

107TH CONGRESS  
2D SESSION

# H. R. 4707

To prohibit the use of arsenic-treated lumber to manufacture playground equipment, children's products, fences, walkways, and decks, and for all other residential purposes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2002

Ms. SCHAKOWSKY (for herself, Mr. BONIOR, Mr. WAXMAN, Ms. CARSON of Indiana, Mr. KUCINICH, Mr. QUINN, Ms. BROWN of Florida, Mr. SANDERS, Mr. MCGOVERN, Mr. UDALL of Colorado, Mr. NADLER, Ms. DELAURO, Mr. GEORGE MILLER of California, Ms. LEE, Mr. WEXLER, Mrs. DAVIS of California, Mr. CUMMINGS, Ms. MCKINNEY, Mr. HALL of Ohio, Mr. BRADY of Pennsylvania, Ms. NORTON, Ms. SOLIS, Mr. LIPINSKI, Mr. DAVIS of Illinois, Ms. MCCARTHY of Missouri, and Ms. SLAUGHTER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit the use of arsenic-treated lumber to manufacture playground equipment, children's products, fences, walkways, and decks, and for all other residential purposes, 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 “Arsenic-Treated Lum-  
3 ber Prohibition and Disposal Act”.

4 **SEC. 2. PROHIBITION OF CERTAIN USES OF ARSENIC-**  
5 **TREATED LUMBER.**

6 (a) IN GENERAL.—The Federal Insecticide, Fun-  
7 gicide, and Rodenticide Act (7 U.S.C. 136a et seq.) is  
8 amended—

9 (1) by redesignating sections 33 and 34 as sec-  
10 tions 34 and 35, respectively; and

11 (2) by inserting after section 32 the following:

12 **“SEC. 33. PROHIBITION OF CERTAIN USES OF ARSENIC-**  
13 **TREATED LUMBER.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) CCA LUMBER.—The term ‘CCA lumber’  
16 means lumber that is treated with any pesticide that  
17 is a chromated copper arsenical.

18 “(2) MANUFACTURE.—The term ‘manufacture’,  
19 with respect to CCA lumber and items described in  
20 subsection (b)(2)(A), includes—

21 “(A) the creation of a product designed to  
22 be assembled by a consumer; and

23 “(B) the building of a product on behalf of  
24 a consumer in accordance with specifications  
25 given by the consumer.

1       “(b) PROHIBITION.—Notwithstanding any other pro-  
 2 vision of law, not later than 90 days after the date of en-  
 3 actment of this subsection, the Administrator shall pro-  
 4 mulgate regulations that prohibit the use of CCA  
 5 lumber—

6               “(1) in the manufacture, production, or use of  
 7 any product that may be used for or by children,  
 8 including—

9                       “(A) playground equipment;

10                      “(B) fences;

11                      “(C) walkways;

12                      “(D) decks; and

13                      “(E) any other similar product, as deter-  
 14 mined by the Administrator; and

15               “(2) for any residential purpose, as determined  
 16 by the Administrator.”.

17       (b) CONFORMING AMENDMENT.—The table of con-  
 18 tents in section 1(b) of the Federal Insecticide, Fungicide,  
 19 and Rodenticide Act (7 U.S.C. prec. 121) is amended by  
 20 striking the items relating to sections 30 and 31 and in-  
 21 serting the following:

“Sec. 30. Minimum requirements for training of maintenance applicators and  
 service technicians.

“Sec. 31. Environmental Protection Agency minor use program.

“Sec. 32. Department of Agriculture minor use program.

“ (a) In general.

“ (b) (1) Minor use pesticide data.

“ (2) Minor Use Pesticide Data Revolving Fund.

“Sec. 33. Prohibition of certain uses of arsenic-treated lumber.

“(a) Definitions.

“(1) CCA lumber.

“(2) Manufacture.

“(b) Prohibition.

“Sec. 34. Severability.

“Sec. 35. Authorization for appropriations.”.

1 **SEC. 3. HAZARDOUS WASTE CLASSIFICATION.**

2 Section 3001(e) of the Solid Waste Disposal Act (42  
3 U.S.C. 6921(e)) is amended by adding at the end the fol-  
4 lowing:

5 “(3) CCA LUMBER.—

6 “(A) DEFINITIONS.—In this paragraph:

7 “(i) CCA LUMBER.—The term ‘CCA  
8 lumber’ means lumber that is treated with  
9 any pesticide that is a chromated copper  
10 arsenical.

11 “(ii) PESTICIDE.—The term ‘pes-  
12 ticide’ has the meaning given the term in  
13 section 2 of the Federal Insecticide, Fun-  
14 gicide, and Rodenticide Act (7 U.S.C.  
15 136).

16 “(B) REGULATION OF CCA LUMBER.—

17 “(i) IN GENERAL.—Notwithstanding  
18 section 261.4(b)(9) of title 40, Code of  
19 Federal Regulations (as in effect on the  
20 date of enactment of this paragraph), dis-  
21 carded CCA lumber shall be disposed of in

1 a lined landfill with a leachate system and  
2 groundwater monitoring system.

3 “(ii) RISK ASSESSMENT.—

4 “(I) IN GENERAL.—Not later  
5 than June 15, 2002, the Adminis-  
6 trator, in consultation with the Con-  
7 sumer Products Safety Commission,  
8 shall publish in the Federal Register  
9 an assessment of the risks posed by  
10 the production and use of CCA lum-  
11 ber.

12 “(II) METHODOLOGY.—In con-  
13 ducting the risk assessment, the Ad-  
14 ministrator shall follow the method-  
15 ology recommended by the Scientific  
16 Advisory Board.

17 “(C) PROHIBITION OF PRODUCTION.—

18 “(i) IN GENERAL.—As soon as prac-  
19 ticable after the date of enactment of this  
20 paragraph, the Administrator shall promul-  
21 gate regulations that—

22 “(I) provide for the gradual ces-  
23 sation of production of CCA lumber  
24 by not later than the date that is 1

1 year after the date of enactment of  
2 this paragraph; and

3 “(II) prohibit the production of  
4 CCA lumber on and after that date.

5 “(ii) EXEMPTIONS.—Clause (i) shall  
6 not apply to the production of CCA lumber  
7 used for—

8 “(I) railroad ties; or

9 “(II) piers.”.

10 **SEC. 4. ASSISTANCE TO CONSUMERS, MUNICIPALITIES,**  
11 **AND SCHOOL SYSTEMS.**

12 (a) DEFINITIONS.—In this section:

13 (1) ADMINISTRATOR.—The term “Adminis-  
14 trator” means the Administrator of the Environ-  
15 mental Protection Agency.

16 (2) CCA LUMBER.—The term “CCA lumber”  
17 means lumber that is treated with any pesticide that  
18 is an inorganic arsenical or chromated copper arsen-  
19 ical.

20 (3) PESTICIDE.—The term “pesticide” has the  
21 meaning given the term in section 2 of the Federal  
22 Insecticide, Fungicide, and Rodenticide Act (7  
23 U.S.C. 136).

24 (b) EDUCATIONAL PROGRAM.—Not later than 180  
25 days after the date of enactment of this Act, the Adminis-

1 trator shall develop and conduct an educational program  
2 to assist consumers, municipalities, school systems, and  
3 other institutions in—

4           (1) testing arsenic levels in CCA lumber and  
5           soil surrounding CCA lumber; and

6           (2) making decisions relating to the contain-  
7           ment and removal of CCA lumber from homes, play-  
8           grounds, schools, and other facilities designed pri-  
9           marily for use by children.

10       (c) ASSISTANCE FOR SCHOOLS.—Not later than 180  
11 days after the date of enactment of this Act, the Adminis-  
12 trator shall establish a pilot program to provide grants  
13 and technical assistance to school systems to assist the  
14 school systems in removing playground and other equip-  
15 ment containing CCA lumber from grounds of the school  
16 systems and conducting any necessary remediation.

17       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
18 are authorized to be appropriated such sums as are nec-  
19 essary to carry out this section.

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