



MINUTES OF PROCEEDINGS

OTTAWA, Tuesday, June 7, 2022

(17)

[English]

Pursuant to the order of the Senate of May 5, 2022, the Standing Senate Committee on Energy, the Environment and Natural Resources met this day, in room B30, Senate of Canada Building, and with videoconference, at 9:32 a.m. ET, the chair, the Honourable Paul J. Massicotte, presiding.

Members of the committee present by videoconference: The Honourable Senators Anderson, Carignan, P.C., Galvez, Gold, P.C., McCallum and Verner, P.C. (6).

Members of the committee present: The Honourable senators Dalphond, Kutcher, Massicotte, Miville-Dechêne, Patterson, Seidman and Sorensen (7).

Other senators present: The Honourable Senator Arnot (1).

Participating in the meeting: Maxime Fortin, Principal Clerk, Martine Willox, Legislative Clerk and Louise Martel, Administrative Assistant, Committees Directorate; Jesse Good and Wu DiYing, analysts, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Thursday, April 7, 2022, the committee continued its consideration of Bill S-5, Strengthening Environmental Protection for a Healthier Canada Act.

WITNESSES (by videoconference):

Environment and Climate Change Canada:

John Moffet, Assistant Deputy Minister, Environmental Protection Branch;

Laura Farquharson, Director General, Legislative and Regulatory Affairs, Environmental Protection Branch.

The committee resumed clause-by-clause consideration of Bill S-5, Strengthening Environmental Protection for a Healthier Canada Act.

The chair asked whether clause 20 shall carry.

The Honourable Senator Patterson moved that Bill S-5 be amended in clause 20,

(a) on page 13, by deleting lines 25 to 34;

(b) on page 14, by deleting lines 1 to 8.

After debate, the question being put on the motion in amendment, it was negated by a show of hands.

The Honourable Senator Kutcher moved that Bill S-5 be amended in clause 20, on page 14,

(a) by adding the following after line 3:

“(3) The Minister shall delete a substance from the List, as well as any information regarding the substance that is specified on the List, if an order is made under subsection 90(1) adding the substance to the list of toxic substances in Schedule 1.”;

(b) by replacing line 4 with the following:

“(4) The Minister shall publish the List and any amend-”;

(c) by replacing line 7 with the following:

“(5) The List is not a *statutory instrument* as defined in”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

The Honourable Senator Galvez moved that Bill S-5 be amended in clause 20, on page 14,

(a) by replacing lines 14 to 16 with the following:

“Minister shall inform the person who filed the request whether the request is granted or denied and provide the reasons for that decision.”;

(b) by adding the following after line 18:

“(4) An assessment granted under subsection (2) must be

(a) initiated no later than six months after the day on which the person who requested the assessment was informed of the decision; and

(b) completed no later than two years after the day on which it was initiated.”.

John Moffet and Laura Farquharson answered questions from time to time.

After debate, the Honourable Senator Galvez moved that the motion in amendment be amended by deleting the words “(b) by adding the following after line 18:” and by deleting the subsequent proposed text.

After debate, the question being put on the subamendment, it was adopted by a show of hands.

After debate, the question being put on the motion in amendment, as amended, it was adopted by a show of hands.

The Honourable Senator Galvez moved that Bill S-5 be amended in clause 20, on page 14, by replacing lines 31 and 32 with the following:

“any vulnerable population or environment in relation to the substance and on the cumulative effects on human health and the environment that may result from expo-”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

The Honourable Senator Galvez moved that Bill S-5 be amended in clause 20, on page 15, by adding the following after line 2:

“(3) Despite anything in this Act, when the Ministers are conducting an assessment under this Part, they may not engage in testing or assessment methods that use vertebrate animals unless

(a) it is not scientifically possible to obtain the required information using testing or assessment methods other than ones that use vertebrate animals; and

(b) the data or information is necessary to achieve objectives related to protecting the environment or human health.”.

After debate, the Honourable Senator Dalphond moved that the motion in amendment be amended by replacing the word “scientifically” with the word “reasonably”.

After debate and with leave, the subamendment and amendment were withdrawn.

It was agreed that clause 20, as amended, carry.

The chair asked whether clause 21 shall carry.

The Honourable Senator Kutcher moved that Bill S-5 be amended in clause 21, on page 16,

(a) by replacing line 6 with the following:

“(i) is inherently toxic to human beings or non-human organisms, as determined by laboratory or other studies,

(ii) is persistent and bioaccumulative in accordance”;

(b) by replacing line 8 with the following:

“(iii) is present in the environment primarily as a re-”;

(c) by replacing lines 10 to 16 with the following:

“(iv) is not a naturally occurring radionuclide or a naturally occurring inorganic substance;

(b) the substance may constitute a danger in Canada to human life or health and is, in accordance with the regulations, carcinogenic, mutagenic or toxic for reproduction; or

(c) the substance is, in accordance with the regulations, a sub-”.

The committee discussed the wording of a potential subamendment.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that clause 21, as amended, carry.

It was agreed that clause 22 carry.

It was agreed that clause 23 carry.

It was agreed that clause 24 carry.

It was agreed that clause 25 carry.

It was agreed that clause 26 carry.

It was agreed that clause 27 carry.

It was agreed that clause 28 carry.

The chair asked whether clause 29 shall carry.

The Honourable Senator Kutcher moved that Bill S-5 be amended in clause 29, on page 21,

(a) by replacing lines 15 to 17 with the following:

“Schedule 1, the Ministers shall give priority to pollution prevention actions and, in particular, in the case of a substance specified in Part 1 of the list of toxic substances in that Schedule, to the total, par-”;

(b) by replacing lines 20 to 26 with the following:

“the environment.

(1.2) For the purposes of subsection (1.1), the Ministers shall, in respect of a substance specified in Part 1 of the list of toxic substances in Schedule 1, consider whether the activity or release can be un-”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that clause 29, as amended, carry.

With leave, it was agreed that clauses 30 to 38 carry.

The chair asked whether clause 39 shall carry.

The Honourable Senator Patterson moved that Bill S-5 be amended on page 28 by adding the following after line 14:

“39.1 (1) Subsection 106(1) of the Act is amended by striking out “and” after paragraph (a) and by adding the following after that paragraph:

(a.1) where the living organism is an animal having a wild counterpart, the information provided shows a demonstrable need for the living organism and that the living organism is not toxic or capable of becoming toxic; and

(2) Subsection 106(4) of the Act is amended by striking out “and” after paragraph (a) and by adding the following after that paragraph:

(a.1) where the living organism is an animal having a wild counterpart, the information provided shows a demonstrable need for the significant new activity involving the living organism and that the significant new activity does not render the living organism toxic or capable of becoming toxic; and

(3) Section 106 of the Act is amended by adding the following after subsection (8):

(8.1) Despite subsection (8), if the living organism is an animal having a wild counterpart, the Ministers must provide

(a) a public notice of the request for a waiver; and

(b) opportunities for members of the public to participate in the assessment.”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

The Honourable Senator Patterson moved that Bill S-5 be amended on page 28 by adding the following before line 15:

“39.2 Subsection 108(1) of the Act is replaced by the following:

108 (1) Subject to subsection (4), the Ministers shall, within the prescribed assessment period, assess information provided under subsection 106(1), (3) or (4) or paragraph 109(1)(c) or otherwise available to them in respect of a living organism in order to determine whether

(a) it is toxic or capable of becoming toxic; and

(b) it shows a demonstrable need for the living organism.

(1.1) The Ministers shall ensure that the public is provided with an opportunity to participate meaningfully in the Ministers’ assessment.

(1.2) The Ministers shall, within the prescribed assessment period, solicit public comments in respect of the testing of all evidence and may request additional evidence from any individual.”.

After debate, the Honourable Senator Galvez moved that the motion in amendment be amended in the English version by replacing the words “an opportunity” with the word “opportunities”.

After debate, the question being put on the subamendment, it was adopted by a show of hands.

After debate, the question being put on the motion in amendment, as amended, it was adopted.

It was agreed that clause 39 carry.

It was agreed that new clause 39.1 carry.

It was agreed that new clause 39.2, as amended, carry.

With leave, it was agreed that clauses 40 to 43 carry.

The chair asked whether clause 44 shall carry.

The Honourable Senator Patterson moved that Bill S-5 be amended on page 31 by adding the following after line 18:

“44.1 Subsection 114(1) of the Act is amended by adding the following after paragraph (g):

(g.1) prescribing processes for meaningful public participation in

(i) an assessment under section 108, and

(ii) the determination of whether to grant a waiver requested under subsection 106(8);”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that clause 44 carry.

It was agreed that new clause 44.1 carry.

With leave, it was agreed that clauses 45 to 48 carry.

It was agreed that clause 49 carry.

The chair asked whether clause 50 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-5 be amended in clause 50, on page 35, by replacing lines 10 to 13 with the following:

“(3) The Minister shall not take any other action under this Act in respect of any matter subject to a request for confidentiality — and shall not disclose any information subject to that request — until the Minister has

(a) decided either to grant or refuse the request; and

(b) communicated that decision to the requester.

(4) The Minister shall not grant a request for confidentiality unless the Minister is satisfied that the person making the request has demonstrated that the information with respect to the request is confidential.”.

After debate, it was agreed that the motion in amendment stand postponed until the next meeting.

At 11:34 a.m., the committee adjourned to the call of the chair.

ATTEST:

Chantal Cardinal

Clerk of the Committee