92D CONGRESS
1ST SESSION

H. R. 8576

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1971

Mr. RYAN introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To prohibit the introduction or delivery for introduction into commerce of the chemical compound known as polychlorinated biphenyl.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of this Act—

(1) The term "commerce" means commerce between any State and to or through any place outside thereof; or within any territory or possession of the United States or the District of Columbia; or from a foreign country to any State.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

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the Virgin Islands, American Samoa, Guam, the Canal Zone, and the Trust Territory of the Pacific Islands.

(3) The term "person" means any private person or entity, any officer, department, agency, or instrumentality of any State or local unit of government, and any officer, department, agency, or instrumentality of the Federal Government.

(4) The term "Secretary" means the Secretary of Health, Education, and Welfare.

SEC. 2. (a) Except as provided in subsection (b) of this section, no person shall introduce or deliver for introduction into commerce any polychlorinated biphenyl.

(b) The Secretary may exempt from subsection (a) of this section, under such conditions and restrictions as he may prescribe by regulation, any polychlorinated biphenyl for use as the dielectric fluid in capacitors, as the coolant in transformers, or as a fire-resistant ingredient in heat transfer media.

SEC. 3. (a) The Secretary shall prescribe regulations, with respect to any polychlorinated biphenyl exempted pursuant to section 2(b) of this Act, to prevent—

(1) any occupational safety and health hazards to employees engaged in the manufacture or handling of such polychlorinated biphenyl or product containing such polychlorinated biphenyl; and

(2) any environmental hazards present in the man-

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ufacture, transportation, or disposal of such polychlorinated biphenyl or product containing such polychlorinated biphenyl.

(b) Nothing in this section shall affect the applicability of the provisions of the Occupational Safety and Health Act of 1970.

(c) (1) Any person who manufactures or receives any polychlorinated biphenyl in commerce shall prepare, compile, and maintain at his principal place of business for such period of time as the Secretary shall specify such records as the Secretary may reasonably request with respect to the quantity of any polychlorinated biphenyl produced each year, the quantity of any polychlorinated biphenyl introduced, delivered for introduction, received, or held for sale or use, in commerce, each year, and the disposal of any polychlorinated biphenyl.

(2) Upon demand by any duly designated officer or employee of the Department of Health, Education, and Welfare during business hours of any business day, each such person shall grant to such officer or employee access to all such records to inspect, analyze the contents of, and make copies of, any of the papers contained in or constituting a part of such records.

SEC. 4. (a) The Secretary is authorized to conduct

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examinations, inspections, and investigations for the purposes of this Act.

(b) For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which any polychlorinated biphenyl is manufactured, processed, or held for introduction into commerce or is held after such introduction, or to enter any vehicle being used to transport or hold such polychlorinated biphenyl in commerce; and (2) to inspect, at reasonable times, within reasonable limits, and in a reasonable manner, such factory, warehouse, establishment, vehicle, any pertinent equipment, and finished or unfinished materials. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

SEC. 5. It shall be unlawful for any person—

(1) to violate section 2;

(2) to fail to permit entry or inspection as authorized by section 4 (b) or to permit access to and copying of any record as authorized by section 3 (c);

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(3) to violate the provisions of any regulation authorized to be issued by section 3(a).

SEC. 6. (a) Any person who violates any provision of section 5 of this Act shall be subject to a civil penalty of not to exceed $25,000 for each such violation, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of a violation, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum owing by the United States to persons charged or may be recovered in a civil action in the United States district courts.

(b) (1) Any person who knowingly or willfully violates any provision of section 5 of this Act shall be guilty of a misdemeanor and shall be fined not more than $5,000 or be imprisoned not more than one hundred and eighty days, or both.

(2) Whenever any corporation knowingly or willfully violates any provision of section 5 of this Act, such corpora-

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tion, and any individual director, officer, or agent of such corporation who knowingly or willfully authorized, ordered, or performed any of the acts or practices constituting such violation shall be guilty of a misdemeanor and shall be fined not more than $5,000 or imprisoned not more than one hundred and eighty days, or both.

(c) The United States district courts shall have jurisdiction, for cause shown, to restrain violations of this Act. Actions under this subsection may be brought in any United States district court for the district in which any act, omission, or transaction constituting the violation occurred or in the district in which the defendant is found or transacts business, and process in such cases may be served in any district of which the defendant is an inhabitant or wherever the defendant may be found.

SEC. 7. The consignee or owner of any polychlorinated biphenyl entered or withdrawn from warehouse shall give suitable bond, to be determined by the Secretary of the Treasury, to assure that such polychlorinated biphenyl will be used only for the purposes exempted by the Secretary pursuant to the provisions of section 2 (b) of this Act.

SEC. 8. The provisions of this Act shall first take effect ninety days after the date of its enactment.

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