To amend the Toxic Control Substance Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Emergency Planning and Right-To-Know Act of 1986, and the Federal Hazardous Substances Act, and to authorize the Administrator of the Environmental Protection Agency to provide grants to States to protect children and other vulnerable subpopulations from exposure to environmental pollutants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Toxic Control Substance Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Emergency Planning and Right-To-Know Act of 1986, and the Federal Hazardous Substances Act, and to authorize the Administrator of the Environmental Protection Agency to provide grants to States to protect children and other vulnerable subpopulations from exposure to environmental pollutants, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Environmental Protection for Children Act of 2006”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENVIRONMENTAL PROTECTIONS

Sec. 101. Environmental protections for children and other vulnerable sub-populations.

TITLE II—CHILDREN’S ENVIRONMENTAL HEALTH RESEARCH

Sec. 201. Research to improve information on the effects of environmental pollutants on children.

TITLE III—AWARENESS OF ENVIRONMENTAL RISKS TO CHILDREN

Sec. 301. Short title.
Sec. 302. Finding.

Subtitle A—Disclosure of Industrial Releases That Present a Significant Risk to Children

Sec. 311. Reporting requirements.

Subtitle B—Disclosure of High Health Risk Chemicals in Children’s Consumer Products

Sec. 321. List of toxic chemicals.
Sec. 322. Reporting of toxic chemicals in consumer products.
Sec. 323. Exemptions.
Sec. 324. Private citizen enforcement.

TITLE IV—ENVIRONMENTAL CONTAMINANT TESTING PROGRAM

Sec. 401. Definitions.
Sec. 402. Block grants.
Sec. 403. Authorization of appropriations.
TITLE I—ENVIRONMENTAL PROTECTIONS

SEC. 101. ENVIRONMENTAL PROTECTIONS FOR CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

(a) ENVIRONMENTAL PROTECTIONS.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following:

“TITLE V—ENVIRONMENTAL PROTECTION FOR CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS

“SEC. 501. FINDINGS AND POLICY.

“(a) FINDINGS.—Congress finds that—

“(1) the protection of the health and safety of the public depends on—

“(A) the knowledge possessed by officials of the Federal Government and other persons relating to environmental pollutants that exist in the homes, schools, and communities of the United States; and

“(B) the extent to which environmental pollutants present a special threat to the health of children and other vulnerable subpopulations;

“(2) children—
“(A) spend much of their young lives in schools and day care centers; and

“(B) may face significant exposure to environmental pollutants in those locations;

“(3) the metabolism, physiology, and diet of children, and exposure patterns of children to environmental pollutants—

“(A) differ from those of adults; and

“(B) make children more susceptible than adults to the harmful effects of environmental pollutants;

“(4) when establishing an environmental and public health standard for an environmental pollutant, the Administrator often lacks a sufficient quantity of data to evaluate the special susceptibility or exposure of children to environmental pollutants;

“(5) when the Administrator lacks a sufficient quantity of data to evaluate the special susceptibility or exposure of children to an environmental pollutant, the Administrator generally does not—

“(A) presume that the environmental pollutant presents a special risk to children; and

“(B) apply a special or additional margin of safety to protect the health of children in es-
establishing an environmental or public health standard for that pollutant; and

“(6) safeguarding children from environmental pollutants requires—

“(A) the systematic collection of data relating to the special susceptibility and exposure of children to those pollutants; and

“(B) the adoption of an additional safety factor of at least 10-fold in the establishment of environmental and public health standards when reliable data are not available.

“(b) POLICY.—It is the policy of the United States that—

“(1) the public has a right to be informed about—

“(A) each environmental pollutant to which children are being exposed in their homes, schools, and communities; and

“(B) the manner by which an environmental pollutant may present a special health threat to children and other vulnerable sub-populations;

“(2) each environmental and public health standard for an environmental pollutant established by the Administrator shall, with an adequate margin
of safety, protect children and other vulnerable sub-
populations;

“(3) in a case in which data are insufficient to
evaluate the special susceptibility and exposure of
children (including exposure in utero) to an environ-
mental pollutant, the Administrator should—

“(A) presume that the environmental pol-
lutant poses a special risk to children; and

“(B) apply an appropriate additional mar-
gin of safety of at least 10-fold in establishing
an environmental or public health standard for
that environmental pollutant;

“(4) because the task of identifying every con-
ceivable risk and addressing every uncertainty relat-
ing to pesticide use is difficult, the use of any dan-
gerous pesticide in every school and day care center
in the United States should be eliminated; and

“(5) the Environmental Protection Agency, the
Department of Health and Human Services (includ-
ing the National Institute of Environmental Health
Sciences and the Agency for Toxic Substances and
Disease Registry), the National Institutes of Health,
and other Federal agencies should support research
relating to the short-term and long-term health ef-
fects of cumulative and synergistic exposures of chil-
children and other vulnerable subpopulations to environmental pollutants.

“SEC. 502. DEFINITIONS.

“In this title:

“(1) CHILD.—The term ‘child’ means an individual who is 18 years of age or younger.

“(2) DAY CARE CENTER.—The term ‘day care center’ means a center-based child care provider that is licensed, regulated, or registered under applicable State or local law.

“(3) ENVIRONMENTAL POLLUTANT.—The term ‘environmental pollutant’ means—

“(A) a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601));

“(B) a contaminant subject to regulation under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

“(C) an air pollutant subject to regulation under the Clean Air Act (42 U.S.C. 7401 et seq.);

“(D) a water pollutant subject to regulation under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and
“(E) a pesticide subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

“(4) SCHOOL.—The term ‘school’ means—

“(A) an elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801));

“(B) a secondary school (as defined in section 14101 of that Act);

“(C) a kindergarten; and

“(D) a nursery school that is public or receives Federal funding.

“(5) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(6) VULNERABLE SUBPOPULATION.—The term ‘vulnerable subpopulation’ means—

“(A) children;

“(B) pregnant women;

“(C) elderly individuals;

“(D) individuals with a history of serious illness; and

“(E) any other subpopulation likely to experience a special risk from an environmental pollutant, as determined by the Administrator.
“SEC. 503. SAFEGUARDING CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

“(a) IN GENERAL.—The Administrator shall—

“(1) ensure that each environmental and public health standard for an environmental pollutant protects children and other vulnerable subpopulations with an adequate margin of safety;

“(2) explicitly evaluate data relating to the special susceptibility and exposure of children to any environmental pollutant for which an environmental or public health standard is established; and

“(3) adopt an additional margin of safety of at least 10-fold in the establishment of an environmental or public health standard—

“(A) for an environmental pollutant in the absence of reliable data relating to—

“(i) the toxicity of the environmental pollutant; and

“(ii) the potential risk of exposure of children to that environmental pollutant;

or

“(B) if there is a lack of reliable data relating to the susceptibility of children to an environmental pollutant for which the environmental or public health standard is being established.
“(b) Establishing, Modifying, or Re-Evaluating Environmental and Public Health Standards.—

“(1) In general.—In establishing, modifying, or reevaluating any environmental or public health standard for an environmental pollutant under any law administered by the Administrator, the Administrator shall take into consideration available information relating to—

“(A) each route of exposure of a child to that environmental pollutant; and

“(B) the special susceptibility of a child to that environmental pollutant, including—

“(i) any neurological difference between children and adults;

“(ii) the effect of in utero exposure to that environmental pollutant; and

“(iii) the cumulative effect on a child of exposure to—

“(I) that environmental pollutant; and

“(II) any other substance that has a common mechanism of toxicity.

“(2) Additional safety margin.—If any data described in paragraph (1) are not available to
the Administrator, the Administrator shall, in carrying out a risk assessment, risk characterization, or other assessment of risk underlying an environmental or public health standard, adopt an additional margin of safety of at least 10-fold to take into account—

“(A) potential pre-natal and post-natal toxicity of an environmental pollutant; and

“(B) the completeness of data concerning the exposure and toxicity of an environmental pollutant to children.

“SEC. 504. SAFER ENVIRONMENT FOR CHILDREN.

“Not later than 1 year after the date of enactment of this title, the Administrator shall—

“(1) identify environmental pollutants commonly used or found in areas that are reasonably accessible to children;

“(2) create a scientifically peer-reviewed list of substances identified under paragraph (1) with known, likely, or suspected health risks to children;

“(3) develop a scientifically peer reviewed list of safer-for-children substances and products recommended by the Administrator for use in areas that are reasonably accessible to children that, when applied as recommended by the manufacturer, will
minimize potential risks to children from exposure to environmental pollutants;

“(4) establish guidelines to help reduce and eliminate exposure of children to environmental pollutants in areas reasonably accessible to children, including advice on how to establish an integrated pest management program;

“(5) develop a family right-to-know information kit that includes a summary of helpful information and guidance for families, such as—

“(A) the information developed under paragraph (3);

“(B) the guidelines established under paragraph (4);

“(C) information on the potential health effects of environmental pollutants;

“(D) practical suggestions on how parents may reduce the exposure of their children to environmental pollutants; and

“(E) other information determined to be relevant by the Administrator, in cooperation with the Director of the Centers for Disease Control and Prevention;
“(6) make all information developed under this subsection available to Federal and State agencies, to the public, and on the Internet; and

“(7) review and update the lists developed under paragraphs (2) and (3) at least annually.

“SEC. 505. RESEARCH TO IMPROVE INFORMATION ON THE EFFECTS OF ENVIRONMENTAL POLLUTANTS ON CHILDREN.

“(a) EXPOSURE AND TOXICITY DATA.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate and support the development and implementation of basic and applied research initiatives to examine—

“(1) the health effects and toxicity of pesticides (including active and inert ingredients) and other environmental pollutants on children and other vulnerable subpopulations; and

“(2) the exposure of children and other vulnerable subpopulations to environmental pollutants.

“(b) BIENNIAL REPORTS.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall submit biennial reports to Congress describing actions taken to carry out this section.”.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1 of the Toxic Substances Con-
trol Act (15 U.S.C. 2601 note) is amended by adding at the end the following:

“TITLE V—ENVIRONMENTAL PROTECTION FOR CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS

“Sec. 501. Findings and policy.
“Sec. 502. Definitions.
“Sec. 503. Safeguarding children and other vulnerable subpopulations.
“Sec. 504. Safer environment for children.
“Sec. 505. Research to improve information on the effects of environmental pollutants on children.”.

TITLE II—CHILDREN’S ENVIRONMENTAL HEALTH RESEARCH

SEC. 201. RESEARCH TO IMPROVE INFORMATION ON THE EFFECTS OF ENVIRONMENTAL POLLUTANTS ON CHILDREN.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

“TITLE V—CHILDREN’S ENVIRONMENTAL HEALTH RESEARCH

“SEC. 501. CHILDREN’S ENVIRONMENTAL HEALTH.

“(a) IDENTIFICATION AND EVALUATION OF SUBSTANCES HAZARDOUS TO CHILDREN.—

“(1) HAZARDOUS SUBSTANCE LIST.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator of the Agency for Toxic Substances
and Disease Registry and the Administrator shall jointly develop a hazardous substance list.

“(B) CONTENTS.—The hazardous substance list under subparagraph (A) shall be composed of a scientifically peer-reviewed list of environmental pollutants—

“(i) that are commonly found at facilities listed or proposed for listing on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)); and

“(ii) with known, likely, or suspected health risks to which fetuses and children are especially susceptible.

“(C) REVISION OF LIST.—Not later than 2 years after the date on which the development of a hazardous substance list under subparagraph (A) is complete, and every 2 years thereafter, the Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator shall jointly review and revise the list.
“(2) Revision of guidelines for preparation of toxicological profiles.—Not later than 1 year after the date of enactment of this title, the Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator shall jointly revise the guidelines for the preparation of a toxicological profile of a hazardous substance under section 104(i)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)(3)) to include—

“(A) a consideration of each exposure pathway and health effect relating to fetuses and children;

“(B) an identification of exposure levels specific to different age ranges, as appropriate; and

“(C) an identification of priority data needs specifically relating to the environmental health of fetuses and children.

“(3) Preparation and revision of toxicological profiles.—

“(A) In general.—Not later than 3 years after the date of enactment of this title, the Administrator of the Agency for Toxic Substances and Disease Registry shall prepare a scientif-
ically peer-reviewed toxicological profile of each hazardous substance listed pursuant to paragraph (1).

“(B) Method of determination.—In preparing a toxicological profile under subparagraph (A), the Administrator of the Agency for Toxic Substances and Disease Registry shall follow each guideline requirement described in paragraph (2).

“(C) Revision of profiles.—Not later than 5 years after the date of completion of each toxicological profile under subparagraph (A), and every 5 years thereafter, the Administrator of the Agency for Toxic Substances and Disease Registry shall review and revise the profile.

“(b) Revision of public health and environmental standards.—

“(1) In general.—The Administrator or the Secretary of Health and Human Services (referred to in this subsection as the Secretary) shall review and revise, as necessary, each environmental and public health regulation, risk assessment policy and procedure, and guidance document issued or used under this Act to determine whether each environ-
mental and public health regulation, risk assessment
policy and procedure, and guidance document con-
siders and fully protects the health of fetuses and
children.

“(2) REVIEW.—In carrying out a review or re-
vision under paragraph (1), not later than 1 year
after the date of enactment of this title, the Admin-
istrator, in cooperation with the Secretary, shall—

“(A) develop an administrative process for
reviewing regulations, risk assessment policies
and procedures, and guidance documents;

“(B) develop a peer-reviewed list that—

“(i) contains regulations, risk assess-
ment policies and procedures, and guidance
documents that require revision; and

“(ii) is prioritized based on the degree
of risk posed to the health of fetuses and
children; and

“(C) identify—

“(i) through peer review, which regu-
lations, risk assessment policies and proce-
dures, and guidance documents on the list
described in subparagraph (B) will require
additional research to be revised; and
“(ii) the quantity of time and resources required to carry out the necessary research under clause (i).

“(3) Revision.—

“(A) In general.—Not later than 3 years after the date of enactment of this title, the Administrator shall propose revised versions of each regulation, risk assessment policy and procedure, or guidance document that—

“(i) was identified under paragraph (2)(B); but

“(ii) was not identified under paragraph (2)(C).

“(B) Revision of regulations, policies and procedures, and documents not requiring additional research.—Not later than 5 years after the date of developing a proposal of revised versions of regulations, risk assessment policies and procedures, and guidance documents under subparagraph (A), the Administrator shall issue final versions of each regulation, policy and procedure, and guidance document proposed under that subparagraph.

“(C) Review of regulations, policies and procedures, and documents.—Not
later than 6 years after the date of enactment of this title, the Administrator shall review each regulation, policy and procedure, and document described in paragraph (2)(A) and revised under this subsection.

“(4) EFFECTIVE DATE.—Notwithstanding any other provision of law, if the Administrator or the Secretary revises any regulation, risk assessment policy or procedure, or guidance document identified under paragraph (2)(B), the effective date of that revision shall be not later than 1 year after the date of issuance of that revision.

“(5) REPORT.—Not later than 2 years after the date of enactment of this title, and every 2 years thereafter, the Administrator shall submit to Congress a report describing the progress made in carrying out this subsection.

“(c) CONSIDERATION OF CHILDREN’S HEALTH IN HEALTH ASSESSMENTS.—In conducting a health assessment at a facility, the Administrator of the Agency for Toxic Substances and Disease Registry shall, at a minimum—

“(1) consider the potential risk to the health of fetuses and children posed by the facility (including
any long-term, synergistic, or cumulative health effect); 

“(2) consider the existence of any potential exposure pathway that is of particular concern with respect to fetuses and children; and

“(3) include a comparison between—

“(A) the expected exposure levels for children posed by a release of an environmental pollutant from the facility; and

“(B) any recommended child-specific exposure or tolerance levels.

“(d) Children’s Environmental Health Research.—

“(1) In General.—The Administrator of the Agency Toxic Substances and Disease Registry shall incorporate each environmental health concern relating to fetuses and children into each health study and research program conducted pursuant to sections 104(i) (5) and (7) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i) (5) and (7)), and any other health research initiative conducted pursuant to this Act—
“(A) to address any priority data need identified in each toxicological profile prepared pursuant to subsection (a)(3); and

“(B) to obtain additional information relating to the health effects of hazardous substances on fetuses and children.

“(2) GUIDELINES.—Not later than 1 year after the date of enactment of this title, the Administrator of the Agency for Toxic Substances and Disease Registry, in cooperation with the Administrator, the Centers for Disease Control and Prevention, the Director of the National Institute of Environmental Health Sciences, and the Director of the Indian Health Service, shall develop guidelines for addressing issues relating to the health of fetuses and children in health studies and research programs, including each study and program conducted by—

“(A) the Agency for Toxic Substances and Disease Registry;

“(B) other Federal agencies;

“(C) State departments of public health; and

“(D) university-based investigators.

“(3) CHILD-SPECIFIC HEALTH STUDIES.—Not later than 1 year after the date of enactment of this
title, the Administrator of the Agency for Toxic Sub-
stances and Disease Registry, in cooperation with
the Administrator, the Centers for Disease Control
and Prevention, the Director of the National Insti-
tute of Environmental Health Sciences, and the Di-
rector of the Indian Health Service shall develop cri-
teria for determining the timing and types of child-
specific health studies that shall be conducted based
on the results of a health assessment under sub-
section (c).

“(4) COSTS.—It is the sense of Congress that
the cost of any research program under this sub-
section should be paid by the manufacturer and
processor of each hazardous substance that is a sub-
ject of the research in accordance with regulations
promulgated under section 104(i)(5)(D) of the Com-
prehensive Environmental Response, Compensation,
and Liability Act of 1980 (42 U.S.C.
9604(i)(3)(D)).

“(e) NATIONAL CHILDREN’S EXPOSURE REG-
ISTRY.—Not later than 2 years after the date of enact-
ment of this title, the Administrator of the Agency for
Toxic Substances and Disease Registry, in cooperation
with the States, shall establish and maintain an exposure
registry for all children exposed to hazardous substances
as the result of a release at a facility listed on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)), in any case in which the Agency for Toxic Substances and Disease Registry determines that levels of exposure are significant with respect to the health of children.

“(f) CHILDREN’S ENVIRONMENTAL HEALTH EDUCATION PROGRAM.—Not later than 3 years after the date of enactment of this title, the Administrator of the Agency for Toxic Substances and Disease Registry, in cooperation with the Administrator, the Centers for Disease Control and Prevention, the Director of the National Institute of Environmental Health Sciences, and the Director of the Indian Health Service, shall—

“(1) assemble, develop as necessary, and distribute to State health departments, tribal health officials, waste site information offices, school districts, health clinics, medical colleges, and, upon request, to physicians and other health professionals, appropriate educational materials (including short courses) relating to the medical surveillance, screening, and methods of diagnosis and treatment of injury or disease relating to exposure to hazardous
substances that are of particular concern to fetuses and children;

“(2) wherever health services are being provided pursuant to section 104(i)(15)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)(15)(C)),
develop and carry out a children’s environmental health care training program for health care providers serving communities affected by the release of hazardous substances (including training in techniques for assessing exposure of children to hazardous substances and methods of diagnosis and treatment of injury or disease relating to exposure to hazardous substances that are of particular concern to fetuses and children) and primary prevention; and

“(3) develop and distribute to State health departments, tribal health officials, waste site information offices, school districts, health clinics, and, upon request, to medical colleges, physicians, and other health professionals, a family right-to-know information kit that includes helpful information and guidance to families relating to the environmental health of children, including—
“(A) information relating to the potential health effects of exposure to hazardous substances;

“(B) practical suggestions on the means by which parents may reduce the potential exposure of their children to hazardous substances;

“(C) the rights of families living in affected communities to receive health services under section 104(i)(15)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)(15)(C));

“(D) the means by which families may obtain additional information relating to the environmental health of children; and

“(E) other relevant information, as determined by the Administrator.

“(g) PEDIATRIC PEER REVIEW.—

“(1) IN GENERAL.—The Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator shall adopt or report each list, profile, study, or result of any research conducted under this section only after appropriate peer review (including review by pediatricians and environmental health specialists) of the list, profile,
study, or result of any research conducted under this
section has occurred.

“(2) Review panels.—

“(A) In general.—To facilitate the con-
duct of peer review described in paragraph (1),
the Administrator of the Agency for Toxic Sub-
stances and Disease Registry and the Adminis-
trator may establish a review panel composed of
not less than 3 members, as the Administrator
of the Agency for Toxic Substances and Disease
Registry and the Administrator determine to be
appropriate.

“(B) Membership.—The Administrator of
the Agency for Toxic Substances and Disease
Registry and the Administrator shall ensure
that members appointed to a review panel
under subparagraph (A) demonstrate—

“(i) scientific expertise, knowledge,
and experience relevant to the subject of
the review;

“(ii) scientific credibility and impar-
tiality; and

“(iii) an absence of any conflict of in-
terest or institutional relationship with any
person involved—
“(I) in the conduct of the study or research under review; and

“(II) with the manufacture, processing, marketing, or distribution of the hazardous substance, pollutant, or contaminant under investigation.

“SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as are necessary to carry out this title.”.

TITLE III—AWARENESS OF ENVIRONMENTAL RISKS TO CHILDREN

SEC. 301. SHORT TITLE.

This title may be cited as the “Children’s Environmental Protection and Right to Know Act”.

SEC. 302. FINDING.

Congress finds that requirements to disclose information about environmental risks will improve health and safety by—

(1) prompting persons causing those risks to reduce the risks; and

(2) enabling individuals to take actions to protect themselves from those risks.
Subtitle A—Disclosure of Industrial
Releases That Present a Significant Risk to Children

SEC. 311. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 313(f) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(f)) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—

“(A) TOXIC CHEMICAL THRESHOLD QUANTITY.—The threshold quantities for purposes of reporting toxic chemicals under this section are as follows:

“(i) TOXIC CHEMICALS USED AT FACILITIES.—The threshold quantity of a toxic chemical used at a facility shall be 10,000 pounds of the toxic chemical per year.

“(ii) MANUFACTURED OR PROCESSED TOXIC CHEMICALS.—The threshold quantity of a toxic chemical manufactured or processed at a facility shall be—

“(I) 75,000 pounds of a toxic chemical per year, for any toxic chemical for which a toxic chemical release
form is required to be submitted under this section on or before July 1, 1988;

“(II) 50,000 pounds of a toxic chemical per year, for any toxic chemical for which a toxic chemical release form is required to be submitted during the period beginning July 2, 1988, and ending July 1, 1989; and

“(III) 25,000 pounds of a toxic chemical per year, for any toxic chemical for which any toxic release form is required to be submitted on or after July 2, 1989.

“(B) TOXIC CHEMICALS RELEASED FROM

FACILITIES.—

“(i) TOXIC CHEMICAL THRESHOLD PROGRAM.—

“(I) Establishment.—Not later than 2 years after the date of enactment of the Children’s Environmental Protection and Right to Know Act, subject to clause (ii) and in addition to the reporting thresholds for the toxic chemicals specified in sub-
clause (II), the Administrator shall establish a reporting threshold for each toxic chemical that the Administrator determines may present a significant risk to children’s health or the environment due to, as determined by—

“(aa) the persistent use or existence of the toxic chemical in the environment;

“(bb) the potential of the toxic chemical to bioaccumulate or disrupt endocrine systems; or

“(cc) other characteristics of the toxic chemical.

“(II) TOXIC CHEMICALS INCLUDED.—The Administrator shall establish a reporting threshold under subclause (I) for—

“(aa) lead;

“(bb) mercury;

“(cc) dioxin;

“(dd) cadmium;

“(ee) chromium; and

“(ff) each substance identified as a bioaccumulative chem-
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cical of concern in the final rule
promulgated by the Adminis-
trator entitled ‘Water Quality
Guidance for the Great Lakes
15336 (March 23, 1995)).

“(ii) Threshold Quantity.—The
Administrator shall establish by regulation
each threshold quantity for a toxic chem-
ical described in clause (i) at a level that,
as determined by the Administrator, will
ensure reporting of at least 80 percent of
the aggregate of all releases of the toxic
chemical from facilities that—

“(I) have 10 or more full-time
employees; and

“(II) are designated with any of
Standard Industrial Classification
Codes 20 through 39 or any of the
Standard Industrial Classification
Codes added under subsection
(b)(1)(B).”.

(b) Conforming Amendments.—
(1) Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) is amended—

(A) in subsections (a) and (b)(1)(A), by striking “or otherwise used” each place it appears and inserting “otherwise used, or released”;

(B) in subsection (c)—

(i) by striking “are those chemicals” and inserting the following: “are—

“(1) those chemicals;”;

(ii) by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(2) dioxin and each other substance identified as a bioaccumulative chemical of concern in the final rule promulgated by the Administrator entitled ‘Water Quality Guidance for the Great Lakes System, Part III’ (60 Fed. Reg. 15336 (March 23, 1995)); and

(C) in the first sentence of subsection (f)(2), by striking “paragraph (1)” and inserting “subparagraph (A) or (B) of paragraph (1)”. 
(2) Section 326(a)(1)(B) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11046(a)(1)(B)) is amended by adding at the end the following:

“(vii) Establish reporting thresholds for chemicals referred to in section 313(f)(1)(C).”.

Subtitle B—Disclosure of High Health Risk Chemicals in Children’s Consumer Products

SEC. 321. LIST OF TOXIC CHEMICALS.

(a) Definition of Eligible Product.—Section 2 of the Federal Hazardous Substances Act (15 U.S.C. 1261) is amended by adding at the end the following:

“(u) Eligible Product.—

“(1) In general.—Except as provided in paragraph (2), the term ‘eligible product’ means any toy or other article intended for use by children.

“(2) Exception.—On and after the date that is 3 years after the date of enactment of this subsection, the term ‘eligible product’ means any consumer product (as defined in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052)).”.
(b) LIST OF TOXIC CHEMICALS.—Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following:

“(k) LIST OF TOXIC CHEMICALS.—

“(1) DEFINITIONS.—In this subsection:

“(A) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(B) CHAIRMAN.—The term ‘Chairman’ means the Chairman of the Consumer Product Safety Commission.

“(2) LIST.—Not later than 1 year after the date of enactment of this subsection, the Administrator, acting jointly with the Chairman, shall publish in the Federal Register a list of substances or mixtures of substances that have been determined by the Administrator and the Chairman to be toxic to children due to their carcinogenic, neurotoxic, or reproductive toxic effects.

“(3) SUBSTANCES AND INFORMATION TO BE INCLUDED.—The list under that paragraph shall include—

“(A)(i) any chemical that has been identified by a Federal agency as being a carcinogen, neurotoxin, or reproductive toxin;
“(ii) each chemical identified as a Group A or Group B carcinogen in the notice published by the Administrator entitled ‘Regulation of Pesticides in Food: Addressing the Delaney Paradox Policy Statement’ (53 Fed. Reg. 41118 (October 19, 1988));

“(iii) each chemical that adversely affects the nervous system of children, as identified in criteria documents of the National Institute for Occupational Safety and Health;

“(iv) each chemical identified by the Consumer Product Safety Commission as having sufficient evidence to demonstrate—

“(I) carcinogenicity in humans or animals;

“(II) neurotoxicity in humans or animals;

“(III) human developmental toxicity;

or

“(IV) male or female reproductive toxicity in humans or animals;

“(v) each chemical regulated as a neurotoxin, reproductive toxin, or developmental toxin by the Administrator; and
“(vi) each chemical on the Biennial List of Carcinogens submitted to Congress by the Secretary of Health and Human Services; and

“(B) such reasonably available information on adverse health effects of any substance or mixture of substances as was used to determine whether to include the substance or mixture on the list required under paragraph (2).

“(4) DATA.—In carrying out paragraph (3), the Secretary and the Chairman shall require manufacturers and importers of substances and mixtures of substances on the list required under paragraph (2) to generate, and shall obtain from any Federal, State, or local government, such data as are sufficient to identify substances or mixtures of substances—

“(A) that are toxic within the meaning of paragraph (2); and

“(B) to which infants and young children are exposed.

“(l) CHEMICAL TESTING AND RISK ASSESSMENT.—As soon as practicable after the date of enactment of this subsection, the Administrator of the Environmental Protection Agency, in consultation with experts in pediatric toxicology and exposure, shall develop and implement new
short-term and long-term strategies for more comprehensive chemical testing and risk assessment to ensure that risks of exposure to children (including exposure to children in utero) are, to the maximum extent practicable, fully understood.”.

SEC. 322. REPORTING OF TOXIC CHEMICALS IN CONSUMER PRODUCTS.

(a) REPORTING.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following:

“SEC. 25. REPORTING OF TOXIC CHEMICALS.

“(a) IN GENERAL.—A manufacturer or importer of any eligible product that contains, or is composed of, a substance or mixture of substances listed under section 3(k) shall submit to the Commission a report that describes each of the following:

“(1) The identity of the manufacturer or importer of the eligible product.

“(2) A description of the eligible product (including any model name and model number of the eligible product).

“(3) The identity of the substance or mixture of substances listed under section 3(k) (including the concentration of the substance or mixture in the eligible product).
“(4) Any information known to the manufacturer or importer that would support a determination that the eligible product is not a misbranded hazardous substance or a banned hazardous substance.

“(5) Such data as are generated by the manufacturer or importer as are sufficient to identify any substances or mixtures of substances manufactured or imported that are toxic to children, as described in section 3(k)(2).

“(b) PUBLICATION.—The Commission shall annually publish in the Federal Register, and make available to the public in an electronic format, the information submitted under subsection (a).

“(c) REGULATIONS.—The Commission shall promulgate such regulations as necessary to carry out this section.

“(d) APPLICATION OF SECTION.—Subsection (a) shall apply to a substance or mixture of substances listed under section 3(k) beginning on the date that is 1 year after the date on which the substance or mixture of substances is listed under that section.”.

(b) PROHIBITED ACTS.—
(1) IN GENERAL.—Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following:

“(l) The failure to report as required under section 25.”.

(2) CONFORMING AMENDMENT.—Section 5(c)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(1)) is amended in the second sentence by striking “and (k)” and inserting “(k), and (l)”.

SEC. 323. EXEMPTIONS.

(a) IN GENERAL.—Section 3(c) of the Federal Hazardous Substances Act (15 U.S.C. 1262(c)) is amended—

(1) by striking “(e) If the Commission finds” and inserting the following:

“(e) EXEMPTION FROM REQUIREMENTS BY REGULATION.—

“(1) IN GENERAL.—If the Commission determines”; and

(2) by adding at the end the following:

“(2) ADDITIONAL REGULATIONS.—In addition to regulations promulgated under paragraph (1), the Commission may promulgate regulations exempting from the reporting requirements of section 25 any substance or mixture of substances.
“(3) APPLICABILITY.—This subsection shall not apply to any substance or mixture of substances unless the Commission determines that the substance or mixture would not, by reason of containing a substance or mixture of substances listed under section 3(k), cause substantial personal injury or substantial illness during, or as a proximate result of, any customary or reasonably foreseeable handling or use (including reasonably foreseeable ingestion by children).”.

(b) CONFORMING AMENDMENT.—Section 3(d) of the Federal Hazardous Substances Act (15 U.S.C. 1262(d)) is amended by striking “adequate requirements satisfying the purposes of” and inserting “requirements at least as stringent as”.

SEC. 324. PRIVATE CITIZEN ENFORCEMENT.

The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) (as amended by section 322(a)) is amended by adding at the end the following:

“SEC. 26. PRIVATE CITIZEN ENFORCEMENT.

“(a) IN GENERAL.—Subject to subsection (c), any person other than the Commission may bring a civil action in United States district court—

“(1) against any person, for violation of subsection (a), (b), or (l) of section 4; or
“(2) against the Commission, for a failure of the Commission to perform any nondiscretionary act or duty under the amendments made by the Children’s Environmental Protection and Right to Know Act.

“(b) JURISDICTION.—In the case of a civil action under subsection (a)—

“(1) the United States district courts shall have jurisdiction over the civil action without regard to the amount in controversy or the citizenship of the parties; and

“(2) the court may apply any appropriate civil penalties under section 5 or order the Commission to perform any nondiscretionary act or duty that the Commission failed to perform.

“(c) ACTIONS PROHIBITED.—No action may be commenced under this section unless—

“(1) not later than 60 days before the date on which the action is filed, the plaintiff gives notice of the intent to bring the action—

“(A) to the Commission; and

“(B) in the case of an action for a violation of section 4, to the person that is alleged to have violated that section; and
“(2) in the case of an action for a violation of section 4, the Commission has not commenced and is not diligently pursuing a civil action on behalf of the United States.

“(d) INTERVENTION.—In any action on behalf of the United States following receipt of a notice under subsection (d)(1), the person providing the notice may intervene as of right as a plaintiff in the action.

“(e) COSTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the costs of litigation (including reasonable attorney fees) may be awarded to—

“(A) in any civil action under subsection (a), any substantially prevailing plaintiff; and

“(B) in any action under subsection (c), the party intervening under subsection (a) or (c), if that party contributed significantly to the success of the plaintiff.

“(2) WAIVER.—The award of costs under paragraph (1) may be fully or partially waived by a court if the court finds such an award to be inappropriate under the circumstances.

“(f) BURDEN OF PROOF.—In any action under subsection (a)(1), if the person alleged to have violated section 4 asserts that a substance or mixture of substances is not
a hazardous substance by reason of containing a substance
or mixture of substances listed under section 3(k), the
burden of proof shall be the alleged violator to establish
that the substance or mixture of substances is not a haz-
ardous substance.

“(g) PENALTY FUND.—

“(1) ESTABLISHMENT.—There is established in
the Treasury of the United States a fund to be used
in carrying out this section (referred to in this sec-
tion as the ‘Fund’).

“(2) DEPOSIT OF ASSESSED PENALTIES.—A
penalty assessed as a result of a civil action under
subsection (a) shall be deposited in the Fund.

“(3) USE OF FUNDS.—On request by the Com-
mission, the Secretary of the Treasury shall transfer
from the Fund to the Commission such amounts as
the Commission determines are necessary to finance
compliance and enforcement activities under this
Act.

“(4) AVAILABILITY.— Amounts in the Fund
shall remain available for use by the Commission
until expended, without further appropriation.

“(5) REPORTS.— The Commission shall submit
to Congress an annual report that describes—
“(A) any funds deposited into the Fund during the year for which the report is submitted (including the sources of those funds); and

“(B) the actual and proposed uses of the funds.

“(h) OTHER PROJECTS.—Notwithstanding subsection (g), in lieu of being deposited in the Fund, any civil penalty assessed may, at the option of the court (after consultation with the Commission), be used to fund projects of the Commission that are—

“(1) consistent with this Act; and

“(2) designed to enhance public awareness of—

“(A) the health effects of toxic substances or mixtures of toxic substances in eligible products; and

“(B) the potential for exposure of children to toxic substances or mixtures of toxic substances in eligible products.”.

TITLE IV—ENVIRONMENTAL CONTAMINANT TESTING PROGRAM

SEC. 401. DEFINITIONS.

In this title:
(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) DAY CARE CENTER.—The term “day care center” means a center-based child care provider that is licensed, regulated, or registered under applicable State or local law.

(3) ELIGIBLE STATE.—The term “Eligible State” means a State that has enacted a law (including a regulation) that—

(A) requires—

(i) the State to conduct a test to determine the presence of any environmental pollutant on the property of—

(I) a proposed school; and

(II) a school that—

(aa) is in existence on the date of enactment of this Act; and

(bb) proposes to expand any facility of that school;

(ii) each applicant for a day care center license in that State to conduct a test to determine the presence of any environmental pollutant on the property of the
proposed day care center of the applicant; and

(iii) the State to inform the parents of each child of a school or day care center of the State of the detection of the presence of any environmental pollutant on the property of that school or day care center; and

(B) is approved by the Administrator.

(4) ENVIRONMENTAL POLLUTANT.—The term “environmental pollutant” means—

(A) a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601));

(B) a contaminant subject to regulation under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(C) an air pollutant subject to regulation under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) a water pollutant subject to regulation under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and
(E) a pesticide subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(5) **SCHOOL.**—The term “school” means—

(A) an elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801));

(B) a secondary school (as defined in section 14101 of that Act);

(C) a kindergarten; and

(D) a nursery school that is public or receives Federal funding.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

**SEC. 402. BLOCK GRANTS.**

(a) **ESTABLISHMENT.**—The Administrator, in collaboration with the Secretary, shall establish in the Environmental Protection Agency a program under which the Administrator shall provide block grants to Eligible States to carry out authorized activities.

(b) **APPLICATIONS.**—

(1) **IN GENERAL.**—To receive a block grant under this section, an Eligible State shall submit to the Secretary an application at such time, in such a
manner, and containing such information as the Secretary may require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this title is sought; and

(B) provide evidence that the applicant—

(i) is an Eligible State;

(ii) has developed a prioritized list of each school and day care center of the Eligible State that is based on the probability that an environmental pollutant is present on the property of each school or day care center included on the list; and

(iii) shall apply funds from any payment received under this title for any fiscal year in accordance with the prioritized list described in clause (ii).

(c) AUTHORIZED ACTIVITIES.—An Eligible State may use any payment received under this title for any fiscal year for use in—

(1) administrating each law (including a regulation) that requires the testing of sites for proposed schools and day care centers of the Eligible State to test for the presence of any environmental pollutant;
(2) paying for, or providing a grant to any school or day care center of the Eligible State to pay for, any test conducted to determine the presence of any environmental pollutant on the property of that school or day care center; and

(3) removing any environmental pollutant on the property of any school or day care center of the Eligible State.

(d) Regulations.—Not later than 1 year after the date of enactment of this Act, the Administrator, in collaboration with the Secretary, shall promulgate regulations that shall provide guidance to Eligible States for use in complying with the grant program established under subsection (a).

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.