

Following is an abstract of Senate Bill (S.426). This abstract is approximately one-fourth of the total bill. Many important provisions were omitted to save space. For a copy of the complete bill call or write your Congressman.

93D CONGRESS
1st SESSION

N11689

S. 426

IN THE SENATE OF THE UNITED STATES

JANUARY 18, 1973

Mr. Byrd of West Virginia for Mr. Magnuson (for himself, Mr. Tunney, and Mr. Hart) introduced the following bill: which was read twice and referred to the Committee on Commerce.

A BILL

To regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Toxic Substances Control Act of 1973".

DECLARATION OF POLICY

SEC. 2 (b) It is the policy of the United States that —

(1) new chemical substances and hazardous or potentially hazardous existing chemical substances should be adequately tested with respect to their safety to man and the environment and that such testing should be the responsibility of those who produce such chemicals;

(2) adequate authority should exist to restrict the distribution and use of chemical substances found to pose an unreasonable threat to human health or the environment, and to seize chemical substances that pose imminent hazards;

(4) as set forth herein, citizens should be encouraged to participate in carrying out the purposes of this title.

DEFINITIONS

SEC. 3 As used in this title the term —

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

which is first produced after the effective date of any regulation promulgated pursuant to section 4 of this Act which is applicable to such substance;

(4) "existing chemical substance" means any chemical substance which has been produced in commercial quantities before the effective date of any regulation promulgated pursuant to section 4 of this Act which is applicable to such substance;

(14) "laboratory reagent" means any chemical substance produced, distributed, or used for scientific experimentation or chemical research or analysis.

TEST STANDARDS

SEC. 4 (a) Within one year after enactment of this Act and from time to time thereafter, the Administrator shall issue proposed regulations (i) for such test protocols for various chemical substances or classes of chemical substances and (ii) for the results that must be achieved therefrom, as are necessary to protect health and environment. Such regulations shall apply to all chemical substances which are produced in commercial quantities, except that the Administrator shall not propose regulations for those chemical substances or classes of chemical substances which (1) in his judgment, are of no unreasonable environmental or public health threat, or (2) are more efficiently controlled through the regulation of their components. To the extent feasible, such regulations shall indicate the use or distribution of a chemical substance which will be permitted upon and only upon the attainment of specified test results.

(c) Such test protocols may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative properties of the substance, the synergistic properties of the substance and other types of hazards, and epidemiological studies of the effects of the chemical substance.

PREMARKET SCREENING OF NEW CHEMICAL SUBSTANCES

SEC. 5 (a) After the effective date of initial regulations promulgated pursuant to section 4 of this Act any manufacturer of a new chemical substance to which such regulations are applicable shall submit to the Administrator, at least ninety days in advance of the commercial production of such substance, the test data developed in accordance with the regulations issued pursuant to section 4 of this Act for the intended use or distribution of such substance. Subject to section 6 of this Act, the Administrator shall promptly publish in the Federal Register the identity of such chemical substance, the use or distribution intended, and a statement of the availability of test data. Any subsequent manufacturer of a new chemical substance for which test data have been furnished to the Administrator under this subsection or any subsequent manufacturer of a new chemical substance falling within a class of chemical substances specified in regulations promulgated under section 4 of this Act for which test data have been furnished to the Administrator, shall not be required to furnish test data which are duplicative of data submitted previously by another manufacturer.

(b) If warranted by data or the absence of data available to him, the Administrator may propose by regulation to restrict the use or distribution of any such substance in accordance with section 7 of this Act.

EXISTING CHEMICAL SUBSTANCES

SEC. 6 (a) The Administrator shall issue, within one year after the enactment of this Act and from time to time thereafter, proposed regulations specifying those existing chemical substances or classes of existing substances the manufacture, processing, distribution, use, or disposal of which there is reason to believe may pose an unreasonable threat to human health or the environment. Concurrently with each proposal to

previously done so, which are applicable to each existing chemical substance so specified. On or before the effective date of any applicable regulations under section 4 of this Act any manufacturer of an existing chemical substance shall furnish the test data developed in accordance with such regulations to the Administrator. Subject to section 16 of this Act, the Administrator shall, upon receipt of such test data from a manufacturer, promptly publish in the Federal Register the identity of such existing chemical substance, the uses to which the substance is put, and a statement of the availability of test data.

(b) Manufacturers of existing chemical substances for which testing is required under subsection (a) of this section shall not be required to submit test data which would duplicate applicable test data submitted previously by other manufacturers. Such chemical substances and the manufacturers thereof shall be subject to all other provisions of this Act.

(c) Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a use or distribution to which a regulation under section 4 of this Act is applicable and with respect to which the Administrator has not received test data for such use of distribution pursuant to subsection (a), the manufacturer shall be required to follow the procedures of this section notwithstanding the fact that no objection has been raised to other uses. Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a new use following the effective date of a regulation under section 4 of this Act applicable to such use, the manufacturer shall be required to follow the procedures of section 5 of this Act before such substance may be commercially produced for such use or distribution.

RESTRICTIONS ON USE OR DISTRIBUTION

SEC. 7 (a) If warranted by data available to him, or in the absence of acceptable test data required under sections 5 or 6 of this Act, the Administrator may propose by regulation (1) to restrict the use or distribution of any chemical substance to the extent necessary to protect health and the environment; (2) to require that any or all persons engaged in the distribution of the chemical substance so regulated give notification to purchasers or other recipients of the substance of such restrictions in such form and manner as the Administrator determines is necessary to protect health and the environment including labeling requirements on such chemical substances or products containing such substances with appropriate warning provisions and directions for use and disposal; and (3) to require such other action as may be necessary to carry out such restrictions including recalling such product or substance from the market.

REPORTS

SEC. 10 (a) The Administrator shall require all manufacturers of chemical substances or, where appropriate, processors to submit reports to him annually and at such more frequent times as he may reasonably require containing any or all of the following —

(1) the names of any or all chemical substances produced, imported, or processed in commercial quantities by the manufacturer or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known;

(3) the categories of use of each substance, insofar as they are known to him or are reasonably ascertainable by him;

(4) reasonable estimates of the amounts of each substance produced or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the production of each such substance, and, insofar as they are known to him or are reasonably ascertainable by him, from the processing, use, or disposal thereof.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 11 (a) This Act shall not apply to —

(1) pesticides and chemical substances used in such pesticides. . . .

(2) foods, drugs, devices, and cosmetics subject to the Federal Food, Drug, and Cosmetic Act, as amended. . . .

(3) any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission;

(7) laboratory reagents, except those which there is reason to believe the manufacture, processing, distribution, use, or disposal of which may produce an unreasonable threat to human health or the environment;

(8) tobacco and tobacco products;

PROHIBITED ACTS

SEC. 17 The following acts and the causing thereof are prohibited—

(1) the failure to comply with any final regulation or order issued by the Administrator or the Secretary of the Treasury pursuant to this title;

(2) the failure or refusal to provide information as required by sections 5, 6 or 10 of this Act;

(3) the manufacture, processing, sale, distribution, or importation into the United States of a chemical substance whenever such manufacture, processing, sale, distribution, or importation is known to be or should have been known to be for a use in violation of regulations promulgated under section 4 or 7 of this Act, and the use, including disposal, of any such substance when such use or disposal is known or should have been known to be in violation of such regulations; and

(4) the failure of any person who purchases or receives a chemical substance and who is required to be given notice of restrictions on use or distribution of such substance pursuant to paragraph (2) of section 7(a) of this Act, to comply with such restrictions on use or distribution.

PENALTIES AND REMEDIES

SEC. 18 (a) Any person willfully violating section 17 of this Act shall on conviction be fined not more than \$25,000 for each day of violation or imprisoned for not more than one year, or both.

(b) (1) Any person not willfully violating section 17 of this Act shall be liable to the United States for a civil penalty of a sum which is not more than \$25,000 for each day of violation, to be assessed by the Administrator after notice and opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

CITIZEN CIVIL ACTIONS

SEC. 19 (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy —

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any regulation or order promulgated under section 4 or 7 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20 The Environmental Protection Agency shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.