AMENDMENT NO._______  Calendar No._______

Purpose: In the nature of a substitute.


S. 1640

To require compliant flame mitigation devices to be used on portable fuel containers for flammable liquid fuels, and for other purposes.

Referred to the Committee on ________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by ____________

Viz:

1 Strike all after the enacting clause and insert the follow:

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3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Portable Fuel Container Safety Act of 2019".

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

6 (a) Rule on Safety Performance Standards REQUIRED.—Not later than 30 months after the date of
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enactment of this section, the Consumer Product Safety
Commission (referred to in this Act as the "Commission")
shall promulgate a final rule to require flame mitigation
devices in portable fuel containers that impede the propa-
gation of flame into the container, except as provided in
subsection (c).

(b) Rulemaking; Consumer Product Safety
Standard.—A rule under subsection (a)—

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

(2) shall be treated as a consumer product safety
rule promulgated under section 9 of the Con-

(c) Exception.—

(1) Voluntary Standard.—Subsection (a)
shall not apply for a class of portable fuel containers
in the scope of this Act if the Commission deter-
mines at any time that—

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

(B) the voluntary standard described in
subparagraph (A) is or will be in effect not
later than 18 months after the date of enactment of this Act; and

(C) the voluntary standard described in subparagraph (A) is developed by ASTM International or such other standard development organization that the Commission determines to have met the intent of this Act.

(2) Determination required to be published in the Federal Register.—Any determination made by the Commission under this subsection shall be published in the Federal Register.

(d) Treatment of Voluntary Standard for Purpose of Enforcement.—If the Commission determines that a voluntary standard meets the conditions described in subsection (c), the requirements of such voluntary standard shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) beginning on the date which is the later of—

(1) 180 days after publication of the Commission's determination under subsection (c); or

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

(e) Revision of Voluntary Standard.—
(1) Notice to Commission.—If the requirements of a voluntary standard that meet the conditions of subsection (c) are subsequently revised, the organization that revised the standard shall notify the Commission after the final approval of the revision.

(2) Effective date of revision.—Not later than 180 days after the Commission is notified of a revised voluntary standard described in paragraph (1) (or such later date as the Commission determines appropriate), such revised voluntary standard shall become enforceable as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), in place of the prior version, unless within 90 days after receiving the notice the Commission determines that the revised voluntary standard does not meet the requirements described in subsection (e).

(f) Future Rulemaking.—The Commission, at any time after publication of the consumer product safety rule required by subsection (a), a voluntary standard is treated as a consumer product safety rule under subsection (d), or a revision is enforceable as a consumer product safety rule under subsection (e) may initiate a rulemaking in accordance with section 553 of title 5, United States Code,
to modify the requirements or to include any additional
provision that the Commission determines is reasonably
necessary to protect the public against flame jetting from
a portable fuel container. Any rule promulgated under this
subsection shall be treated as a consumer product safety
rule promulgated under section 9 of the Consumer Prod-

(g) **ACTION REQUIRED.** —

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

(2) **SUMMARY OF ACTIONS.** — Not later than 2
years after the date of enactment of this Act, the
Commission shall submit to Congress a summary of
actions taken by the Commission in such campaign.

(h) **PORTABLE FUEL CONTAINER DEFINED.** — In this
section, the term “portable fuel container” means any con-
tainer or vessel (including any spout, cap, and other clo-
sure mechanism or component of such container or vessel
or any retrofit or aftermarket spout or component in-
tended or reasonably anticipated to be for use with such
container)—
(1) intended for flammable liquid fuels with a
flash point less than 140 degrees Fahrenheit, includ-
ing gasoline, kerosene, diesel, ethanol, methanol, de-
natured alcohol, or biofuels;
(2) that is a consumer product with a capacity
of 5 gallons or less; and
(3) that the manufacturer knows or reasonably
should know is used by consumers for transporting,
storing, and dispensing flammable liquid fuels.
(i) Rule of Construction.—This section may not
be interpreted to conflict with the Children’s Gasoline
Burn Prevention Act (Public Law 110–278; 122 Stat.
2602).
SEC. 3. CHILDREN’S GASOLINE BURN PREVENTION ACT.
(a) Amendment.—Section 2(e) of the Children’s
Gasoline Burn Prevention Act (15 U.S.C. 2056 note; Pub-
lic Law 110–278) is amended by inserting after “for use
by consumers” the following: “and any receptacle for gaso-
line, kerosene, or diesel fuel, including any spout, cap, and
other closure mechanism and component of such recept-
acle or any retrofit or aftermarket spout or component
intended or reasonably anticipated to be for use with such
receptacle, produced or distributed for sale to or use by
consumers for transport of, or refueling of internal combustion engines with, gasoline, kerosene, or diesel fuel”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect 6 months after the date of enactment of this section.