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111TH CONGRESS
1ST SESSION

H. R. 2420

To amend the Toxic Substances Control Act of 1976 to ensure a uniform Federal scheme of regulation of restrictions in the use of certain substances in electrical products and equipment in interstate and foreign commerce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2009

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Toxic Substances Control Act of 1976 to ensure a uniform Federal scheme of regulation of restrictions in the use of certain substances in electrical products and equipment in interstate and foreign commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Environmental Design of Electrical Equipment Act (EDEE) Act''.

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) assisting in meeting the essential needs of the United States for adequate supplies of electrical products and equipment is in the national interest;

(2) ensuring a uniform Federal scheme of regulation of restrictions in the use of certain substances in electrical products and equipment in interstate and foreign commerce is crucial to the economic, environmental, and social well-being of the people of the United States in the global marketplace;

(3) potential disparities among State laws and implementing regulations that may be enacted by the several States regarding the restriction of the use of substances in electrical products and equipment could create barriers to interstate commerce, domestic and foreign trade, and distort competition, and may thereby have a direct impact on the establishment and functioning of global markets; and

(4) technological and industrial innovation for electrical products and equipment can offer an improved standard of living, increased public and private sector productivity, and creation of new industries and employment opportunities, while providing for environmentally compatible production, use, and end of life disposition of such equipment.

SEC. 3. PURPOSE.

It is the purpose of this Act to enhance the economic, environmental, and social well-being of the people of the United States in the global marketplace by—

(1) ensuring efficient technological development and innovation in the manufacture of electrical products and equipment through the prevention of potential disparities among State laws and implementing regulations that may be enacted by the several States regarding the restriction of the use of toxic substances in electrical products and equipment that could create barriers to interstate commerce, domestic and foreign trade, and distort global competition; and

(2) applying the regulatory and law enforcement process and penalties of the Toxic Substances Control Act of 1976 to establish uniform Federal regulation and enforcement of toxic substances in electrical products and equipment.

SEC. 4. UNIFORM FEDERAL SCHEME OF REGULATION.

(a) Section 6 of the Toxic Substances Control Act of 1976 (15 U.S.C. 2605) is amended by adding at the end the following:

''(f) CERTAIN APPLICATIONS.—

''(1) ELECTROINDUSTRY PRODUCTS.—As used in subsection (e), the term 'electroindustry product'

means any product or equipment that is directly used to facilitate the transmission, distribution, or control of electricity, or that uses electrical power for arc welding, lighting, signaling protection and communication, or medical imaging, or electrical motors and generators.

''(2) NATIONAL STANDARDS.—Except for those electroindustry products and product categories set forth in paragraph (3), no electroindustry product shall be manufactured after July 1, 2010, that contains a concentration value greater than 0.1 percent by weight of lead, mercury, hexavalent chromium, polybrominated biphenyls (PBB), and polybrominated diphenyl ethers (PBDE) as measured in any homogeneous material contained in the electroindustry product, or a concentration value greater than 0.01 percent of cadmium as measured in any homogeneous material contained in the electroindustry product. For purposes of this section, 'homogeneous material' means a material of uniform composition throughout that cannot be mechanically disjointed into different materials.

''(3) ELECTROINDUSTRY PRODUCTS AND PRODUCT CATEGORIES.—The processing and/or use of the specified chemical substances in any of the following

electroindustry products and equipment shall not be subject to any restriction or requirement that is designed to protect against a risk of injury to health or the environment, and shall in no manner be restricted, by the States or any political subdivision of a State in accordance with section 2617(c)(1)(B):

''(A) Lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls, and polybrominated diphenyl ethers contained in—

''(i) products or equipment designed for use with a voltage rating of 300 volts or above;

''(ii) products or equipment used in fixed installations; [For purposes of this subsection, 'fixed installation' means a combination of equipment, systems, finished products and/or components, not including lighting equipment that encompasses lighting fixtures and lamps, assembled and/or erected by an assembler/installer at a given place to operate together in an expected environment to perform a specific task, but not intended to be placed in commerce as a single functional or commercial unit];

"(iii) signaling protection and communication systems and products, including healthcare communications and emergency call systems;

"(iv) surface transportation information management and control systems, subsystems, equipment, components, and services, including equipment used to design, install, operate, and maintain such systems;

"(v) medical diagnostic imaging and therapy equipment and devices, communications and emergency call systems and products, modular walls, consoles, systems, products, panels, meters, and monitors used in healthcare facilities;

"(vi) shunt capacitors and series capacitors;

"(vii) electro-mechanical and solid-state equipment and systems for measurement, display recording, processing, and telemetry for electricity metering and associated information;

"(viii) distribution and power transformers and special purpose transformers;

"(ix) equipment used for mounting or testing watt-hour or demand meters such as sockets, boxes, enclosures, test blocks, test tables, and test kits;

"(x) high voltage fuses, high current connectors, power circuit breakers, switchgear assemblies, surge arrestors, and insulating equipment, products, and hardware;

"(xi) steam turbine generators and units;

"(xii) electrical wire and cable products and accessories, not including fixture wires, appliance wires, and flexible cords as so classified by the National Electrical Code, by Underwriters Laboratories, Inc., or by the Canadian Standards Association;

"(xiii) electrical conduit;

"(xiv) high intensity discharge lamps;

"(xv) arc welding and plasma cutting equipment designed for industrial or professional use; or

"(xvi) arc welding and cutting equipment driven by mechanical means, e.g., a gasoline or diesel engine.

''(B) Lead when used or contained in—

''(i) steel alloys containing up to 0.35 percent lead by weight, aluminum alloys containing up to 0.4 percent lead by weight and copper alloys containing up to 4 percent lead by weight;

''(ii) solders with high melting temperatures, including lead-based alloys containing 85 percent or more lead by weight, and solders for—

''(I) die mounting in Light Emitting Diode applications;

''(II) the electrical connection within integrated-circuit flip-chip packages;

''(III) machined through-hole discoidal and planar array ceramic multilayer capacitors; and

''(IV) printed circuit board assemblies and point-to-point soldered assemblies, up to 40 percent lead by weight, and when used in transmission, distribution, power supply, or control devices designed to be installed in electrical outlet boxes and/or

switch boxes, in emergency lighting equipment, in trip units in circuit breakers, or in sensors used for lighting control;

''(iii) glass used in plasma display panels or surface conduction electron emitter displays or for flat fluorescent lamps in liquid crystal displays, or in incandescent lamps;

''(iv) finishes of fine-pitch components other than connectors with a pitch of 0.65 millimeters or less with nickel-iron lead frames or copper-lead frames;

''(v) coatings not exceeding 0.5 percent by weight for tin babbitt alloy coated sleeve bearings;

''(vi) gateway hardware between lighting controls protocols and building management protocols;

''(vii) red ink used in exit signs not exceeding 0.005 milligrams per lens;

''(viii) fluorescent lamps;

''(ix) electrical connector coatings; or

''(x) lead-bronze bearing shells and bushes.

''(C) Cadmium and its compounds when used or contained in—

''(i) electrical contacts, cadmium plating and switch contacts, including those used in thermal protectors in lighting ballasts, and luminaires containing such ballasts; or

''(ii) cadmium-copper alloys for wire conductors.

''(D) Hexavalent chromium when used or contained in electrical connectors, corrosion-prevention coatings for fasteners and metals in emergency lighting equipment or electromagnetic interference shielding, and noncurrent carrying electrical devices.

''(E) Mercury when used or contained in—

''(i) straight fluorescent lamps for general purposes, but not exceeding 10 milligrams in halophosphate lamps, 5 milligrams in triphosphate lamps with a normal lifetime, and 8 milligrams in triphosphate lamps with a long lifetime;

''(ii) straight fluorescent lamps for special purposes;

''(iii) compact fluorescent lamps equal to or greater than 9 inches;

''(iv) compact fluorescent lamps less than 25 watts, not exceeding 5 milligrams per lamp;

''(v) compact fluorescent lamps equal to or greater than 25 watts, not exceeding 6 milligrams per lamp;

''(vi) high output/very high output linear fluorescent lamps greater than 32 millimeters in diameter;

''(vii) preheat linear fluorescent lamps; or

''(viii) luminaires when containing any mercury-added lamps identified under [subsection (f)(3)(E)(i)–(vii)].

''(F) Any processing and/or use of a specified chemical substance in an electroindustry product other than those identified in this subsection as the Administrator may establish by rule.''.

(b) Section 18 of the Toxic Substances Control Act of 1976 (15 U.S.C. 2617) is amended by adding at the end the following:

''(c) PREEMPTION.—(1) Notwithstanding any other provision of this section, no State or political subdivision of a State may, after the effective date of this Act, adopt or continue in effect any requirement that is designed to protect against a risk of injury to health or the environment—

''(A) for any electroindustry product as defined in section 2605(f)(1) that is inconsistent with or more stringent than the national standards set forth in section 2605(f)(2); or

''(B) that is applicable to the processing and/or use of the specified chemical substances in any of the electroindustry products or electroindustry product categories set forth in section 2605(f)(3).

''(2) Upon application of a State or political subdivision of a State, the Administrator may, by rule, exempt from section 2605(f)(3), under such conditions as may be prescribed in such rule, a requirement of such State or political subdivision designed to protect against an unreasonable risk of injury to health or the environment associated with any of the uses of any chemical substance, mixture, or article containing such chemical substance or mixture specified in section 2605(f)(3) if—

''(A) compliance with the requirement would not cause the processing, distribution in commerce,

or use of the substance, mixture, or article to be in violation of the Act; and

''(B) the State or political subdivision requirement does not, through difficulties in manufacturing, marketing, distribution, or other factors, unduly burden interstate commerce, or does not lessen the reliability of an electrical grid or of any product or system which is the subject of any such requirement of a State or political subdivision of a State.

''(3) Compliance with the national standards set forth in section 2605(f)(2) may be demonstrated based on any appropriate method for a particular electroindustry product, including without limitation, certifications of compliance by product manufacturers or testing performed in accordance with the guidelines promulgated by the Administrator under this subsection. The Administrator shall, within one year from the effective date of this Act, promulgate guidelines establishing test procedures for determining the concentration of lead, mercury, hexavalent chromium, cadmium, polybrominated biphenyls (PBB) and/or polybrominated diphenyl ethers (PBDE) contained in an electroindustry product.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

For fiscal year 2009, there is authorized to be appropriated $1,000,000 for the Administrator to implement the provisions of this Act.

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