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CPR Releases New Report on Toxic Chemical Reform:

The rights of victims and states needs to be preserved in any toxic reform legislation

[Tomorrow](#), grassroots activists from across the country will descend on Capitol Hill to make the case for reforming the laws governing toxic chemicals in the United States. According to a new paper from scholars at the Center for Progressive Reform, it's long overdue. Of the more than 80,000 chemicals used in commerce, the Environmental Protection Agency regulates only a handful of them. One of the main roadblocks is that the relevant law, the Toxic Substances Control Act (TSCA), is now 40 years old, and badly out of date. One of several problems with TSCA is that it puts the burden on the EPA to prove a chemical is unsafe before doing anything to protect the public, rather than requiring manufacturers to prove their products will do no harm.

Congress is now considering competing bills to fix TSCA: the more protective Safer Chemical Act (SCA) and the industry-backed Chemical Safety Improvements Act (CSIA).

As report co-author Sidney Shapiro writes in a blog post on CPRBlog, "The CSIA would take a significant step backwards by effectively eliminating the two other parts of the framework—the state and federal civil justice systems and state regulation. The CSIA would preempt state and federal tort law by granting partial immunity to industrial chemical manufacturers and users whose activities have been deemed 'safe' by the EPA." Shapiro is a Member Scholar of the Center for Progressive Reform, and holds a University Distinguished Chair in Law at Wake Forest University.

The [CPR Issue Alert](#), by Shapiro, and fellow Member Scholars Emily Hammond, Thomas McGarity, , and Wendy Wagner, as well as CPR Senior Policy Analyst James Goodwin, focuses on the need to strengthen, not weaken, TSCA, by protecting the rights of victims of toxic chemicals to hold chemical companies accountable in court, and by preserving state authority to protect their residents.

“As Congress undertakes the critical task of overhauling TSCA, it must aim to strengthen the federal regulatory provisions of the statute while allowing the state and federal civil justice systems and state regulation to play as active a role as possible in safeguarding the public against toxic chemicals,” Shapiro says.

The scholars argue for the need to use TSCA reform to strengthen all three parts of the protective framework for addressing toxic chemicals. In particular, they focus on the need to:

- Include a savings clause providing that nothing that the EPA does under TSCA shall affect the right of an injured party to sue the manufacturer, distributor, or seller of a chemical substance in a common law court;

- Specifically allow state and local governments to continue enforcing any regulations that are already in effect when the EPA issues a new TSCA regulation that covers the same chemical substances;
- Authorize state and local governments to issue new regulations that are more stringent than the EPA's existing TSCA regulations, unless the chemical industry is able to demonstrate that simultaneous compliance with both is impossible;
- Enhance the EPA's authority to take effective regulatory action to protect the public against chemicals that pose unacceptable health or environmental risks;
- Include a savings clause providing that nothing that the EPA does under TSCA shall affect the right of an injured party to sue the manufacturer, distributor, or seller of a chemical substance in a common law court;
- Specifically allow state and local governments to continue enforcing any regulations that are already in effect when the EPA issues a new TSCA regulation that covers the same chemical substances; and
- Authorize state and local governments to issue new regulations that are more stringent than the EPA's existing TSCA regulations, unless the chemical industry is able to demonstrate that simultaneous compliance with both is impossible.

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[The Center for Progressive Reform](#) is a nonprofit research and educational organization with a network of Member Scholars working to protect health, safety, and the environment through analysis and commentary.

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