

107TH CONGRESS  
2D SESSION

# S. 1963

To prohibit the use of arsenic-treated lumber to manufacture playground equipment, children's products, fences, walkways, and decks, and for all other residential purposes, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2002

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To prohibit the use of arsenic-treated lumber to manufacture playground equipment, children's products, fences, walkways, and decks, and for all other residential purposes, 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,*

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4       *tives of the United States of America in Congress assembled,*

5       **SECTION 1. SHORT TITLE.**

6       This Act may be cited as the “Arsenic-Treated Resi-

7       dential-Use Lumber Prohibition Act”.

1 **SEC. 2. HAZARDOUS WASTE CLASSIFICATION.**

2       Section 3001(e) of the Solid Waste Disposal Act (42  
3 U.S.C. 6921(e)) is amended by adding at the end the fol-  
4 lowing:

5           “(3) CCA LUMBER.—

6           “(A) DEFINITIONS.—In this paragraph:

7               “(i) CCA LUMBER.—The term ‘CCA  
8 lumber’ means lumber that is treated with  
9 any pesticide that is a chromated copper  
10 arsenical.

11               “(ii) PESTICIDE.—The term ‘pes-  
12 ticide’ has the meaning given the term in  
13 section 2 of the Federal Insecticide, Fun-  
14 gicide, and Rodenticide Act (7 U.S.C.  
15 136).

16           “(B) REGULATION OF CCA LUMBER.—

17               “(i) IN GENERAL.—Notwithstanding  
18 section 261.4(b)(9) of title 40, Code of  
19 Federal Regulations (as in effect on the  
20 date of enactment of this paragraph), dis-  
21 carded CCA lumber shall be disposed of in  
22 a lined landfill with a leachate system and  
23 groundwater monitoring system.

24               “(ii) RISK ASSESSMENT.—

25                   “(I) IN GENERAL.—Not later  
26 than June 15, 2002, the Adminis-



1                             “(ii) EXEMPTIONS.—Clause (i) shall  
2                             not apply to the production of CCA lumber  
3                             used for—  
4                             “(I) railroad ties; or  
5                             “(II) piers.”.

6 **SEC. 3. ASSISTANCE TO CONSUMERS, MUNICIPALITIES,  
7                             AND SCHOOL SYSTEMS.**

8 (a) DEFINITIONS.—In this section:

9                             (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

12                             (2) CCA LUMBER.—The term “CCA lumber” means lumber that is treated with any pesticide that is an inorganic arsenical or chromated copper arsenical.

16                             (3) PESTICIDE.—The term “pesticide” has the meaning given the term in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

20 (b) EDUCATIONAL PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Administrator shall develop and conduct an educational program to assist consumers, municipalities, school systems, and other institutions in—

(1) testing arsenic levels in CCA lumber and  
soil surrounding CCA lumber; and

7 (c) ASSISTANCE FOR SCHOOLS.—Not later than 180  
8 days after the date of enactment of this Act, the Adminis-  
9 trator shall establish a pilot program to provide grants  
10 and technical assistance to school systems to assist the  
11 school systems in removing playground and other equip-  
12 ment containing CCA lumber from grounds of the school  
13 systems and conducting any necessary remediation.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated such sums as are nec-  
16 essary to carry out this section.

17 SEC. 4. PROHIBITION OF CERTAIN USES OF ARSENIC-  
18 TREATED LUMBER.

19 (a) IN GENERAL.—The Federal Insecticide, Fun-  
20 gicide, and Rodenticide Act (7 U.S.C. 136a et seq.) is  
21 amended—

22 (1) by redesignating sections 33 and 34 as sec-  
23 tions 34 and 35, respectively; and  
24 (2) by inserting after section 32 the following:

1   **“SEC. 33. PROHIBITION OF CERTAIN USES OF ARSENIC-**2                   **TREATED LUMBER.**3       “(a) **DEFINITIONS.**—In this section:4               “(1) **CCA LUMBER.**—The term ‘CCA lumber’  
5       means lumber that is treated with any pesticide that  
6       is a chromated copper arsenical.7               “(2) **MANUFACTURE.**—The ‘manufacture’, with  
8       respect to CCA lumber and items described in sub-  
9       section (b)(2)(A), includes—10               “(A) the creation of a product designed to  
11       be assembled by a consumer; and12               “(B) the building of a product on behalf of  
13       a consumer in accordance with specifications  
14       given by the consumer.15       “(b) **PROHIBITION.**—Notwithstanding any other pro-  
16       vision of law, not later than 90 days after the date of en-  
17       actment of this subsection, the Administrator shall pro-  
18       mulgate regulations that prohibit the use of CCA  
19       lumber—20               “(1) in the manufacture, production, or use of  
21       any product that may be used for or by children,  
22       including—

23                   “(A) playground equipment;

24                   “(B) fences;

25                   “(C) walkways;

26                   “(D) decks; and

1                   “(E) any other similar product, as deter-  
2                   mined by the Administrator; and

3                   “(2) for any residential purpose, as determined  
4                   by the Administrator.”.

5                   (b) CONFORMING AMENDMENT.—The table of con-  
6                   tents in section 1(b) of the Federal Insecticide, Fungicide,  
7                   and Rodenticide Act (7 U.S.C. prec. 121) is amended by  
8                   striking the items relating to sections 30 and 31 and in-  
9                   serting the following:

“Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

“Sec. 31. Environmental Protection Agency minor use program.

“Sec. 32. Department of Agriculture minor use program.

    “(a) In general.

    “(b)(1) Minor use pesticide data.

    “(2) Minor Use Pesticide Data Revolving Fund.

“Sec. 33. Prohibition of certain uses of arsenic-treated lumber.

    “(a) Definitions.

        “(1) CCA lumber.

        “(2) Manufacture.

    “(b) Prohibition.

“Sec. 34. Severability.

“Sec. 35. Authorization for appropriations.”.

