

105TH CONGRESS
1ST SESSION

S. 1317

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to expand the opportunity for health protection for citizens affected by hazardous waste sites.

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 1997

Mr. LAUTENBERG (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to expand the opportunity for health protection for citizens affected by hazardous waste sites.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Environmental Health
5 Protection Act of 1997”.

6 **SEC. 2. DEFINITIONS.**

7 (a) GENERAL DEFINITIONS.—Section 101 of the
8 Comprehensive Environmental Response, Compensation,

1 and Liability Act of 1980 (42 U.S.C. 9601) is amended
 2 by adding at the end the following:

3 “(39) ATSDR.—The term ‘ATSDR’ means the
 4 Agency for Toxic Substances and Disease Reg-
 5 istry.”.

6 (b) DEFINITIONS IN THE PUBLIC PARTICIPATION
 7 SECTION.—

8 (1) IN GENERAL.—Section 117 of the Com-
 9 prehensive Environmental Response, Compensation,
 10 and Liability Act of 1980 (42 U.S.C. 9617) is
 11 amended—

12 (A) by redesignating subsections (a)
 13 through (e) as subsections (b) through (f), re-
 14 spectively; and

15 (B) by inserting after the section heading
 16 the following:

17 “(a) DEFINITIONS.—In this section:

18 “(1) AFFECTED COMMUNITY.—The term ‘af-
 19 fected community’ means a group of 2 or more indi-
 20 viduals who may be affected by the release or threat-
 21 ened release of a hazardous substance, pollutant, or
 22 contaminant from a covered facility.

23 “(2) COVERED FACILITY.—The term ‘covered
 24 facility’ means a facility—

1 “(A) that has been listed or proposed for
2 listing on the National Priorities List;

3 “(B) at which the Administrator is under-
4 taking a removal action that it is anticipated
5 will exceed—

6 “(i) in duration, 1 year; or

7 “(ii) in cost, the funding limit under
8 section 104; or

9 “(C) with respect to which the Adminis-
10 trator of ATSDR has approved a petition re-
11 questing a health assessment or other related
12 health activity under section 104(i)(6)(B).

13 “(3) WASTE SITE INFORMATION OFFICE.—The
14 term ‘waste site information office’ means a waste
15 site information office established under subsection
16 (j).”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Title I of the Comprehensive Environ-
19 mental Response, Compensation, and Liability
20 Act of 1980 is amended—

21 (i) in section 111(a)(5) (42 U.S.C.
22 9611), by striking “117(e)” and inserting
23 “117(f)”;

24 (ii) in section 113(k)(2)(B) (42
25 U.S.C. 9613)—

1 (I) in clause (iii), by striking
 2 “117(a)(2)” and inserting
 3 “117(b)(2)”; and

4 (II) in the third sentence, by
 5 striking “117(d)” and inserting
 6 “117(e)”.

7 (B) Section 2705(e) of title 10, United
 8 States Code, is amended—

9 (i) by striking “117(e)” and inserting
 10 “117(f)”; and

11 (ii) by striking “(42 U.S.C. 9617(e))”
 12 and inserting “(42 U.S.C. 9617(f))”.

13 **SEC. 3. AGENCY FOR TOXIC SUBSTANCES AND DISEASE**
 14 **REGISTRY.**

15 (a) NOTICE TO HEALTH AUTHORITIES.—Section
 16 104(b) of Comprehensive Environmental Response, Com-
 17 pensation, and Liability Act of 1980 (42 U.S.C. 9604(b))
 18 is amended by adding at the end the following:

19 “(3) NOTICE TO HEALTH AUTHORITIES.—The
 20 President shall notify State, local, and tribal public
 21 health authorities whenever a release or a hazardous
 22 substance, pollutant, or contaminant has occurred, is
 23 occurring, or is about to occur, or there is a threat
 24 of such a release, and the release or threatened re-

1 lease is under investigation pursuant to this sec-
2 tion.”.

3 (b) AMENDMENTS RELATING TO ATSDR.—Section
4 104(i) of the Comprehensive Environmental Response,
5 Compensation, and Liability Act of 1980 (42 U.S.C.
6 9604(i)) is amended—

7 (1) in paragraph (1)—

8 (A) in the second sentence, by striking
9 “and appropriate State and local health offi-
10 cials” and inserting “the Indian Health Service,
11 and appropriate State, tribal, and local health
12 officials”;

13 (B) in subparagraphs (A) and (C), by in-
14 serting “and Indian tribes” after “States”; and

15 (C) by striking the last sentence and in-
16 serting the following flush sentence: “In a pub-
17 lic health emergency, exposed persons shall be
18 eligible for referral to licensed or accredited
19 health care providers.”;

20 (2) in paragraph (3)—

21 (A) in the matter following subparagraph

22 (C)—

23 (i) by striking the sentence beginning
24 “The profiles required”;

(ii) in the sentence beginning “The profiles prepared”, by inserting before the period at the end the following: “and of substances not on the list, but that have been detected at covered facilities (within the meaning of section 117) and are determined by the Administrator of ATSDR to pose a significant potential threat to human health due to their known or suspected toxicity to humans and the potential for human exposure to such substances at such facilities.”;

(iii) in the sentence beginning “Profiles required under”, by striking “, but no less often” and all that follows through the period at the end and inserting “if the Administrator of ATSDR determines that there is significant new information.”; and

(iv) in the last sentence, by inserting “and Indian tribes” after “States”; and

(B) by inserting after subparagraph (C) the following:

“(D) Evaluations of the cumulative effects (including synergistic effects) of other chemicals.”;

1 (3) in paragraph (4)—

2 (A) in the first sentence, by striking
3 “State officials” and inserting “State, tribal,”;
4 and

5 (B) in the second sentence, by inserting
6 “or Indian tribes” after “States”;

7 (4) in paragraph (5)(A)—

8 (A) in the first sentence, by inserting “and
9 the Indian Health Service” after “Public
10 Health Service”;

11 (B) in the second sentence, by inserting
12 after “program of research” the following:
13 “conducted directly or by such means as coop-
14 erative agreements and grants with appropriate
15 public and nonprofit institutions. The program
16 shall be”; and

17 (C) in the last sentence—

18 (i) in clause (iii), by striking “and” at
19 the end;

20 (ii) by redesignating clause (iv) as
21 clause (vi); and

22 (iii) by inserting after clause (iii) the
23 following:

24 “(iv) laboratory and other studies that can lead
25 to the development of innovative techniques for pre-

dicting organ-specific, tissue-specific, and system-specific acute and chronic toxicity associated with a covered facility; and

“(v) laboratory and other studies to determine the health effects of substances commonly found in combination with other substances, and the short, intermediate, and long-term cumulative health effects (including from synergistic impacts).”;

(5) in paragraph (6)—

(A) by striking “(6)(A) The Administrator” and all that follows through the end of subparagraph (A) and inserting the following:

“(6) HEALTH ASSESSMENTS AND RELATED HEALTH ACTIVITIES.—

“(A) REQUIREMENTS.—The Administrator of ATSDR shall perform a health assessment or related health activity (including, as appropriate, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers or any other health activity authorized in this subsection) for each covered facility (as defined in section 117(a)).”;

(B) in subparagraph (B)—

1 (i) in the first sentence, by inserting
 2 “or other health related activity” after
 3 “health assessments”;

4 (ii) in the second sentence, by insert-
 5 ing “or other health related activity” after
 6 “health assessment”; and

7 (iii) in the third sentence—

8 (I) by inserting “or other health
 9 related activity” after “health assess-
 10 ment” the first place it appears; and

11 (II) by striking “a health assess-
 12 ment” the second place it appears and
 13 inserting “the requested activity”;

14 (C) in subparagraph (C)—

15 (i) in the first sentence—

16 (I) by inserting “or other health
 17 related activity” after “health assess-
 18 ments”; and

19 (II) by striking “existing health
 20 assessment data” and inserting “data
 21 from existing health assessments or
 22 related activity”; and

23 (ii) in the second sentence, by insert-
 24 ing “or other health related activity” after
 25 “health assessments”;

(D) in subparagraph (D), by adding at the end the following: “The President and the Administrator of ATSDR shall obtain and exchange facility characterization data and other information necessary to make a public health determination sufficiently before the completion of a remedial investigation and feasibility study to allow full consideration of the public health implications of a release, but in no circumstance shall the President delay the progress of a remedial action pending completion of a health assessment or other health related activity. When appropriate, the Administrator of ATSDR shall, in cooperation with State and local health officials, provide to the President recommendations for sampling environmental media. To the extent practicable, the President shall incorporate the recommendations into facility characterization activities.”;

(E) in the first sentence of subparagraph (E), by striking “or political subdivision carrying out a health assessment” and inserting “Indian tribe, or political subdivision of a State carrying out a health assessment or related health activity”;

1 (F) in subparagraph (F)—

2 (i) by striking “(F) For the purpose
3 of health assessments” and inserting the
4 following:

5 “(F) DEFINITION OF HEALTH ASSESS-
6 MENTS.—

7 “(i) IN GENERAL.—For the purpose
8 of health assessments or related activity”;

9 (ii) in the first sentence—

10 (I) by inserting “(including chil-
11 dren and other highly susceptible or
12 highly exposed populations)” after
13 “human health”;

14 (II) by striking “existence of po-
15 tential” and inserting “past, present,
16 or future potential”;

17 (III) by striking “and the com-
18 parison” and inserting “the compari-
19 son”; and

20 (IV) by striking the period at the
21 end and inserting “and the cumulative
22 effects (including synergistic effects)
23 of chemicals.”; and

24 (iii) by striking the second sentence
25 and inserting the following:

“(ii) PROVISION OF DATA.—The Administrator shall consider information provided by State, Indian tribe, and local health officials and the affected community (including a community advisory group, if 1 has been established under subsection (g)) as is necessary to perform a health assessment or other related health activity.”; (G) in the last sentence of subparagraph (G)—

(i) by striking “In using” and all that follows through “to be taken” and inserting “In performing health assessments”; and

(ii) by inserting before the period at the end the following: “and shall give special consideration, where appropriate, to any practices of the affected community that may result in increased exposure to hazardous substances, pollutants, or contaminants, such as subsistence hunting, fishing, and gathering”; and

(H) in subparagraph (H)—

(i) in the first sentence—

1 (I) by inserting “or other health
2 related activity” after “health assess-
3 ment”; and

4 (II) by striking “each affected
5 State” and inserting “appropriate
6 State, Indian tribe, and local health
7 officials and community advisory
8 groups and waste site information of-
9 fices; and

10 (ii) in the second sentence, by insert-
11 ing “or other health related activity” after
12 “health assessment”;

13 (7) in paragraph (7)—

14 (A) by striking “pilot” each place it ap-
15 pears;

16 (B) by inserting “or other related health
17 activity” after “health assessment” each place
18 it appears; and

19 (C) in subparagraph (A), by inserting
20 “covered facilities” after the “individuals”;

21 (8) in paragraph (10)—

22 (A) by striking “two years” and all that
23 follows through “thereafter” and inserting
24 “Every 2 years”;

1 (B) by striking “and” at the end of sub-
 2 paragraph (D);

3 (C) in subparagraph (E), by striking the
 4 period at the end and inserting “; and”; and

5 (D) by adding at the end the following:

6 “(F) the health impacts on Indian tribes of
 7 hazardous substances, pollutants, and contami-
 8 nants from covered facilities.”;

9 (9) in paragraph (14)—

10 (A) by striking “distribute to the States,
 11 and upon request to medical colleges, physi-
 12 cians, and” and inserting the following: “dis-
 13 tribute—

14 “(A) to the States and local health officials,
 15 and upon request to medical colleges, medical cen-
 16 ters, physicians, nursing institutions, nurses, and”;

17 (B) by striking “methods of diagnosis and
 18 treatment” and inserting “methods of preven-
 19 tion, diagnosis, and treatment”;

20 (C) by striking the period at the end and
 21 inserting “; and”; and

22 (D) by adding at the end the following:

23 “(B) to the community potentially affected by a
 24 facility appropriate educational materials, facility-
 25 specific information, and other information on

1 human health effects of hazardous substances using
2 available community information networks, includ-
3 ing, if appropriate, a community advisory group or
4 a waste site information office established under sec-
5 tion 117.”;

6 (10) in the last sentence of paragraph (15), by
7 striking “through cooperative” and all that follows
8 through “which the Administrator” and inserting
9 the following: “through grants to, or cooperative
10 agreements or contracts with, States (or political
11 subdivisions of States) or other appropriate public
12 authorities or private nonprofit entities, public or
13 private institutions, colleges or universities (includ-
14 ing historically black colleges and universities), or
15 professional associations that the Administrator”;
16 and

17 (11) by adding at the end the following:

18 “(19) COMMUNITY HEALTH PROGRAMS.—When
19 appropriate, using existing health clinics and health
20 care delivery systems, the Administrator of ATSDR
21 shall facilitate the provision of environmental health
22 services (including testing, diagnosis, counseling,
23 and community health education) in communities
24 that—

1 “(A) may have been, or may be, subject to
2 exposure to a hazardous substance, pollutant,
3 or contaminant from a covered facility; and

4 “(B) have a medically underserved popu-
5 lation (as defined in section 330(b) of the Pub-
6 lic Health Service Act (42 U.S.C. 254b(b)) or
7 lack sufficient expertise in environmental
8 health.

9 “(20) PUBLIC HEALTH EDUCATION.—

10 “(A) IN GENERAL.—If the Administrator
11 of ATSDR considers it appropriate, the Admin-
12 istrator of ATSDR, in cooperation with State,
13 Indian tribe, and other interested Federal and
14 local officials, shall conduct health education ac-
15 tivities to make a community near a covered fa-
16 cility aware of the steps the community may
17 take to mitigate or prevent exposure to hazard-
18 ous substances and the health effects of hazard-
19 ous substances.

20 “(B) ENVIRONMENTAL MEDICAL EX-
21 PERTS.—The health education activities may
22 include providing access and referrals to envi-
23 ronmental health experts.

24 “(C) DISSEMINATION.—In disseminating
25 public health information under this paragraph

1 relating to a covered facility, the Administrator
2 of ATSDR shall use community health centers,
3 area health education centers, or other commu-
4 nity information networks, including a commu-
5 nity advisory group, a technical assistance
6 grant recipient, or a waste site information of-
7 fice established under section 117.”.

8 (b) PUBLIC HEALTH RECOMMENDATIONS IN REME-
9 DIAL ACTIONS.—Section 121(c) of the Comprehensive En-
10 vironmental Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9621(c)) is amended in the first sentence
12 by inserting after “such remedial action” the second place
13 it appears the following: “, including public health rec-
14 ommendations and decisions resulting from activities
15 under section 104(i),”.

16 (c) STUDY OF MULTIPLE SOURCES OF RISK.—

17 (1) IN GENERAL.—The Administrator of the
18 Agency for Toxic Substances and Disease Registry
19 (referred to in this subsection as “ATSDR”), in con-
20 sultation with the Administrator of the Environ-
21 mental Protection Agency, shall conduct a study re-
22 lating to the identification, assessment, and manage-
23 ment of, and response to, multiple sources of expo-
24 sure affecting or potentially affecting a community.

1 (2) COMPONENTS.—In conducting the study,
2 the Administrator of ATSDR may—

3 (A) examine various approaches to protect
4 communities affected or potentially affected by
5 multiple sources of exposure to hazardous sub-
6 stances; and

7 (B) include recommendations that the
8 President may consider in developing an imple-
9 mentation plan to address the effects or poten-
10 tial effects of exposure at covered facilities (as
11 defined in Section 117(a) of the Comprehensive
12 Environmental Response, Compensation, and
13 Liability Act of 1980 (42 U.S.C. 9617(a)).

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