

116TH CONGRESS  
1ST SESSION

# H. R. 806

To require compliant flame mitigation devices to be used on portable fuel containers for flammable liquid fuels, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2019

Mr. THOMPSON of California (for himself, Ms. CLARKE of New York, Ms. DEGETTE, Ms. DELAURO, Mr. DUNN, Ms. ESHOO, Mr. FITZPATRICK, Mr. GALLEGO, Mr. GARAMENDI, Mr. JOYCE of Ohio, Mr. LIPINSKI, Mr. LYNCH, Mr. MARSHALL, Mr. MAST, Ms. MATSUI, Ms. PINGREE, Mr. PRICE of North Carolina, Mr. RYAN, Ms. SPEIER, Mr. SUOZZI, Mr. SWALWELL of California, and Ms. MUCARSEL-POWELL) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To require compliant flame mitigation devices to be used on portable fuel containers for flammable liquid fuels, 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 “Portable Fuel Con-  
5 tainer Safety Act of 2019”.

1 **SEC. 2. PERFORMANCE STANDARDS TO PROTECT AGAINST**  
2 **PORTABLE FUEL CONTAINER EXPLOSIONS**  
3 **NEAR OPEN FLAMES OR OTHER IGNITION**  
4 **SOURCES.**

5 (a) **RULE ON SAFETY PERFORMANCE STANDARDS**  
6 **REQUIRED.**—Not later than 30 months after the date of  
7 enactment of this section, the Consumer Product Safety  
8 Commission shall promulgate a final rule for flame mitiga-  
9 tion devices in portable fuel containers that impedes the  
10 propagation of flame into the container, except as provided  
11 in subsection (c).

12 (b) **RULEMAKING; CONSUMER PRODUCT SAFETY**  
13 **STANDARD.**—A rule under subsection (a)—

14 (1) shall be promulgated in accordance with  
15 section 553 of title 5, United States Code; and

16 (2) shall be treated as a consumer product safe-  
17 ty rule promulgated under section 9 of the Con-  
18 sumer Product Safety Act (15 U.S.C. 2058).

19 (c) **EXCEPTION.**—

20 (1) **VOLUNTARY STANDARD.**—Subsection (a)  
21 shall not apply if the Commission determines that—

22 (A) there is a voluntary standard for flame  
23 mitigation devices in portable fuel containers  
24 that impedes the propagation of flame into the  
25 container;

1 (B) the voluntary standard is or will be in  
2 effect not later than 18 months after the date  
3 of enactment of this Act; and

4 (C) the voluntary standard is developed by  
5 Subcommittee F15 of ASTM International or  
6 such other standard development organization  
7 that the Commission determines to have met  
8 the intent of this Act.

9 (2) DETERMINATION REQUIRED TO BE PUB-  
10 LISHED IN THE FEDERAL REGISTER.—Any deter-  
11 mination made by the Commission under this sub-  
12 section shall be published in the Federal Register.

13 (d) TREATMENT OF VOLUNTARY STANDARD FOR  
14 PURPOSE OF ENFORCEMENT.—If the Commission deter-  
15 mines that a voluntary standard meets the conditions de-  
16 scribed in subsection (c), the requirements of such vol-  
17 untary standard shall be treated as a consumer product  
18 safety rule promulgated under section 9 of the Consumer  
19 Product Safety Act beginning on the date which is the  
20 later of—

21 (1) 180 days after publication of the Commis-  
22 sion's determination under subsection (c); or

23 (2) the effective date contained in the voluntary  
24 standard.

25 (e) REVISION OF VOLUNTARY STANDARD.—

1           (1) NOTICE TO COMMISSION.—If the require-  
2           ments of a voluntary standard that meet the condi-  
3           tions of subsection (c) are subsequently revised, the  
4           organization that revised the standard shall notify  
5           the Commission not later than 60 days after the  
6           final approval of the revision.

7           (2) EFFECTIVE DATE OF REVISION.—Not later  
8           than 180 days after the Commission is notified of a  
9           revised voluntary standard described in paragraph  
10          (1) (or such later date as the Commission deter-  
11          mines appropriate), such revised voluntary standard  
12          shall become enforceable as a consumer product  
13          safety rule promulgated under section 9 of the Con-  
14          sumer Product Safety Act, in place of the prior  
15          version, unless within 90 days after receiving the no-  
16          tice the Commission determines that the revised vol-  
17          untary standard does not meet the requirements de-  
18          scribed in subsection (c).

19          (f) FUTURE RULEMAKING.—The Commission, at any  
20          time after publication of the consumer product safety rule  
21          required by subsection (a), a voluntary standard is treated  
22          as a consumer product safety rule under subsection (d),  
23          or a revision is enforceable as a consumer product safety  
24          rule under subsection (e) may initiate a rulemaking in ac-  
25          cordance with section 553 of title 5, United States Code,

1 to modify the requirements or to include any additional  
2 provision that the Commission determines is reasonably  
3 necessary to protect public health or safety. Any rule pro-  
4 mulgated under this subsection shall be treated as a con-  
5 sumer product safety rule promulgated under section 9 of  
6 the Consumer Product Safety Act.

7 (g) ACTION REQUIRED.—

8 (1) EDUCATION CAMPAIGN.—Not later than 1  
9 year after the date of enactment of this Act, the  
10 Commission shall undertake a campaign to educate  
11 consumers about the dangers associated with using  
12 or storing portable fuel containers for flammable liq-  
13 uids near an open flame or any other source of igni-  
14 tion.

15 (2) SUMMARY OF ACTIONS.—Not later than 2  
16 years after the date of enactment of this Act, the  
17 Commission shall submit to Congress a summary of  
18 actions taken by the Commission in such campaign.

19 (h) PORTABLE FUEL CONTAINER DEFINED.—In this  
20 section, the term “portable fuel container” means any con-  
21 tainer or vessel (including any spout, retrofit spout, cap,  
22 and other closure mechanism or component of such con-  
23 tainer or vessel)—

24 (1) intended for flammable liquid fuels, includ-  
25 ing gasoline, kerosene, diesel, ethanol, methanol, de-

1       natured alcohol, biofuels, or liquids with a flash  
2       point less than 140 degrees Fahrenheit;

3               (2) that is a consumer product with a capacity  
4       of 5 gallons or less; and

5               (3) that the manufacturer knows or reasonably  
6       should know is used by consumers for receiving,  
7       transporting, storing, and dispensing flammable liq-  
8       uid fuels.

9       (i) **RULE OF CONSTRUCTION.**—This section may not  
10   be interpreted to conflict with the Children’s Gasoline  
11   Burn Prevention Act (Public Law 110–278; 122 Stat.  
12   2602).

13   **SEC. 3. CHILDREN’S GASOLINE BURN PREVENTION ACT.**

14       (a) **AMENDMENT.**—Section 2(c) of the Children’s  
15   Gasoline Burn Prevention Act (15 U.S.C. 2056 note; Pub-  
16   lic Law 110–278) is amended by inserting after “for use  
17   by consumers” the following: “and any receptacle for gaso-  
18   line, kerosene, or diesel fuel, including any spout, retrofit  
19   spout, cap, and other closure mechanism and component  
20   of such receptacle, produced or distributed for sale to or  
21   use by consumers for transport of, or refueling of internal  
22   combustion engines with, gasoline, kerosene, or diesel  
23   fuel”.

1           (b) APPLICABILITY.—The amendment made by sub-  
2 section (a) shall take effect 6 months after the date of  
3 enactment of this section.

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