

112TH CONGRESS
1ST SESSION

H. R. 3457

To require ingredient labeling of certain consumer cleaning products, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2011

Mr. ISRAEL (for himself, Mr. GRIJALVA, Mr. RYAN of Ohio, Mr. BISHOP of New York, and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require ingredient labeling of certain consumer cleaning products, 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 “Cleaning Product
5 Right to Know Act of 2011”.

6 **SEC. 2. CLEANING PRODUCTS LABELING REQUIREMENT.**

7 (a) LABELING REQUIREMENT.—Beginning 1 year
8 after the date of enactment of this Act, a cleaning product
9 manufactured for sale, offered for sale, distributed in com-
10 merce, or imported to the United States after such date

1 shall bear a label on the product's container or packaging
2 with a complete and accurate list of all the product's in-
3 gredients, including the individual ingredients in dyes, fra-
4 grances, and preservatives. Ingredients shall be listed in
5 accordance with the following:

6 (1) Each ingredient shall be listed by the name
7 assigned to it by the International Nomenclature of
8 Cosmetic Ingredients. If there is no such name, by
9 the name assigned to it by the International Union
10 of Pure and Applied Chemistry. If there is no such
11 name, the ingredient may be listed by its common
12 chemical name.

13 (2) Ingredients shall be listed in descending
14 order of predominance in the product by weight,
15 other than ingredients that constitute less than 1
16 percent of the product, which may be listed at the
17 end in any order.

18 (b) EXEMPTIONS.—

19 (1) EXEMPTION FOR UNDETECTABLE INGREDI-
20 ENTS.—The Commission may exempt from the label-
21 ing requirement an ingredient that is present in a
22 cleaning product at such low levels that detection of
23 the ingredient in the product is not technologically
24 feasible.

3 (A) IN GENERAL.—An ingredient may be
4 exempt from the labeling requirements of this
5 section if the manufacturer demonstrates to the
6 Commission that such ingredient is a trade se-
7 cret, as determined by the Commission under
8 subparagraph (D), based on a claim submitted
9 by the manufacturer under subparagraph (B).
10 An exemption for an ingredient under this
11 paragraph shall be for a period of 5 years, after
12 which the manufacturer may again submit a
13 claim for an additional 5-year exemption.

14 (B) CLAIMS OF TRADE SECRECY.—A man-
15 ufacturer making a claim that an ingredient is
16 a trade secret shall file such claim with the
17 Commission. Such claim shall contain—

18 (i) the identity of the person making
19 the claim;

20 (ii) a brief description of the informa-
21 tion for which trade secret protection is
22 being claimed;

23 (iii) the period of time for which trade
24 secret protection is claimed and a justifica-
25 tion for the period selected;

(iv) the extent to which the information is known by employees or others involved with the facility or business, and whether or not those individuals with knowledge are bound by non-disclosure agreements;

(v) the extent to which the information is known outside of the facility or business of the person, and whether or not individuals with such knowledge are bound by non-disclosure agreements;

(vi) the measures taken to restrict access to and safeguard the information, and whether or not the person plans to continue utilizing such measures;

(vii) copies of, or references to, any pertinent confidentiality determinations previously made by any public agencies;

(viii) the estimated dollar value of the claimed information to the person's facility or business, and to that person's competitors;

(ix) the amount of effort or money expended by the person's facility or business in developing the information;

(x) the ease or difficulty with which the information could be properly acquired, duplicated or reverse-engineered by others;

(xi) a description of the nature and extent of substantial harm that would be caused if the information were made public, including an explanation of the causal relationship between disclosure and the harmful effects claimed;

(xii) the signature of the person's general counsel or other executive with knowledge of the preparation of the substantiating information certifying under penalty of perjury, based upon the knowledge and belief of the signatory, that—

(I) the substantiating information is true, accurate, and complete;

(II) the information for which trade secret protection is claimed is not otherwise publicly available; and

(III) there is a reasonable basis to assert trade secret protection for the information so claimed; and

(xiii) the name, mailing address, telephone number and email address of the in-

1 individual to be contacted if any additional
2 information is needed by the Commission
3 to make a determination.

4 (C) LIMITATION.—No ingredient may be
5 claimed as a trade secret if such ingredient—

6 (i) is publicly known to be in the prod-
7 uct;

(ii) can be discovered through a standard process of reverse engineering;

10 (iii) is a hazardous substance within
11 the meaning of section 2(f) of the Federal
12 Hazardous Substances Act (15 U.S.C.
13 1261(f)); or

14 (iv) is a substance—

15 (I) meeting the criteria for cat-
16 egory 1 or category 2 for any of the
17 toxicity endpoints established by the
18 Globally Harmonized System for the
19 Classification and Labeling of Haz-
20 ardous Substances that causes an ad-
21 verse effect that has been dem-
22 onstrated in humans or other exposed
23 organisms; or

24 (II) for which the weight of evi-
25 dence (such as demonstration of an

1 adverse effect, laboratory studies, or
2 data for a chemical from the same
3 chemical class that exhibits that ad-
4 verse effect) demonstrates the poten-
5 tial for an adverse effect in humans or
6 other exposed organisms, including ac-
7 tual or potential effects of exposure to
8 the chemical substance or mixture on
9 mortality, morbidity, including car-
10 cinogenesis, reproduction, growth and
11 development, the immune system, the
12 endocrine system, the brain or nerv-
13 ous system, other organ systems, or
14 any other biological functions in hu-
15 mans or nonhuman organisms.

23 (c) TREATMENT UNDER THE FHSA.—A cleaning
24 product that is not in conformity with the labeling require-
25 ments of subsection (a) and not exempt from such require-

1 ments pursuant to subsection (b) shall be treated as a sub-
2 stance defined in section 2(p) of the Federal Hazardous
3 Substances Act (15 U.S.C. 1261(p)) for purposes of such
4 Act.

5 (d) NO EFFECT ON EXISTING LABELING REQUIRE-
6 MENTS.—Nothing in this Act shall be interpreted as hav-
7 ing any effect on any labeling requirements in effect before
8 the date of enactment of this Act as described in section
9 2(p) of the Federal Hazardous Substances Act (15 U.S.C.
10 1261(p)).

11 (e) RULEMAKING AUTHORITY.—The Commission
12 may issue such regulations it determines necessary to pro-
13 vide for the effective enforcement of this Act, and shall
14 consult with the Administrator of the Environmental Pro-
15 tection Agency as necessary.

16 **SEC. 3. PUBLIC RIGHT TO KNOW PETITION.**

17 (a) PETITION.—Any person may submit a petition to
18 the Commission alleging that a cleaning product available
19 in interstate commerce does not satisfy the labeling re-
20 quirements of this Act.

21 (b) ACTION BY THE COMMISSION.—The Commission
22 shall notify a petitioner of the receipt of a petition within
23 30 days after receipt of such petition. The Commission
24 shall investigate the claims made by the petition and make
25 a determination as to the validity of such claims within

1 180 days after acknowledging the receipt of such petition.
2 If the Commission sustains the claim or claims made by
3 the petition, the Commission shall initiate the proper en-
4 forcement actions required by law.

5 (c) REGULATIONS.—The Commission may issue such
6 regulations as it determines necessary to require that peti-
7 tions include a reasonable evidentiary basis for the claims
8 made therein.

9 **SEC. 4. REQUIRED INTERNET DISCLOSURE.**

10 (a) MANUFACTURER DISCLOSURE.—Each manufac-
11 turer of a cleaning product shall make available in a clear
12 and conspicuous location on the website of such manufac-
13 turer, if the manufacturer maintains a website, a complete
14 list of each of the manufacturer's cleaning products' ingre-
15 dients not later than 6 months after the date of enactment
16 of this Act.

17 (b) CONTENT AND REQUIREMENTS OF DISCLO-
18 SURE.—The disclosure required by subsection (a) shall—

19 (1) name and list the product's ingredients in
20 the manner prescribed in section 3;

21 (2) be reviewed every 120 days and revised as
22 necessary to reflect changes to cleaning products;

23 (3) include the appropriate Chemical Abstract
24 Services number for each ingredient;

(5) be sortable by product, ingredient, adverse health effect, and other categories as determined by the Commission.

9 (c) COMMISSION DISCLOSURE.—Promptly after the
10 date set forth in subsection (a), the Commission shall pro-
11 vide on the website of the Commission a web page that
12 aggregates the information made available by manufactur-
13 ers under such subsection and that allows users to com-
14 pare products made by different manufacturers. Such web
15 page shall be reviewed every 6 months and revised as nec-
16 essary to reflect changes to cleaning products.

17 (d) LANGUAGE ACCESSIBILITY.—The disclosures re-
18 quired to be made on a website or web page subject to
19 this section shall be available in English, Spanish, and any
20 other language the Commission determines necessary to
21 ensure that users of a cleaning product in the United
22 States are informed as to the complete list of the product's
23 ingredients and potential adverse health effects.

1 SEC. 5. ENHANCED PENALTIES.

2 Section 5(c)(1) of the Federal Hazardous Substances
3 Act (15 U.S.C. 1264(c)(1)) is amended by striking
4 “\$15,000,000” and inserting “\$30,000,000”.

5 SEC. 6. REPORTING.

6 Not later than 2 years after the date of enactment
7 of this Act and every 2 years thereafter, the Commission
8 shall prepare a report on compliance with the labeling re-
9 quirement of this Act and the enforcement activities of
10 the Commission, and shall transmit such report to Con-
11 gress and make it publicly available on the Internet.

12 SEC. 7. PREEMPTION.

13 Nothing in this Act affects the right of a State or
14 political subdivision of a State to adopt or enforce any reg-
15 ulation, requirement, or standard of performance that is
16 different from, or in addition to, a regulation, require-
17 ment, liability, or standard of performance established
18 pursuant to this Act unless compliance with both this Act
19 and the State or political subdivision of a State regulation,
20 requirement, or standard of performance is impossible, in
21 which case the applicable provision of this Act shall con-
22 trol.

23 SEC. 8. DEFINITIONS.

24 In this Act:

25 (1) ADVERSE HEALTH EFFECT.—The term
26 “adverse health effect” means a chemical or bio-

1 chemical change, anatomic change, or functional im-
2 pairment, or a known precursor to such a change or
3 impairment, that—

4 (A) has the potential to impair the per-
5 formance of an anatomic structure of a vital
6 system of an organism or progeny of an orga-

7 nism;

8 (B) causes irreversible change in the home-
9 ostasis of an organism;

10 (C) increases the susceptibility of an orga-
11 nism or progeny of an organism to other chem-
12 ical or biological stressors or reduces the ability
13 of an organism or progeny of an organism to
14 respond to additional health or environmental
15 challenges; or

16 (D) affects, alters, or harms the environ-
17 ment such that the health of humans or other
18 organisms is directly or indirectly threatened.

19 (2) AIR CARE PRODUCT.—The term “air care
20 product” means a chemically formulated consumer
21 product designed to clean and freshen air or to de-
22 odorize and neutralize unwanted odors in the indoor
23 air, including solid gels, air freshener spray, an out-
24 let or battery operated air freshener, a hanging car
25 air freshener, and a potpourri product.

13 (A) any drug or cosmetics, including a per-
14 sonal care items such as toothpaste, shampoo,
15 and hand soap; or

16 (B) a product labeled, advertised, mar-
17 keted, and distributed for use only as a pes-
18 ticide, as defined by section 2(u) of the Federal
19 Insecticide, Fungicide and Rodenticide Act (7
20 U.S.C. 136(u)), including a disinfectant in-
21 tended for use solely on critical or semi-critical
22 devices as described by such section.

23 (5) COMMISSION.—The term “Commission”
24 means the Consumer Product Safety Commission.

1 (6) INGREDIENT.—The term “ingredient”
2 means a chemical in a cleaning product, including—

3 (A) a chemical that provides a technical or
4 functional effect;

5 (B) a chemical that has no technical or
6 functional effect but is present by reason of
7 having been incorporated into the cleaning
8 product as an ingredient of another chemical;

9 (C) a processing aid that is present by rea-
10 son of having been added to a cleaning product
11 during the processing of such cleaning product;

12 (D) any substance that is present by rea-
13 son of having been added to a cleaning product
14 during processing for its technical or functional
15 effect;

16 (E) any contaminant that may leach from
17 container materials or form via reactions over
18 the shelf life of a cleaning product and that
19 may be present at levels where detection is
20 technologically feasible;

21 (F) with respect to a fragrance or preserv-
22 ative, each individual component part of the
23 fragrance or preservative by its individual
24 name; and

1 (G) any individual component of a petro-
2 leum-derived, animal-derived, or other ingre-
3 dient that the Commission determines be con-
4 sidered an ingredient.