedure requiring expedited regulatory action, to the extent practicable, that reduces exposure to certain persistent, bioaccumulative, and toxic chemicals.

(Sec. 8) The bill revises TSCA reporting requirements, including requirements concerning: (1) chemical nomenclature (systems for naming terms with respect to chemicals); and (2) small manufacturers and processors.
Within three years of enactment, the EPA must enter into negotiated rulemaking for limiting reporting requirements for

inorganic byproducts that are recycled, reused, or reprocessed.

The EPA must issue a rule within a year of this bill's enactment that requires manufacturers, and may require processors, to notify the EPA within 180 days of enactment that a chemical has been manufactured or processed during the last 10 years. The EPA must use information collected from the manufacturers and processors to categorize chemicals on the TSCA Inventory (existing chemicals of concern) list as active or inactive in commerce. Any confidential business information (CBI) claims to protect the specific identities of existing, active chemicals on the list from disclosure would need to be reaffirmed and substantiated. The EPA must maintain both a confidential and non-confidential portion of the Inventory. The bill outlines a process for reviewing those CBI claims. One year after compiling the list of active chemicals, the EPA must issue a rule that establishes a five-year plan to complete the review of CBI chemical identity claims on active chemicals.

The EPA must complete the review process in five years, but the EPA may extend the deadline by two years. The EPA must keep the designations of active and inactive chemicals on the list current.

By April 1, 2017, and every three years thereafter, the EPA must publish in the Federal Register an inventory of the supply, use, and trade of elementary mercury and mercury. The EPA must: (1) identify manufacturing processes or products that intentionally add mercury, and (2) recommend actions to achieve further reductions in mercury use.

(Sec. 9) This bill revises TSCA provision concerning relationships to other federal laws, including by requiring the EPA to provide information to relevant agencies when it obtains information about chemical exposures or releases that may be prevented or reduced under another federal law.

(Sec. 10) The bill establishes a prohibition on the exportation of certain mercury compounds as of January 1, 2020. However, the prohibition does not ban the exportation of mercury to member countries of the Organization for Economic Co-operation and Development for environmentally sound disposal. Individuals may petition the EPA to prohibit a mercury compound.

The bill amends the Mercury Export Ban Act of 2008 to extend until January 1, 2019, the date by which a facility in the Department of Energy (DOE) designated for the long-term management and storage of elemental mercury generated within the United States must be operational.

(Sec. 11) The bill revises and expands provisions relating the protection of CBI from disclosure. The bill enumerates certain categories of CBI that is presumed to be protected from disclosure.

The bill specifies certain CBI that is not protected, including information about banned or phased-out chemicals.

The bill establishes substantiation requirements that must be met in asserting claims for CBI protection. However, certain information is not subject to substantiation requirements.

The bill provides exceptions from CBI protection, including an exemption for sharing CBI information with public health or environmental officials in emergencies. The EPA must develop a request and nonfiction system to expedite access to CBI in emergencies.

EPA protection of disclosure of CBI is limited to 10 years, with extensions of 10 years.

The bill establishes: (1) requirements governing the EPA's review of CBI claims, and (2) criminal penalties for individuals who willfully discloses CBI, unless the individual is a medical professional who discloses the information for the treatment

of a patient.

(Sec. 13) The bill amends TSCA to revise requirements related to federal preemption of state statutes or administrative actions to manage risks from chemicals. Subject to exemptions, states may not establish or continue to enforce statutes or administrative actions concerning: (1) information for testing chemicals for unreasonable risks if the information is likely to produce the same information required by the EPA; (2) restrictions on, or penalties for, the manufacture, processing, or distribution in commerce or use of a chemical if the EPA determined that the chemical does not present an unreasonable risk of injury to human health or the environment, and (3) requirements for a chemical that is already subject to requirements governing significant new uses of chemicals.

The bill caps the penalties and sanctions available to states at the level available to the EPA. A state may not access a penalty for a violation for which the EPA has already assessed an adequate penalty. If a state has assessed a penalty for a specific violation, the EPA may not assess a penalty for that violation in an amount that would cause the total of the penalties assessed for the violation by the state and the EPA combined to exceed the maximum amount that may be assessed for that violation by the EPA.

The bill sets forth effective dates after which states may not establish statues, criminal penalties, or administrative actions creating prohibitions or other restrictions concerning high priority chemicals. Preemption begins when the EPA defines the scope of a risk evaluation and ends on the earlier date between: (1) the expiration of the deadline for completing the risk evaluation, or (2) the publication of the risk evaluation.

The bill preserves certain state requirements, rights, causes of actions, and remedies from being preempted by EPA actions under TSCA. State actions taken before August 22, 2016, or taken under state laws in effect on August 31, 2003, are exempted from preemption.

(Sec. 14) The bill revises judicial review under TSCA, including by permitting review in the U.S. Court of Appeals for the District of Columbia Circuit of a designation of a chemical as a low priority substance.

Low priority determinations may be challenged within 60 day of publication.

(Sec. 17) The bill revises and expands the EPA's authority under TSCA to collect fees from chemical manufacturers or processors to defray the costs of the bill. The amounts generated by the fee must be deposited in the TSCA Service Fee Fund established by this bill. The EPA's authority to collect fees terminates after 10 years.

At the beginning of each year, the EPA must publish an annual plan and report concerning risk evaluations.

(Sec. 21) The bill amends the Public Health Service Act to provide for the investigation of potential cancer clusters.

Title II -- RURAL HEALTHCARE CONNECTIVITY

**Rural Healthcare Connectivity Act of 2016**

(Sec. 202) This bill amends the Communications Act of 1934 to include skilled nursing facilities among the types of health care providers who may request from a telecommunications carrier under the Universal Service Fund the necessary telecommunications and information services to serve persons who reside in rural areas at rates that are reasonably comparable to rates charged for similar services in urban areas.

## Actions Timeline

- **Jun 22, 2016:** Signed by President.
- **Jun 22, 2016:** Became Public Law No: 114-182.
- **Jun 14, 2016:** Presented to President.
- **Jun 7, 2016:** Measure laid before Senate by unanimous consent. (consideration: CR S3511-3525)
- **Jun 7, 2016:** Resolving differences -- Senate actions: Senate agreed to the House amendment to the Senate amendment by Voice Vote.(consideration: CR S3523)
- **Jun 7, 2016:** Senate agreed to the House amendment to the Senate amendment by Voice Vote. (consideration: CR S3523)
- **Jun 7, 2016:** Message on Senate action sent to the House.
- **May 24, 2016:** Rule H. Res. 742 passed House.
- **May 24, 2016:** ORDER OF PROCEDURE - Mr. Shimkus asked unanimous consent that the question of adopting a motion to concur in the Senate amendment to H.R. 2576 with an amendment may be subject to postponement as though under clause 8 of rule XX. Agreed to without objection.
- **May 24, 2016:** MOTION OFFERED - Pursuant to the provisions of H. Res. 742, the Chair recognized Mr. Shimkus for a motion.
- **May 24, 2016:** Mr. Shimkus moved that the House concur in the Senate amendment with an amendment. (consideration: CR H2989-3031; text: CR H2989-3007)
- **May 24, 2016:** DEBATE - The House proceeded with one hour of debate on the motion to concur in the Senate amendment with an amendment.
- **May 24, 2016:** The previous question was ordered pursuant to the rule. (consideration: CR H3031)
- **May 24, 2016:** POSTPONED PROCEEDINGS - At the conclusion of debate on the motion to concur in the Senate amendment with an amendment, the Chair put the question on adoption of the motion and by voice vote announced that the ayes had prevailed. Mr. Pallone demanded the yeas and nays and the Chair postponed further proceedings on the question of adoption of the motion until a time to be announced.
- **May 24, 2016:** Considered as unfinished business. (consideration: CR H3046-3047)
- **May 24, 2016:** Resolving differences -- House actions: On motion that the House agree with an amendment to the Senate amendment Agreed to by the Yeas and Nays: 403 - 12 (Roll no. 238).(text as House agreed with an amendment to the Senate amendment: CR H3007-3025)
- **May 24, 2016:** On motion that the House agree with an amendment to the Senate amendment Agreed to by the Yeas and Nays: 403 - 12 (Roll no. 238). (text as House agreed with an amendment to the Senate amendment: CR H3007-3025)
- **May 24, 2016:** Motion to reconsider laid on the table Agreed to without objection.
- **May 24, 2016:** Message on House action received in Senate and at desk: House amendment to Senate amendment.
- **May 23, 2016:** Rules Committee Resolution H. Res. 742 Reported to House. Resolution provides for consideration of H.R. 897 and the Senate amendment to H.R. 2576.
- **Dec 18, 2015:** Message on Senate action sent to the House.
- **Dec 17, 2015:** Measure laid before Senate by unanimous consent. (consideration: CR S8781-8782)
- **Dec 17, 2015:** Passed/agreed to in Senate: Passed Senate with an amendment by Voice Vote.
- **Dec 17, 2015:** Passed Senate with an amendment by Voice Vote.
- **Jul 8, 2015:** Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 143.
- **Jun 24, 2015:** Received in the Senate.
- **Jun 23, 2015:** Reported (Amended) by the Committee on Energy and Commerce. H. Rept. 114-176.
- **Jun 23, 2015:** Placed on the Union Calendar, Calendar No. 131.
- **Jun 23, 2015:** Mr. Shimkus moved to suspend the rules and pass the bill, as amended.
- **Jun 23, 2015:** Considered under suspension of the rules. (consideration: CR H4551-4560)
- **Jun 23, 2015:** DEBATE - The House proceeded with forty minutes of debate on H.R. 2576.
- **Jun 23, 2015:** At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.
- **Jun 23, 2015:** Considered as unfinished business. (consideration: CR H4581-4582)
- **Jun 23, 2015:** Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 398 - 1 (Roll no. 378).(text: CR H4551-4556)

**Jun 23, 2015:** Motion to reconsider laid on the table Agreed to without objection.

- **Jun 23, 2015:** On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 398 - 1 (Roll no. 378). (text: CR H4551-4556)
- **Jun 3, 2015:** Committee Consideration and Mark-up Session Held.
- **Jun 3, 2015:** Ordered to be Reported (Amended) by the Yeas and Nays: 47 - 0.
- **Jun 2, 2015:** Committee Hearings Held.
- **Jun 2, 2015:** Committee Consideration and Mark-up Session Held.
- **May 26, 2015:** Introduced in House
- **May 26, 2015:** Referred to the House Committee on Energy and Commerce.