CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 5, 2015

# S. 697
## Frank R. Lautenberg Chemical Safety for the 21st Century Act

*As ordered reported by the Senate Committee on Environment and Public Works on April 28, 2015*

## SUMMARY

S. 697 would modify the Toxic Substances Control Act (TSCA), the law that regulates the manufacture, importation, and processing of chemicals, with the aim of strengthening the Environmental Protection Agency's (EPA's) ability to evaluate and regulate potentially hazardous chemicals.

CBO estimates that EPA would incur additional administrative costs over the 2016-2020 period to meet the new requirements imposed by S. 697; however, we also estimate that under the bill EPA would collect sufficient fees from chemical manufacturers and processors to offset the cost of conducting the activities proposed under this legislation. On net, we estimate that implementing this legislation would reduce discretionary costs by $8 million over the next five years, assuming appropriation actions consistent with provisions of the bill.

Enacting S. 697 could affect direct spending and revenues because the bill would increase some existing civil and criminal penalties for violations of TSCA. Therefore, pay-as-you-go procedures apply. CBO estimates that any changes in revenues and direct spending would not be significant.

S. 697 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on manufacturers, processors, importers, and users of chemical substances. The bill also would impose intergovernmental mandates on state agencies. CBO estimates that the aggregate cost of those mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($77 million and $154 million in 2015, respectively, adjusted annually for inflation).

## MAJOR PROVISIONS

The bill's major provisions would:

- Require EPA to develop policies, procedures, and guidance to address the process for testing and evaluating the safety of chemical substances;
- Authorize EPA to obtain new information on chemical substances from manufacturers and processors at all stages of the safety evaluation process;
- Require EPA to establish and implement a risk-based prioritization process to screen all chemicals now in use;
- Address when federal actions under TSCA preempt requirements of state and local governments related to restricting and banning chemical substances;
- Require EPA to update its process for reviewing industry requests that information submitted to the agency be kept confidential; and,
- Require EPA to establish a new schedule for charging fees to chemical manufacturers who are required to submit data to the agency or who request that EPA assess certain chemicals that are not yet prioritized for review by EPA.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 697 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

| | By Fiscal Year, in Millions of Dollars | | | | | |
|---|---|---|---|---|---|---|
| | 2016 | 2017 | 2018 | 2019 | 2020 | 2016-2020 |
| **CHANGES IN SPENDING SUBJECT TO APPROPRIATION** | | | | | | |
| Administrative Expenses under TSCA | | | | | | |
| Estimated Authorization Level | 17 | 17 | 17 | 17 | 17 | 85 |
| Estimated Outlays | 7 | 14 | 17 | 17 | 17 | 72 |
| Offsetting Fee Collections | | | | | | |
| Estimated Authorization Level | -4 | -10 | -16 | -25 | -25 | -80 |
| Estimated Outlays | -4 | -10 | -16 | -25 | -25 | -80 |
| Total Changes | | | | | | |
| Estimated Budget Authority | 13 | 7 | 1 | -8 | -8 | 5 |
| Estimated Budget Outlays | 3 | 4 | 1 | -8 | -8 | -8 |

Note: TSCA = Toxic Substances Control Act.

## BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 697 will be enacted near the end of 2015 and that the necessary amounts will be appropriated each year.

### Spending Subject to Appropriation

While some of the requirements in S. 697 are similar to activities currently performed by EPA under TSCA, CBO estimates that implementing this legislation would increase EPA's workload for regulating chemical safety by about 30 percent each year. That estimate is based on historical information about how other large regulatory programs have been implemented by EPA and on expectations of the additional workload provided by the agency. According to EPA, the agency currently requires, on average, an appropriation of about $58 million annually to implement and enforce EPA's Chemical Risk Review and Reduction program under TSCA. That funding supports roughly 245 employees. Subject to the appropriation of the necessary amounts, CBO estimates that EPA would require about $17 million annually over the next five years to cover the costs of additional personnel, contractors, and other administrative activities associated with meeting the new requirements of this legislation.

Over the next two years, CBO expects that EPA would focus on implementing S. 697 primarily by producing guidance documents and cost-benefit analyses and performing other administrative tasks related to the rulemaking process for the review of the safety of new chemicals and substances currently in use. EPA would establish internal processes and information technology systems to prioritize the analysis of tens of thousands of chemicals. According to the agency, such activities are routinely carried out by contractors; as a result, most of the estimated $17 million in annual funding needed over this period would cover contractor costs. By 2018, enforcement of the new provisions of TSCA would begin and CBO estimates that EPA would shift funding to cover additional government personnel. CBO estimates that spending on new administrative activities over the next five years would total $72 million.

Under the legislation EPA would be authorized to charge two types of fees. One would be imposed on chemical manufacturers and processors who are required to submit certain types of notices or requests for exemptions under the bill. In addition, EPA could charge fees to manufacturers and processors who request that EPA conduct safety assessments and safety determinations for chemicals that have not been designated a priority for further assessment.

Under the bill total collections of fees for firms submitting notices and requests for exemptions could not exceed $18 million annually. CBO estimates that EPA would begin collecting those fees in 2017 and that such collections would total $6 million in that first year. By 2019, we expect that as more chemicals are reviewed by EPA, collections would reach $18 million annually. Based on information from EPA, CBO estimates that collections from firms requesting safety assessments and determinations would begin in 2016 and would total $4 million in that year. By 2019 we estimate that collections would total $7 million annually. S. 697 specifies that all additional fees collected by EPA would be recorded in the budget as offsetting collections (an offset to appropriated spending). CBO estimates that those collections would total $80 million over the next five years. Thus, enacting this legislation would result in a net reduction in spending of $8 million over the 2016-2020 period, assuming future appropriations acts are consistent with CBO's estimates.

**Direct Spending and Revenues**

Enacting S. 697 also could affect direct spending and revenues because this bill would increase some existing civil and criminal penalties. Criminal penalties are recorded as revenues, then deposited in the Crime Victims Fund, and later spent; civil penalties are recorded as revenues. CBO estimates that any increase in criminal or civil penalties under the bill would not be significant.

## PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that any increase in revenues and direct spending resulting from changes in criminal or civil penalties would not be significant over the 2016-2025 period.

## INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 697 would impose intergovernmental and private-sector mandates, as defined in UMRA, on manufacturers, processors, importers, and users of chemical substances. The bill also would impose intergovernmental mandates on state agencies. CBO estimates that the aggregate cost of those mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($77 million and $154 million in 2015, respectively, adjusted annually for inflation).

### Mandates That Apply to Both Public and Private Entities

S. 697 would modify the standard used to determine whether a chemical substance poses an unreasonable risk to human health or the environment and would allow EPA to regulate the manufacture, processing, distribution, use, and disposal of chemical substances to ensure the standard is met. If EPA determines that some chemical substances do not meet the standard and issues regulations for those substances, the bill would impose an intergovernmental and private-sector mandate. EPA would have the authority to adopt a range of regulatory options to address risks from chemical substances. For example, EPA could require manufacturers to put warning labels on selected chemicals. EPA also could require users of chemicals, such as public and private universities conducting research, to handle or dispose of selected chemicals in a certain way. Based on information from industry experts, CBO expects that the annual cost of any restriction would not be substantial. Also, because of the amount of time involved in assessing the risk of each chemical, any restrictions imposed would apply to few chemicals in the first five years the mandate is in effect. Therefore, CBO estimates that the cost of the mandate would be small for both public and private entities during that time.

### Mandates That Apply to Public Entities Only

The bill would impose an intergovernmental mandate by preempting state regulations that conflict with the federal regulation of chemicals, but that preemption would impose no duty on states that would result in additional spending or a loss of revenues The bill also would impose a mandate on state agencies by requiring them to notify EPA whenever they propose an administrative action, enact a statute, or take regulatory action concerning a chemical that EPA has not designated as a high-priority substance. Information from EPA indicates that the cost of that notification mandate would be small.

**Mandates That Apply to Private Entities Only**

The bill would amend provisions in TSCA that apply to new and existing chemicals. The bill would impose new mandates and increase the cost of existing mandates on manufacturers, importers, and processors of chemical substances. Additionally, manufacturers and processors would be required to pay fees and submit data to EPA for use carrying out safety assessments and regulations to ensure safety. Finally, the bill could impose a mandate on importers of some items containing chemical substances.

Based on information from industry experts, CBO expects that the incremental cost of those mandates would not be substantial. The bill would limit the amount of mandatory fees that EPA could collect to $18 million annually. Manufacturers and processors of existing chemical substances currently report information to EPA under programs such as the Chemical Data Reporting rule and the High Production Volume Challenge Program, which is voluntary. Based on information from industry experts, CBO expects that submitting new data to EPA for safety assessments could cost up to $1 million per chemical substance. However, the annual number of existing chemicals that would be subject to the data submission requirements would be limited.

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