

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.

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

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,*

3 *Be it enacted by the Senate and House of Representa-*
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 trator, in consultation with the Con-
2 sumer Products Safety Commission,
3 shall publish in the Federal Register
4 an assessment of the risks posed by
5 the production and use of CCA lum-
6 ber.

7 “(II) METHODOLOGY.—In con-
8 ducting the risk assessment, the Ad-
9 ministrator shall follow the method-
10 ology recommended by the Scientific
11 Advisory Board.

12 “(C) PROHIBITION OF PRODUCTION.—

13 “(i) IN GENERAL.—As soon as prac-
14 ticable after the date of enactment of this
15 paragraph, the Administrator shall promul-
16 gate regulations that—

17 “(I) provide for the gradual ces-
18 sation of production of CCA lumber
19 by not later than the date that is 1
20 year after the date of enactment of
21 this paragraph; and

22 “(II) prohibit the production of
23 CCA lumber on and after that date.

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 “Adminis-
 10 trator” means the Administrator of the Environ-
 11 mental Protection Agency.

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

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

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

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

3 (2) making decisions relating to the contain-
4 ment and removal of CCA lumber from homes, play-
5 grounds, schools, and other facilities designed pri-
6 marily for use by children.

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; and

12 “(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.”.

