

# CSG SSL Committee - 02-38A-14 – Reject Inclusion of Vermont Senate Bill 239/Act 188

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December 7, 2016

Co-Chair: Representative Helene M. Keeley

Co-Chair: Representative Kim Koppelman

Vice Chair: Mr. Jerry L. Bassett

Cc: CSG SSL Committee

**RE: CSG SSL Committee - 02-38A-14 – Reject Inclusion of Vermont Senate Bill 239/Act 188**

Dear Co-Chairs Keely and Koppelman & Members of CSG SSL Committee:

On behalf of the following organizations we ask that you **REJECT** inclusion of Vermont SB 239/Act 188 (Docket # 02-38A-14) in the suggested state legislation documents for the following reasons:

**The Bill is NOT CLEAR - it has Not Yet Been Implemented & had to be Amended Last Year**

- The requirements of Vermont SB 239/ACT 188 have not yet been fully implemented (first effective Date - January 1, 2017), and have not been proven to be a successful or beneficial program for the State of Vermont. It is premature to suggest this approach as a potential model for other states.
- Due to confusion and conflicts within the original Vermont law (Act 188 <http://legislature.vermont.gov/statutes/chapter/18/038A>) the Legislature was forced to amend the law in two different ways during the last session that concluded in May 2016:
  - Key definitions were amended to address flaws in the underlying law - Via Act 158 (See here: <http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT158/ACT158%20As%20Enacted.pdf> at pages 101 and 102)
  - Changes were made to the effective date for reporting due to problems with the development of a database in (See here: <http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT154/ACT154%20As%20Enacted.pdf>) at pages 19-20)

**The Bill/Issue Has BEEN ADDRESSED by Pending Federal Regulations and Landmark New Federal Law**

- Since consideration for SSL in May 2016, the Lautenberg Chemical Safety Act (LCSA) was signed into law by President Obama on June 22, 2016. This new law has fundamentally reformed the Toxic Substances Control Act (TSCA). It was the flaws in TSCA that Vermont SB 239/ACT 188 was attempting to address. The U.S. EPA now is aggressively

implementing the LCSA and its actions on specific chemicals will have preemptive effect on many of the decisions that could be made under Vermont SB 239/ACT 188 and other similar laws.

- Vermont SB 239/ACT 188 helps create a patchwork of state regulations that are inconsistent with international, federal or other state requirements making compliance difficult and costly and which could be preempted by the LCSA.
- The undersigned concerned parties, support appropriate and strong chemical regulations, and we believe it is in the best interest of consumers that those regulations are maintained at the federal level under the LCSA. Proposals such as Vermont SB 239/ACT 188, do not consider the impact of the LCSA and the existing robust safety system for products sold in this country, and will create an unnecessary burden on companies – with no measurable increase in safety.

**The Bill/Law is NOT PRACTICAL- Vermont Senate Bill 239/Act 188 Does Not Align With Existing Laws in Other States and is Costly**

- VT SB 239/Act 188 is not a unique state law related to children's products. WA, ME, OR and MN all have established laws related to children's products that differ from the approach in VT SB 239/ACT 188 and were passed into law prior to VT SB 239/ACT 188.
- VT SB 239/Act 188 is also inconsistent with a recently passed law in Oregon regulating children's products, which is still being implemented.
- VT SB 239/Act 188 would have states create a new program to collect much of the same data on children's products which is already publicly available via a WA State website, and will be further available on Vermont and Oregon websites in coming years.
- In other states that are attempting to implement legislation addressing similar issues, there have been significant costs for both the government and businesses.

**Vermont Senate Bill 239/Act 188 Is NOT BENEFICIAL to State Agencies, Drafters and is Not Based on Sound Science**

- Vermont SB 239/ACT 188 was contentiously debated, and ensuring compliance with this law mandates the creation of extensive data collection and submission systems, product testing, extensive staff planning which may not be practical for many state governments.
- Additionally, this approach to chemicals management is based on the premise that the mere presence of a chemical with certain hazardous traits automatically creates a safety concern. Rather, safety assessments that consider exposure and harm are the key to ensuring that products are safe when used by children and consumers. Safety assessments are necessary to ensure that products are safe for use and existing federal and international regulatory structures already ensure that products are reviewed in this manner.
- Policies that seek to provide public information and/or restrict the use of certain chemicals or products must be based on credible, safety-based science and should include full consideration of the level of exposure and potential harm.

**Concerns Shared by the Following Organization:**

**Alliance of Automobile Manufacturers  
American Cleaning Institute  
American Forest & Paper Association  
American Fuel & Petrochemical Manufacturers  
Consumer Specialty Products Association  
Expanded Polystyrene Industry Alliance  
Food Marketing Institute  
International Sleep Products Association  
Juvenile Products Manufacturers Association  
National Council of Textile Organizations  
National Tank Truck Carriers  
Pine Chemicals Association International  
Product Management Alliance  
Society of Plastics Industry  
Styrene Information & Research Center  
Toy Industry Association**

**American Chemistry Council  
American Coatings Association  
American Wood Council  
Auto Care Association  
Consumer Technology Association  
Flexible Packaging Association  
Grocery Manufacturers Association  
International Wood Products Association  
National Black Chamber of Commerce  
National Electrical Manufacturers Assoc.  
Oregon Women in Timber  
Polyurethane Manufacturer's Association  
Responsible Industry Sound Environment  
Specialty Graphic Imaging Association  
The Carpet & Rug Institute**