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S. 1112

To protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 1999

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

A BILL

To protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes.

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 “Children’s Environ-
5 mental Protection Act”.

1 **SEC. 2. ENVIRONMENTAL PROTECTION FOR CHILDREN**
2 **AND OTHER VULNERABLE SUBPOPULATIONS.**

3 The Toxic Substances Control Act (15 U.S.C. 2601
4 et seq.) is amended by adding at the end the following:

5 **“TITLE V—ENVIRONMENTAL**
6 **PROTECTION FOR CHILDREN**
7 **AND OTHER VULNERABLE**
8 **SUBPOPULATIONS**

9 **“SEC. 501. FINDINGS AND POLICY.**

10 “(a) FINDINGS.—Congress finds that—

11 “(1) the protection of public health and safety
12 depends on individuals and government officials
13 being aware of the pollution dangers that exist in
14 their homes, schools, and communities, and whether
15 those dangers present special threats to the health
16 of children and other vulnerable subpopulations;

17 “(2) children spend much of their young lives
18 in schools and day care centers, and may face sig-
19 nificant exposure to pesticides and other environ-
20 mental pollutants in those locations;

21 “(3) the metabolism, physiology, and diet of
22 children, and exposure patterns of children to envi-
23 ronmental pollutants differ from those of adults and
24 can make children more susceptible than adults to
25 the harmful effects of environmental pollutants;

1 “(4) a study conducted by the National Acad-
2 emy of Sciences that particularly considered the ef-
3 fects of pesticides on children concluded that current
4 approaches to assessing pesticide risks typically do
5 not consider risks to children and, as a result, cur-
6 rent standards and tolerances often fail to ade-
7 quately protect children;

8 “(5) there are often insufficient data to enable
9 the Administrator, when establishing an environ-
10 mental and public health standard for an environ-
11 mental pollutant, to evaluate the special suscepti-
12 bility or exposure of children to environmental pol-
13 lutants;

14 “(6) when data are lacking to evaluate the spe-
15 cial susceptibility or exposure of children to an envi-
16 ronmental pollutant, the Administrator generally
17 does not presume that the environmental pollutant
18 presents a special risk to children and generally does
19 not apply a special or additional margin of safety to
20 protect the health of children in establishing an envi-
21 ronmental or public health standard for that pollut-
22 ant; and

23 “(7) safeguarding children from environmental
24 pollutants requires the systematic collection of data
25 concerning the special susceptibility and exposure of

1 children to those pollutants, and the adoption of an
2 additional safety factor of at least 10-fold in the es-
3 tablishment of environmental and public health
4 standards where reliable data are not available.

5 “(b) POLICY.—It is the policy of the United States
6 that—

7 “(1) the public has the right to be informed
8 about the pollution dangers to which children are
9 being exposed in their homes, schools and commu-
10 nities, and how those dangers may present special
11 health threats to children and other vulnerable sub-
12 populations;

13 “(2) each environmental and public health
14 standard for an environmental pollutant established
15 by the Administrator must, with an adequate margin
16 of safety, protect children and other vulnerable sub-
17 populations;

18 “(3) where data sufficient to evaluate the spe-
19 cial susceptibility and exposure of children (including
20 exposure in utero) to an environmental pollutant are
21 lacking, the Administrator should presume that the
22 environmental pollutant poses a special risk to chil-
23 dren and should apply an appropriate additional
24 margin of safety of at least 10-fold in establishing

1 an environmental or public health standard for that
2 environmental pollutant;

3 “(4) since it is difficult to identify all conceiv-
4 able risks and address all uncertainties associated
5 with pesticide use, the use of dangerous pesticides in
6 schools and day care centers should be eliminated;
7 and

8 “(5) the Environmental Protection Agency, the
9 Department of Health and Human Services (includ-
10 ing the National Institute of Environmental Health
11 Sciences and the Agency for Toxic Substances and
12 Disease Registry), the National Institutes of Health,
13 and other Federal agencies should support research
14 on the short-term and long-term health effects of cu-
15 mulative and synergistic exposures of children and
16 other vulnerable subpopulations to environmental
17 pollutants.

18 **“SEC. 502. DEFINITIONS.**

19 “In this title:

20 “(1) CHILD.—The term ‘child’ means an indi-
21 vidual 18 years of age or younger.

22 “(2) DAY CARE CENTER.—The term ‘day care
23 center’ means a center-based child care provider that
24 is licensed, regulated, or registered under applicable
25 State or local law.

1 “(3) ENVIRONMENTAL POLLUTANT.—The term
2 ‘environmental pollutant’ includes a hazardous sub-
3 stance subject to regulation under the Comprehen-
4 sive Environmental Response, Compensation, and
5 Liability Act of 1980 (42 U.S.C. 9601), a drinking
6 water contaminant subject to regulation under the
7 Safe Drinking Water Act (42 U.S.C. 300f et seq.),
8 an air pollutant subject to regulation under the
9 Clean Air Act (42 U.S.C. 7401 et seq.), a water pol-
10 lutant subject to regulation under the Federal Water
11 Pollution Control Act (33 U.S.C. 1251 et seq.), and
12 a pesticide subject to regulation under the Federal
13 Insecticide, Fungicide, and Rodenticide Act (7
14 U.S.C. 136 et seq.).

15 “(4) PESTICIDE.—The term ‘pesticide’ has the
16 meaning given the term in section 2 of the Federal
17 Insecticide, Fungicide, and Rodenticide Act (7
18 U.S.C. 136).

19 “(5) SCHOOL.—The term ‘school’ means an ele-
20 mentary school (as defined in section 14101 of the
21 Elementary and Secondary Education Act of 1965
22 (20 U.S.C. 8801)), a secondary school (as defined in
23 section 14101 of that Act), a kindergarten, or a
24 nursery school that is public or receives Federal
25 funding.

1 “(6) VULNERABLE SUBPOPULATION.—The
 2 term ‘vulnerable subpopulation’ means children,
 3 pregnant women, the elderly, individuals with a his-
 4 tory of serious illness, and other subpopulations
 5 identified by the Administrator as being likely to ex-
 6 perience special health risks from environmental pol-
 7 lutants.

8 **“SEC. 503. SAFEGUARDING CHILDREN AND OTHER VULNER-**
 9 **ABLE SUBPOPULATIONS.**

10 “(a) IN GENERAL.—The Administrator shall—

11 “(1) ensure that each environmental and public
 12 health standard for an environmental pollutant pro-
 13 tects children and other vulnerable subpopulations
 14 with an adequate margin of safety;

15 “(2) explicitly evaluate data concerning the spe-
 16 cial susceptibility and exposure of children to any
 17 environmental pollutant for which an environmental
 18 or public health standard is established; and

19 “(3) adopt an additional margin of safety of at
 20 least 10-fold in the establishment of an environ-
 21 mental or public health standard for an environ-
 22 mental pollutant in the absence of reliable data on
 23 toxicity and exposure of the child to an environ-
 24 mental pollutant or if there is a lack of reliable data
 25 on the susceptibility of the child to an environmental

1 pollutant for which the environmental and public
 2 health standard is being established.

3 “(b) ESTABLISHING, MODIFYING, OR REEVALUATING
 4 ENVIRONMENTAL AND PUBLIC HEALTH STANDARDS.—

5 “(1) IN GENERAL.—In establishing, modifying,
 6 or reevaluating any environmental or public health
 7 standard for an environmental pollutant under any
 8 law administered by the Administrator, the Adminis-
 9 trator shall take into consideration available infor-
 10 mation concerning—

11 “(A) all routes of children’s exposure to
 12 that environmental pollutant; and

13 “(B) the special susceptibility of children
 14 to the environmental pollutant, including neuro-
 15 logical differences between children and adults,
 16 the effect of in utero exposure to that environ-
 17 mental pollutant, and the cumulative effect on
 18 a child of exposure to that environmental pol-
 19 lutant and other substances having a common
 20 mechanism of toxicity.

21 “(2) ADDITIONAL SAFETY MARGIN.—If any of
 22 the data described in paragraph (1) are not avail-
 23 able, the Administrator shall, in completing a risk
 24 assessment, risk characterization, or other assess-
 25 ment of risk underlying an environmental or public

1 health standard, adopt an additional margin of safe-
 2 ty of at least 10-fold to take into account potential
 3 pre-natal and post-natal toxicity of an environmental
 4 pollutant, and the completeness of data concerning
 5 the exposure and toxicity of an environmental pollut-
 6 ant to children.

7 “(c) IDENTIFICATION AND REVISION OF CURRENT
 8 ENVIRONMENTAL AND PUBLIC HEALTH STANDARDS
 9 THAT PRESENT SPECIAL RISKS TO CHILDREN.—

10 “(1) IN GENERAL.—Not later than 1 year after
 11 the date of enactment of this title and annually
 12 thereafter, based on the recommendations of the
 13 Children’s Environmental Health Protection Advi-
 14 sory Committee established under section 507, the
 15 Administrator shall—

16 “(A) repromulgate, in accordance with this
 17 section, at least 3 of the environmental and
 18 public health standards identified by the Chil-
 19 dren’s Environmental Health Protection Advi-
 20 sory Committee as posing a special risk to chil-
 21 dren; or

22 “(B) publish a finding in the Federal Reg-
 23 ister that provides the Administrator’s basis for
 24 declining to repromulgate at least 3 of the envi-
 25 ronmental and public health standards identi-

1 fied by the Children’s Environmental Health
2 Protection Advisory Committee as posing a spe-
3 cial risk to children.

4 “(2) DETERMINATION BY ADMINISTRATOR.—If
5 the Administrator makes the finding described in
6 paragraph (1)(B), the Administrator shall repromul-
7 gate in accordance with this section at least 3 envi-
8 ronmental and public health standards determined
9 to pose a greater risk to children’s health than the
10 environmental and public health standards identified
11 by the Children’s Environmental Health Protection
12 Advisory Committee.

13 “(3) REPORT.—Not later than 1 year after the
14 date of enactment of this title and annually there-
15 after, the Administrator shall submit a report to
16 Congress describing the progress made by the Ad-
17 ministrator in carrying out this subsection.

18 **“SEC. 504. PROTECTING CHILDREN FROM EXPOSURE TO**
19 **PESTICIDES IN SCHOOLS.**

20 “(a) IN GENERAL.—Each school and day care center
21 that receives Federal funding shall—

22 “(1) take steps to reduce the exposure of chil-
23 dren to pesticides on school grounds, both indoors
24 and outdoors; and

1 “(2) provide parents with advance notification
2 of any pesticide application on school grounds in ac-
3 cordance with subsection (b).

4 “(b) LEAST TOXIC PEST CONTROL STRATEGY.—

5 “(1) IN GENERAL.—The Administrator shall
6 distribute to each school and day care center the
7 current manual of the Environmental Protection
8 Agency that guides schools and day care centers in
9 the establishment of a least toxic pest control strat-
10 egy.

11 “(2) LIST.—Not later than 180 days after the
12 date of enactment of this Act and annually there-
13 after, the Administrator shall provide each school
14 and day care center with a list of pesticides that
15 contain a substance that the Administrator has iden-
16 tified as a known or probable carcinogen, a develop-
17 mental or reproductive toxin, a category I or II
18 acute nerve toxin, or a known or suspected endocrine
19 disrupter as identified by the endocrine disrupter
20 screening program of the Environmental Protection
21 Agency.

22 “(3) PROHIBITION OF PESTICIDE APPLICA-
23 TION.—Effective beginning on the date that is 2
24 years after the date of enactment of this Act, any
25 school or day care center that receives Federal fund-

1 ing shall not apply any pesticide described in para-
2 graph (2), either indoors or outdoors.

3 “(4) EMERGENCY EXEMPTION.—

4 “(A) IN GENERAL.—An administrator of a
5 school or day care center may suspend the pro-
6 hibition under paragraph (3) for a period of not
7 more than 14 days if the administrator deter-
8 mines that a pest control emergency poses an
9 imminent threat to the health and safety of the
10 school or day care center community.

11 “(B) NOTICE.—

12 “(i) IN GENERAL.—Prior to exercising
13 the authority under this paragraph, an ad-
14 ministrator shall give notice to the board
15 of the school or day care center of the rea-
16 sons for finding that a pest control emer-
17 gency exists.

18 “(ii) ACTION TAKEN.—An adminis-
19 trator that exercises the authority under
20 subparagraph (A) shall report any action
21 taken by personnel or outside contractors
22 in response to the pest control emergency
23 to the board of the school or day care cen-
24 ter at the next scheduled meeting of the
25 board.

1 “(c) PARENTAL NOTICE PRIOR TO ANY PESTICIDE AP-
2 PLICATION.—

3 “(1) IN GENERAL.—An administrator of the
4 school or day care center shall provide written notice
5 to parents not later than 72 hours before any indoor
6 or outdoor pesticide application on the grounds of
7 the school or day care center.

8 “(2) CONTENTS OF NOTICE.—A notice under
9 this subsection shall include a description of the in-
10 tended area of application and the name of each pes-
11 ticide to be applied.

12 “(3) FORM.—A pesticide notice under this sub-
13 section may be incorporated into any notice that is
14 being sent to parents at the time the pesticide notice
15 is required to be sent.

16 “(4) WARNING SIGN.—

17 “(A) IN GENERAL.—An administrator of a
18 school or day care center shall post at any area
19 in the area of the school or day care center
20 where a pesticide is to be applied a warning
21 sign that is consistent with the label of the pes-
22 ticide and prominently displays the term ‘warn-
23 ing’, ‘danger’, or ‘poison’.

24 “(B) PERIOD OF DISPLAY.—During the
25 period that begins not less than 24 hours before

1 the application of a pesticide and ends not less
2 than 72 hours after the application, a sign
3 under this subparagraph shall be displayed in a
4 location where it is visible to all individuals en-
5 tering the area.

6 **“SEC. 505. SAFER ENVIRONMENT FOR CHILDREN.**

7 “(a) IN GENERAL.—Not later than 1 year after the
8 date of enactment of this title, the Administrator shall—

9 “(1) identify environmental pollutants com-
10 monly used or found in areas that are reasonably ac-
11 cessible to children;

12 “(2) create a scientifically peer reviewed list of
13 substances identified under paragraph (1) with
14 known, likely, or suspected health risks to children;

15 “(3) create a scientifically peer reviewed list of
16 safer-for-children substances and products rec-
17 ommended by the Administrator for use in areas
18 that are reasonably accessible to children that, when
19 applied as recommended by the manufacturer, will
20 minimize potential risks to children from exposure to
21 environmental pollutants;

22 “(4) establish guidelines to help reduce and
23 eliminate exposure of children to environmental pol-
24 lutants in areas reasonably accessible to children, in-

1 including advice on how to establish an integrated pest
 2 management program;

3 “(5) create a family right-to-know information
 4 kit that includes a summary of helpful information
 5 and guidance to families, such as the information
 6 created under paragraph (3), the guidelines estab-
 7 lished under paragraph (4), information on the po-
 8 tential health effects of environmental pollutants,
 9 practical suggestions on how parents may reduce
 10 their children’s exposure to environmental pollut-
 11 ants, and other relevant information, as determined
 12 by the Administrator in cooperation with the Direc-
 13 tor of the Centers for Disease Control and Preven-
 14 tion;

15 “(6) make all information created pursuant to
 16 this subsection available to Federal and State agen-
 17 cies, the public, and on the Internet; and

18 “(7) review and update the lists created under
 19 paragraphs (2) and (3) at least once each year.”.

20 **SEC. 3. ADDITIONAL REPORTING OF TOXIC CHEMICAL RE-**
 21 **LEASES THAT AFFECT CHILDREN.**

22 Section 313(f)(1) of the Emergency Planning and
 23 Community Right-to-Know Act of 1986 (42 U.S.C.
 24 11023(f)(1)) is amended by adding at the end the fol-
 25 lowing:

1 “(C) CHILDREN’S HEALTH.—

2 “(i) IN GENERAL.—With respect to
3 each of the toxic chemicals described in
4 clause (ii) that are released from a facility,
5 the amount described in clause (iii).

6 “(ii) CHEMICALS.—Not later than 2
7 years after the date of enactment of this
8 subparagraph, the Administrator shall
9 identify each toxic chemical that the Ad-
10 ministrator determines may present a sig-
11 nificant risk to children’s health or the en-
12 vironment due to the potential of that
13 chemical to bioaccumulate, disrupt endo-
14 crine systems, remain in the environment,
15 or other characteristics, including—

16 “(I) any chemical or group of
17 chemicals that persists in any environ-
18 mental medium for at least 60 days
19 (as defined by half life) or that have
20 bioaccumulation or bioconcentration
21 factors greater than 1,000;

22 “(II) any chemical or group of
23 chemicals that, despite a failure to
24 meet the specific persistence or bio-
25 accumulation measuring criteria de-

scribed in subclause (I), can be reasonably expected to degrade into a substance meeting those criteria; and

“(III) lead, mercury, dioxin, cadmium, and chromium and pollutants that are bioaccumulative chemicals of concern listed in subparagraph (A) of table 6 of the tables to part 132 of title 40, Code of Federal Regulations.

“(iii) THRESHOLD.—The Administrator shall establish a threshold for each toxic chemical described in clause (ii) at a level that shall ensure reporting for at least 80 percent of the aggregate of all releases of the chemical from facilities that—

“(I) have 10 or more full-time employees; and

“(II) are in Standard Industrial Classification Codes 20 through 39 or in the Standard Industrial Classification Codes under subsection (b)(1)(B).

“(iv) ADDITIONAL FACILITIES.—If the Administrator determines that a facility other than a facility described in clause

1 (iii) contributes substantially to total re-
 2 leases of toxic chemicals described in
 3 clause (ii), the Administrator shall require
 4 that facility to comply with clause (iii).”.

5 **SEC. 4. RESEARCH TO IMPROVE INFORMATION ON THE EF-**
 6 **FECTS OF ENVIRONMENTAL POLLUTANTS ON**
 7 **CHILDREN.**

8 The Toxic Substances Control Act (15 U.S.C. 2601
 9 et seq.) (as amended by section 2) is amended by adding
 10 at the end the following:

11 **“SEC. 506. RESEARCH TO IMPROVE INFORMATION ON THE**
 12 **EFFECTS OF ENVIRONMENTAL POLLUTANTS**
 13 **ON CHILDREN.**

14 “(a) EXPOSURE AND TOXICITY DATA.—The Admin-
 15 istrator, the Secretary of Agriculture, and the Secretary
 16 of Health and Human Services shall coordinate and sup-
 17 port the development and implementation of basic and ap-
 18 plied research initiatives to examine the health effects and
 19 toxicity of pesticides (including active and inert ingredi-
 20 ents) and other environmental pollutants on children and
 21 other vulnerable subpopulations, and the exposure of chil-
 22 dren and vulnerable subpopulations to environmental pol-
 23 lutants.

24 “(b) BIENNIAL REPORTS.—The Administrator, the
 25 Secretary of Agriculture, and the Secretary of Health and

1 Human Services shall submit biennial reports to Congress
 2 describing actions taken to carry out this section.”.

3 **SEC. 5. CHILDREN’S ENVIRONMENTAL HEALTH PROTEC-**
 4 **TION ADVISORY COMMITTEE.**

5 The Toxic Substances Control Act (15 U.S.C. 2601
 6 et seq.) (as amended by section 4) is amended by adding
 7 at the end the following:

8 **“SEC. 507. CHILDREN’S ENVIRONMENTAL HEALTH PROTEC-**
 9 **TION ADVISORY COMMITTEE.**

10 “(a) ESTABLISHMENT.—The Administrator shall es-
 11 tablish a Children’s Environmental Health Protection Ad-
 12 visory Committee to assist the Administrator in carrying
 13 out this title.

14 “(b) COMPOSITION.—The Committee shall be com-
 15 prised of medical professionals specializing in pediatric
 16 health, educators, representatives of community groups,
 17 representatives of environmental and public health non-
 18 profit organizations, industry representatives, and State
 19 environmental and public health department representa-
 20 tives.

21 “(c) DUTIES.—Not later than 2 years after the date
 22 of enactment of this title and annually thereafter, the
 23 Committee shall develop a list of standards that merit re-
 24 evaluation by the Administrator in order to better protect
 25 children’s health.

1 “(d) TERMINATION.—The Committee shall terminate
2 not later than 15 years after the date on which the Com-
3 mittee is established.

4 **“SEC. 508. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated such sums
6 as are necessary to carry out this title.”.

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