

*Amy Klobuchar*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**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 following:  
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Portable Fuel Container Safety Act of 2019”.  
5

6 **SEC. 2. PERFORMANCE STANDARDS TO PROTECT AGAINST**  
7 **PORTABLE FUEL CONTAINER EXPLOSIONS**  
8 **NEAR OPEN FLAMES OR OTHER IGNITION**  
9 **SOURCES.**

10 (a) **RULE ON SAFETY PERFORMANCE STANDARDS**  
11 **REQUIRED.**—Not later than 30 months after the date of

1 enactment of this section, the Consumer Product Safety  
2 Commission (referred to in this Act as the “Commission”)  
3 shall promulgate a final rule to require flame mitigation  
4 devices in portable fuel containers that impede the propa-  
5 gation of flame into the container, except as provided in  
6 subsection (c).

7 (b) RULEMAKING; CONSUMER PRODUCT SAFETY  
8 STANDARD.—A rule under subsection (a)—

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

11 (2) shall be treated as a consumer product safe-  
12 ty rule promulgated under section 9 of the Con-  
13 sumer Product Safety Act (15 U.S.C. 2058).

14 (c) EXCEPTION.—

15 (1) VOLUNTARY STANDARD.—Subsection (a)  
16 shall not apply for a class of portable fuel containers  
17 in the scope of this Act if the Commission deter-  
18 mines at any time that—

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

23 (B) the voluntary standard described in  
24 subparagraph (A) is or will be in effect not

1 later than 18 months after the date of enact-  
2 ment of this Act; and

3 (C) the voluntary standard described in  
4 subparagraph (A) is developed by ASTM Inter-  
5 national or such other standard development or-  
6 ganization that the Commission determines to  
7 have met the intent of this Act.

8 (2) DETERMINATION REQUIRED TO BE PUB-  
9 LISHED IN THE FEDERAL REGISTER.—Any deter-  
10 mination made by the Commission under this sub-  
11 section shall be published in the Federal Register.

12 (d) TREATMENT OF VOLUNTARY STANDARD FOR  
13 PURPOSE OF ENFORCEMENT.—If the Commission deter-  
14 mines that a voluntary standard meets the conditions de-  
15 scribed in subsection (c), the requirements of such vol-  
16 untary standard shall be treated as a consumer product  
17 safety rule promulgated under section 9 of the Consumer  
18 Product Safety Act (15 U.S.C. 2058) beginning on the  
19 date which is the later of—

20 (1) 180 days after publication of the Commis-  
21 sion's determination under subsection (c); or

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

24 (e) REVISION OF VOLUNTARY STANDARD.—

1           (1) NOTICE TO COMMISSION.—If the require-  
2           ments of a voluntary standard that meet the condi-  
3           tions of subsection (c) are subsequently revised, the  
4           organization that revised the standard shall notify  
5           the Commission after the final approval of the revi-  
6           sion.

7           (2) EFFECTIVE DATE OF REVISION.—Not later  
8           than 180 days after the Commission is notified of a  
9           revised voluntary standard described in paragraph  
10          (1) (or such later date as the Commission deter-  
11          mines appropriate), such revised voluntary standard  
12          shall become enforceable as a consumer product  
13          safety rule promulgated under section 9 of the Con-  
14          sumer Product Safety Act (15 U.S.C. 2058), in  
15          place of the prior version, unless within 90 days  
16          after receiving the notice the Commission determines  
17          that the revised voluntary standard does not meet  
18          the requirements described in subsection (c).

19          (f) FUTURE RULEMAKING.—The Commission, at any  
20          time after publication of the consumer product safety rule  
21          required by subsection (a), a voluntary standard is treated  
22          as a consumer product safety rule under subsection (d),  
23          or a revision is enforceable as a consumer product safety  
24          rule under subsection (c) may initiate a rulemaking in ae-  
25          cordance with section 553 of title 5, United States Code,

1 to modify the requirements or to include any additional  
2 provision that the Commission determines is reasonably  
3 necessary to protect the public against flame jetting from  
4 a portable fuel container. Any rule promulgated under this  
5 subsection shall be treated as a consumer product safety  
6 rule promulgated under section 9 of the Consumer Prod-  
7 uct Safety Act (15 U.S.C. 2058).

8 (g) ACTION REQUIRED.—

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

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

20 (h) PORTABLE FUEL CONTAINER DEFINED.—In this  
21 section, the term “portable fuel container” means any con-  
22 tainer or vessel (including any spout, cap, and other clo-  
23 sure mechanism or component of such container or vessel  
24 or any retrofit or aftermarket spout or component in-

1 tended or reasonably anticipated to be for use with such  
2 container)—

3 (1) intended for flammable liquid fuels with a  
4 flash point less than 140 degrees Fahrenheit, includ-  
5 ing gasoline, kerosene, diesel, ethanol, methanol, de-  
6 naturated alcohol, or biofuels;

7 (2) that is a consumer product with a capacity  
8 of 5 gallons or less; and

9 (3) that the manufacturer knows or reasonably  
10 should know is used by consumers for transporting,  
11 storing, and dispensing flammable liquid fuels.

12 (i) **RULE OF CONSTRUCTION.**—This section may not  
13 be interpreted to conflict with the Children’s Gasoline  
14 Burn Prevention Act (Public Law 110–278; 122 Stat.  
15 2602).

16 **SEC. 3. CHILDREN’S GASOLINE BURN PREVENTION ACT.**

17 (a) **AMENDMENT.**—Section 2(c) of the Children’s  
18 Gasoline Burn Prevention Act (15 U.S.C. 2056 note; Pub-  
19 lic Law 110–278) is amended by inserting after “for use  
20 by consumers” the following: “and any receptacle for gaso-  
21 line, kerosene, or diesel fuel, including any spout, cap, and  
22 other closure mechanism and component of such recep-  
23 tacle or any retrofit or aftermarket spout or component  
24 intended or reasonably anticipated to be for use with such  
25 receptacle, produced or distributed for sale to or use by

1 consumers for transport of, or refueling of internal com-  
2 bustion engines with, gasoline, kerosene, or diesel fuel”.

3 (b) APPLICABILITY.—The amendment made by sub-  
4 section (a) shall take effect 6 months after the date of  
5 enactment of this section.