How the Safe Chemicals Act of 2011 (S. 847) would fix the major flaws of the Toxic Substances Control Act (TSCA)

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Currently under TSCA	***Under the Safe Chemicals Act of 2011 (S. 847)***
SAFETY DATA	
Few data call-ins are issued, even fewer chemicals are required to be tested and no minimum data set is required even for new chemicals.	Up-front data call-ins for all chemicals would be required. Minimum data sets (MDSs) on all new and existing chemicals sufficient to determine safety would be required to be developed and made public.
BURDEN OF PROOF	
EPA is required to prove harm before it can regulate a chemical.	Industry would bear the legal burden of proving their chemicals are safe.
ASSESSMENT OF SAFETY	
No mandate exists to assess the safety of existing chemicals. New chemicals undergo a severely time-limited and highly data-constrained review.	Both new and existing chemicals would generally be subject to safety determinations as a condition of entering or remaining on the market, using the best available science that relies on the advice of the National Academy of Sciences. Chemicals designated by EPA to be intrinsically safe would not require assessment or further action unless new information altered their designation.
SCOPE OF ASSESSMENT	
Where the rare chemical assessment is undertaken, there is no requirement to assess exposure to all sources of exposure to a chemical, or to assess risk to vulnerable populations. No guidance is provided on how to determine whether a chemical presents an "unreasonable risk."	The safety standard would require EPA to account for aggregate exposures to all uses and sources of a chemical, and to ensure protection of vulnerable populations that may be especially susceptible to chemical effects (e.g., children, the developing fetus) or subject to disproportionately high exposure (e.g., low-income communities living near contaminated sites or chemical production facilities).
CHEMICALS AND EXPOSURES OF HIGH CONCERN	
No criteria are provided for EPA to use to identify and prioritize chemicals or exposures of greatest concern, leaving such decisions to case-by-case judgments.	EPA would be required to develop and apply criteria to identify toxic chemicals to which people are exposed that persist and build up in the environment and people (PBTs). "Hot spots" where people are subject to disproportionately high exposures would be specifically identified and addressed.

REGULATORY ACTION	
Even chemicals of highest concern, such as asbestos, have not been able to be regulated under TSCA's "unreasonable risk" cost-benefit standard. Instead, assessments often drag on indefinitely without conclusion or decision.	PBTs to which people are exposed would be moved directly to mandatory exposure reduction. The remaining chemicals would be prioritized for assessment against a health-based standard, and deadlines for decisions would be specified. EPA would have authority to restrict production and use or place conditions on any stage of the lifecycle of a chemical needed to ensure safety.
INFORMATION ACCESS	
Companies are free to claim, often without providing any justification, most information they submit to EPA to be confidential business information (CBI), denying access to the public and even to state and local government. EPA is not required to review such claims, and the claims never expire.	All CBI claims would have to be justified up front. EPA would be required to review them, and only approved claims would stand. Approved claims would expire after no more than five years, except for types of claims for which EPA determines the five-year term would not apply. Other levels of government would have access to CBI.
RULEMAKING REQUIREMENTS	
To require testing or take other actions, EPA must promulgate regulations that take many years and resources to develop. EPA must show potential for a chemical to cause harm in order to require testing, a *Catch-22*.	In addition to the MDS requirement, EPA would have authority to issue an order rather than a regulation to require reporting of existing data or additional testing, and need not first show evidence of harm.