

116TH CONGRESS
1ST SESSION

H. R. 806

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2019

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Portable Fuel Con-
3 tainer Safety Act of 2019”.

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

8 (a) **RULE ON SAFETY PERFORMANCE STANDARDS**
9 **REQUIRED.**—Not later than 30 months after the date of
10 enactment of this section, the Consumer Product Safety
11 Commission (referred to in this Act as the “Commission”)
12 shall promulgate a final rule to require flame mitigation
13 devices in portable fuel containers that impede the propa-
14 gation of flame into the container, except as provided in
15 subsection (c).

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

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

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

23 (c) **EXCEPTION.**—

24 (1) **VOLUNTARY STANDARD.**—Subsection (a)
25 shall not apply for a class of portable fuel containers

1 in the scope of this Act if the Commission deter-
2 mines at any time that—

3 (A) there is a voluntary standard for flame
4 mitigation devices for those containers that im-
5 pedes the propagation of flame into the con-
6 tainer;

7 (B) the voluntary standard described in
8 subparagraph (A) is or will be in effect not
9 later than 18 months after the date of enact-
10 ment of this Act; and

11 (C) the voluntary standard described in
12 subparagraph (A) is developed by ASTM Inter-
13 national or such other standard development or-
14 ganization that the Commission determines to
15 have met the intent of this Act.

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

20 (d) TREATMENT OF VOLUNTARY STANDARD FOR
21 PURPOSE OF ENFORCEMENT.—If the Commission deter-
22 mines that a voluntary standard meets the conditions de-
23 scribed in subsection (c), the requirements of such vol-
24 untary standard shall be treated as a consumer product
25 safety rule promulgated under section 9 of the Consumer

1 Product Safety Act (15 U.S.C. 2058) beginning on the
2 date which is the later of—

3 (1) 180 days after publication of the Commis-
4 sion's determination under subsection (c); or

5 (2) the effective date contained in the voluntary
6 standard.

7 (e) REVISION OF VOLUNTARY STANDARD.—

8 (1) NOTICE TO COMMISSION.—If the require-
9 ments of a voluntary standard that meet the condi-
10 tions of subsection (c) are subsequently revised, the
11 organization that revised the standard shall notify
12 the Commission after the final approval of the revi-
13 sion.

14 (2) EFFECTIVE DATE OF REVISION.—Not later
15 than 180 days after the Commission is notified of a
16 revised voluntary standard described in paragraph
17 (1) (or such later date as the Commission deter-
18 mines appropriate), such revised voluntary standard
19 shall become enforceable as a consumer product
20 safety rule promulgated under section 9 of the Con-
21 sumer Product Safety Act (15 U.S.C. 2058), in
22 place of the prior version, unless within 90 days
23 after receiving the notice the Commission determines
24 that the revised voluntary standard does not meet
25 the requirements described in subsection (c).

1 (f) FUTURE RULEMAKING.—The Commission, at any
2 time after publication of the consumer product safety rule
3 required by subsection (a), a voluntary standard is treated
4 as a consumer product safety rule under subsection (d),
5 or a revision is enforceable as a consumer product safety
6 rule under subsection (e) may initiate a rulemaking in ac-
7 cordance with section 553 of title 5, United States Code,
8 to modify the requirements or to include any additional
9 provision that the Commission determines is reasonably
10 necessary to protect the public against flame jetting from
11 a portable fuel container. Any rule promulgated under this
12 subsection shall be treated as a consumer product safety
13 rule promulgated under section 9 of the Consumer Prod-
14 uct Safety Act (15 U.S.C. 2058).

15 (g) ACTION REQUIRED.—

16 (1) EDUCATION CAMPAIGN.—Not later than 1
17 year after the date of enactment of this Act, the
18 Commission shall undertake a campaign to educate
19 consumers about the dangers associated with using
20 or storing portable fuel containers for flammable liq-
21 uids near an open flame or any other source of igni-
22 tion.

23 (2) SUMMARY OF ACTIONS.—Not later than 2
24 years after the date of enactment of this Act, the

1 Commission shall submit to Congress a summary of
2 actions taken by the Commission in such campaign.

3 (h) PORTABLE FUEL CONTAINER DEFINED.—In this
4 section, the term “portable fuel container” means any con-
5 tainer or vessel (including any spout, cap, and other clo-
6 sure mechanism or component of such container or vessel
7 or any retrofit or aftermarket spout or component in-
8 tended or reasonably anticipated to be for use with such
9 container)—

10 (1) intended for flammable liquid fuels with a
11 flash point less than 140 degrees Fahrenheit, includ-
12 ing gasoline, kerosene, diesel, ethanol, methanol, de-
13 natured alcohol, or biofuels;

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

16 (3) that the manufacturer knows or reasonably
17 should know is used by consumers for transporting,
18 storing, and dispensing flammable liquid fuels.

19 (i) RULE OF CONSTRUCTION.—This section may not
20 be interpreted to conflict with the Children’s Gasoline
21 Burn Prevention Act (Public Law 110–278; 122 Stat.
22 2602).

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

24 (a) AMENDMENT.—Section 2(c) of the Children’s
25 Gasoline Burn Prevention Act (15 U.S.C. 2056 note; Pub-

