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## MEMORANDUM

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**TO:** Chairman Ayer

**CC:** Committee Members, Senate Committee on Health and Welfare  
Vermont Senate

**FROM:** Douglas Troutman  
Vice President & Counsel, Government Affairs  
American Cleaning Institute®

**DATE:** January 30, 2014

**SUBJECT:** **OPPOSE** S.B. 239 “An Act Relating to the Regulation of Toxic Substances”

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The American Cleaning Institute® (ACI)<sup>1</sup> represents leading consumer product manufacturers who are committed to the safety of their products and maintaining the confidence of consumers. Product safety is the foundation of consumer trust, and our industry devotes enormous resources to ensure the safe use of our products.

At the federal level, ACI is engaged with a range of policymakers and stakeholders to address chemical management in an effort to protect the public and the environment while retaining U.S. leadership in chemical innovation. In regard to these objectives, ACI has been working toward the modernization of the federal Toxic Substances Control Act of 1976 (TSCA) since well before the current Congressional efforts to amend the law. ACI supports S. 1009, the *Chemical Safety Improvement Act* (CSIA) and has testified on the bill in November 2013 before a House Subcommittee. ACI is also a leader in the development of international chemical management policies.

ACI remains committed to fashioning a reasonable approach to updating TSCA in order to promote the safe use of chemicals; build public confidence in the chemical management system; protect American jobs, and maintain the U.S. global leadership role in chemical innovation.

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<sup>1</sup> ACI is the trade association representing the \$30 billion U.S. cleaning products market. ACI members include the formulators of soaps, detergents, and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products; and oleochemical producers. ACI and its members are dedicated to improving health and the quality of life through sustainable cleaning products and practices. ACI’s mission is to support the sustainability of the cleaning products industry through research, education, outreach and science-based advocacy. Since 1926, ACI has promoted health through personal hygiene and effective cleaning. More information can be found at [www.cleaninginstitute.org](http://www.cleaninginstitute.org)

The proposed Vermont bill, would, among other things, authorize specific state agencies to regulate chemicals through a newly contemplated process never before executed in the state. Given current economic conditions, the Vermont legislative proposal would be counterproductive in light of other ongoing and successful global and domestic chemical management work, including work that ACI is engaged in. Any chemical management system is a substantial undertaking requiring extensive resources and expertise. The state would have to undertake an expensive, highly scientific review to make concrete determinations about the toxicity of chemicals; the state does not have the financial resources or expertise to execute such a review.

ACI believes that a comprehensive chemical management system must provide a systematic, scientific and collaborative process to address priority chemicals and chemical uses of concern. A priority-setting process must be risk based, taking into consideration both a chemical's hazards and potential exposures. Chemicals identified as the high priorities should be those substances with both the highest hazards and the highest potential exposures. Chemical management systems must have a reasonable, clearly defined approach for nominating, evaluating, and managing chemicals.

Vermont S.B. 239 does not address these important issues. The legislation does not provide for an adequate risk-based system; it instead appears to identify chemicals of concern based on a hazard characterization alone without a grounded, risk-based analysis. There appears to be no distinction between the mere presence of a chemical and the toxicity of that chemical under the contours of this legislation. Moreover, the bill establishes no baseline, beyond hazard criteria, for what information would be found acceptable to make decisions about toxicity or exposure.

The legislation also lacks adequate contemplation for the protection of confidential business information. The absence of forceful and robust protection of trade secrets and intellectual property, both substantively and procedurally, is a key defect in the measure. Section 1774, entitled 'Disclosure of Information on Chemicals of High Concern' would require consumer product manufacturers to submit data on intentionally added chemicals of high concern above a de minimus level as defined in the bill. While disclosure is made mandatory, there is no assurance in the bill language for product innovators that their investments in intellectual property will be protected by the State of Vermont.

Consistent with ACI efforts to modernize the federal TSCA noted above, ACI has provided extensive testimony and comment on a variety of chemical management policy concerns not fully recounted here. Thank you for your attention and consideration of these comments. I may be reached at (202) 347-2900 or via electronic mail at [dtroutman@cleaninginstitute.org](mailto:dtroutman@cleaninginstitute.org).

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