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On May 1, 2016, Congress' historic Social Security reform goes live. Some Americans stand to lose \$50,000. Others will win big... [Click here to read the full story...](#)

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'Monsanto Rider' Would Shield Chemical Giant From Liability for Injuries Caused by PCBs in Public Schools

Robert F. Kennedy, Jr. | March 15, 2016 10:05 am | Comments

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The New York Times [reported](#) last month that Congressional Republicans have clandestinely inserted a provision into the [Toxic Substances Control Act \(TSCA\)](#) reauthorization bill that will give Monsanto permanent immunity from liability for injuries caused by its toxic polychlorinated biphenyls (PCBs). The long awaited and grievously needed bill is now in the Conference Committee for reconciliation with a companion Senate bill. The so-called "Monsanto Rider" would shield the chemical colossus from [thousands of lawsuits by cities](#), towns, school districts and individuals, who have been injured by exposure to PCBs.



Monsanto marketed PCB-based caulking to schools and other municipal buildings throughout the U.S beginning in 1950, touting the chemical's ability to contract and expand with changing temperatures. Studies suggest that any school built or renovated between 1950 and 1977 may contain PCBs. [Photo credit: pcbinschools.org](http://pcbinschools.org)

PCBs are known human carcinogens and potent endocrine disruptors, which can interfere with physical, intellectual and sexual development in children. PCBs persist in the environment and bio accumulate in animals and humans. According to [U.S. Environmental Protection Agency \(EPA\)](#), children exposed to PCBs can suffer damage to their immune, reproductive, nervous and endocrine systems. Two recent publications from U.S. EPA and the National Institute Environmental Health Science Children's Center at UC Davis [report](#) that PCBs can [disrupt early brain development](#), by hijacking the signals that promote normal neuron branching which increase the risk of brain damage, including autism. Between 1935 and 1977, [Monsanto](#) was the exclusive manufacturer of PCBs in the U.S. Congress banned the manufacturing of PCBs in 1979 over concerns about its potential to cause severe health and environmental injury.

I've been sparring over PCBs since the start of my 32-year career as an environmental lawyer. For more than three decades I have been litigating and campaigning against General Electric (GE) to force the clean-up of the Hudson River. PCBs manufactured by Monsanto and dumped by GE have contaminated 200 miles of the Hudson, which is the country's largest superfund site. GE's long awaited Hudson River clean-up is now ongoing, but the Hudson is not America's only PCB contaminated waterway.

Monsanto's PCBs have poisoned 80,000 river miles elsewhere in our nation from Washington state's Duwamish River to Connecticut's Housatonic. Seattle and six other cities are [currently in litigation](#) with Monsanto to force the company to clean up local rivers and bays. The GOP's TSCA's shield provision would dismiss all those lawsuits. Congress would have the public, not the polluters pay to clean up Monsanto's monumental mess.

Of even greater concern is the burgeoning issue of [PCBs in our public schools](#).

Monsanto marketed PCB-based caulking to schools and other municipal buildings throughout the U.S beginning in 1950, touting the chemical's ability to contract and expand with changing temperatures. Studies suggest that any school built or renovated between 1950 and 1977 may contain PCBs. As the scientific evidence about PCB hazards to human health accumulated in the early 1970's, and regulatory agencies and Congress began moving toward a ban, Monsanto amplified its aggressive marketing of plasticizer PCBs for use in caulk that was applied throughout America's public schools. Despite Monsanto's own internal conclusion in 1969 that PCBs were becoming "global environmental contaminants," Monsanto increased its production of PCBs which peaked in 1970 at 85 million pounds.

The National Center for Education Statistics [estimates](#) that 45 percent of all schools in the U.S. (approximately 45,000) were built during this era. About 27 to 54 percent of all these schools—12,000 to 25,000 nationwide—may contain PCBs with little variation among U.S. regions. The costs of mitigation and remediation ranges from \$750,000 to \$3.1 million per building. The total costs to school districts across the nation could be upwards of \$80 billion. As the exclusive manufacturer of PCBs in the U.S., Monsanto is responsible for these damages. I am representing school districts across the country who are suing Monsanto to pay the costs of removing contaminated [caulking](#) and [PCB laden light bulb ballasts](#).

TSCA section 15 U.S.C. 2605(e), which was enacted in 1977, requires that every school district with PCBs in caulking and lighting ballasts greater than 50 parts per million, immediately remove these contaminants to safeguard school children's health. However,

in 2009, the EPA implemented an informal policy allowing school districts to delay remediation until such time as there were major renovations or demolition of the contaminated structure. The EPA told the school districts that it would not enforce that law if the school district chose to wait.

While this unpromulgated and illegal EPA policy seemed like a concession to financially pressed school districts, it was actually a monumental gift to Monsanto. Most schools, low on cash flow, chose to delay the expensive and logistically challenging remediation projects indefinitely, despite the danger to children. When delays stretch past the five year statute of limitations (which begins running when the school district becomes aware—or should have been aware—of the contamination), Monsanto is off the hook. Those \$80 billion in Monsanto's costs are then transferred to local school districts. As predicted, school districts given the option to delay, mostly did just that despite the awful consequences to future taxpayers.

It's important to understand that if a single school district in a state files a class action lawsuit against Monsanto to recover remediation costs, the statute of limitations is tolled for every district in that state. In most states, no district has filed a class action lawsuit. However, one courageous, pioneering [district in Massachusetts chose to file](#), and that suit had the effect of tolling the statute for every school in that state—creating a deep pool of potential liability for Monsanto. GOP's new shield provision is designed to abolish Monsanto's liability as a favor to the company, which has donated \$39 million to politicians over 30 years.

Documents uncovered during our litigation have confirmed Monsanto's sickeningly corrupt corporate culture. Instead of being a good corporate citizen, Monsanto's decision making matrix puts greed before public health and welfare.

As early as the 1930's and 1940's, Monsanto was aware that prolonged occupational exposure to PCBs might cause liver damage in humans. A Monsanto memorandum dated Sept. 20, 1955, stated:

“We know Aroclors [PCBs] are toxic but the actual limit has not been precisely defined.”

In late 1968, Monsanto learned that Japanese citizens were becoming ill from eating rice oil contaminated with Japanese manufactured PCBs. The company responded with a draft Oct. 2, 1969 directive stressing a preeminent focus on its bottom line:

“The objective of the [PCB] committee was to recommend action that will: 1. Protect continued sales and profits of Aroclors; 2. Permit continued development of new uses and sales, and; 3. Protect the image of the Organic Division and the Corporation as members of the business community ...”

An internal draft document dated Oct. 2, 1969, illustrates the moral bankruptcy of the company:

“The committee believes there is little probability that any action that can be taken [that] will prevent the growing incrimination of specific [PCBs] (the higher chlorinated—e.g. Aroclors 1254 and 1260) as nearly global environmental contaminants leading to contamination of human food (particularly fish), the killing of some marine species (shrimp), and the possible extinction of several species of fish-eating birds. There are, however, a number of actions which must be undertaken in order to prolong the manufacture, sale and use of these particular Aroclors as well as to protect the continued use of other members of the Aroclor series.”

A document dated Jan. 26, 1970, *The PCB-Pollution Problem*, describes a Jan. 21 and 22, 1970 meeting between representatives of GE and Monsanto. This document appears to make a commitment by Monsanto science and safety division to fraudulently massage scientific data to make their dangerous product appear safe. The document states (emphasis added):

“In essence, results reported by Mr. Wheeler on chronic animal toxicity tests and animal reproducibility studies underway are not as favorable as we had hoped or anticipated. Particularly alarming is evidence of effect on hatchability and production of thin egg shells regards white leghorn chickens. The studies involved Aroclor 1242, 1254 and 1260. Some of the studies will be repeated to arrive at better conclusions.”

The GOP is currently working to rewrite TSCA to assure that no jury will ever see these or the many other [damning documents in our possession](#).

If Monsanto gets its way, the American people will pay a high price for corporate greed and political corruption.

YOU MIGHT ALSO LIKE

[Seattle Sues Monsanto Over PCB Contamination, Becomes 6th City to Do So](#)

[California Widow Sues Monsanto Alleging Roundup Caused Her Husband's Cancer](#)

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Vera Gottlieb • a day ago

Perhaps the public, instead of trying to sue Monsanto et al, should sue the government(s) for allowing these merchants of death to literally get away with murder.

9 ^ | v • Reply • Share

patzagame → Vera Gottlieb • a day ago

Sue both the EPA and Monty.

5 ^ | v • Reply • Share

oldfarmer → patzagame • a day ago

The trouble is that if you sue today's Monsanto, you are not suing the manufacturers of the PCB's. In 1997, Monsanto spun it's industrial chemical and fiber division off into a company called Solutia. Solutia is now owned by the Eastman Chemical Company. So I guess the question is- Who do you sue? Monsanto? Solutia? Eastman Chemical? All three?

3 ^ | v • Reply • Share

agelbert → oldfarmer • a day ago

That's EASY. FOLLOW THE MONEY. Who profited from this crap? It's all in the managerial accounting reports of these empathy deficit disordered corporate crooks.

THEN, you make sure no lawyer can pull the old "limited liability" TRICK by classifying this action as a felony under the criminal code, NOT as "negligence" under the civil code.

"Founded in 1901 by John Francis Queeny, Monsanto initially produced food additives like saccharin and vanillin, **expanded into industrial chemicals like sulfuric acid and PCBs in the 1920s**, and by the 1940s was a major producer of plastics, including polystyrene and synthetic fibers."

https://en.wikipedia.org/wiki/...

If you do crime, you should PAY THE FINE and DO THE TIME, PERIOD.

6 ^ | v • Reply • Share

Arthur Doucette → oldfarmer • a day ago

'Monsanto Rider' Would Shield Chemical Giant From Liability for Injuries Caused by PCBs in Public Schools

You sue Monsanto, to the extent that Solutia can't pay.

Even though they spun off the Chemical division, since the proceeds of that division were used to establish the Ag Division, they retain shared financial responsibility.

This issue is complex.

Most of the issues deal with improper disposal of PCBs and so are the fault of the people/companies that disposed of it by dumping it in watersheds and such.

But in many cases, they can't identify who these people are, so they sue Monsanto because they made them.

The current Monsanto had nothing to do with making PCBs, but they do have financial liability, how much is for the courts to decide.

Of course this article is a typical hit piece, with bs lines like: Congressional Republicans have clandestinely inserted a provision

no, you don't have clandestine legislation

1 ^ | v • Reply • Share ›

razorjack → Arthur Doucette • a day ago

We can always count on Arthur to try and spin the evil culpability away so Monsanto isn't held accountable for their criminal activities and genocide.

That's that they pay these \$hill boys to do.

4 ^ | v • Reply • Share ›

Arthur Doucette → razorjack • a day ago

What part of this didn't you understand?

The current Monsanto had nothing to do with making PCBs, but they do have financial liability, how much is for the courts to decide.

2 ^ | v • Reply • Share ›

razorjack → Arthur Doucette • a day ago

Nonsense.

Corporations are persons under the law. No person can walk away from their criminal culpability by saying they are no longer the same person.

Why do you support Monsanto's criminal activity, \$hill boy?

4 ^ | v • Reply • Share ›

Arthur Doucette → razorjack • a day ago

No, corporations are not persons under the law.

Nothing about this is criminal.

As I said, Solutia and Monsanto share the financial liability.

The amounts are for the courts to decide.

In cases like the Conn river, they decided that the fault was GE's not Monsanto's.

That will be the case in most areas since it was the improper disposal that creates the issue.

For schools, the number of T-12 fixtures in existence has to be way down, they stopped making the ballasts a long time ago and stopped making the bulbs in 2010, because they weren't very efficient.

^ | v • Reply • Share ›

razorjack → Arthur Doucette • a day ago

Corporations are considered persons under the law, Arthur. That is a fact.

You can try to keep your little shell game of lies going but smart people see through your corrupt industry spin as soon as it hits the page, \$hill boy

4 ^ | v • Reply • Share ›

Arthur Doucette → razorjack • a day ago

Nope.

You can't put a corporation in Jail.

^ | v • Reply • Share ›

razorjack → Arthur Doucette • a day ago

Sorry to inform you, Arthur, but the legal criteria for being considered a person has nothing to do with the ability to put them in jail

111 JAUU

Personally I think corporate officers and board member should be jailed when companies like Monsanto and others are found guilty of criminal behavior.

3 ^ | v • Reply • Share ›

Arthur Doucette → razorjack • a day ago

But you inform me of nothing.

Corporations have SOME of the same rights as persons, but that doesn't make them a person.

I don't mind you bringing up this silly argument as it just makes you look silly.

I do think Citiz United decision went too far by upholding the rights of corporations to make political expenditures under the First Amendment.

But that didn't make them a person.

^ | v • Reply • Share ›

razorjack → Arthur Doucette • a day ago

Your spin isn't working today, Arthur

Corporations are considered persons under the law, Arthur. That is a fact.

You can try to keep your little shell game of lies going but smart people see through your corrupt industry spin as soon as it hits the page, \$hill boy

1 ^ | v • Reply • Share ›

Robert → Arthur Doucette • 14 hours ago

They want to be a person, they should be jailed like a minority is. Instead, they use it to legally buy laws that benefits them. Why else?

^ | v • Reply • Share ›

Arthur Doucette → Robert • 8 hours ago

I'm pretty sure they are happy being a corporation.

^ | v • Reply • Share ›

patzagame → Arthur Doucette • a day ago

"It's important to understand that if a single school district in a state files a class action lawsuit against Monsanto to recover remediation costs, the statute of limitations is tolled for every district in that state. In most states, no district has filed a class action lawsuit. However, one courageous, pioneering district in Massachusetts chose to file, and that suit had the effect of tolling the statute for every school in that state—creating a deep pool of potential liability for Monsanto. GOP's new shield provision is designed to abolish Monsanto's liability as a favor to the company, which has donated \$39 million to politicians over 30 years." Explain the caulking away now.

2 ^ | v • Reply • Share ›

Arthur Doucette → patzagame • 21 hours ago

Did Monsanto sell a company the PCBs who put them into caulk, or did they sell the actual caulk?

^ | v • Reply • Share ›

patzagame → Arthur Doucette • 20 hours ago

They sold a product that they knew was dangerous and would have kept doing it if they weren't exposed.

^ | v • Reply • Share ›

Arthur Doucette → patzagame • 20 hours ago

From what I know about it, at the time it wasn't thought to be dangerous if used properly and disposed of properly, so it makes a difference.

If they made the caulk, then they would be much more likely to face the costs of its removal, if they sold Alachlor to a company that made the caulk, then not so much.

For instance this is similar to why GE is bearing the costs of cleaning up the rivers in the NE and not Monsanto.

^ | v • Reply • Share ›

Tont Davies → patzagame • a day ago

If I buy oil based paint and depose of it down my drain at home who is liable - me or the paint maker - answer me. If I buy a cell phone and feed the toxic chin to my baby is Apple liable - hardly - I am. People who bought and disposed of things that contained

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phone and see the toxic chip to my baby is apple milk - baby - I am. I hope who bought and disposed of things that contained PCBs should have disposed of them correctly. The now non-existent Monsanto was liable for waste from its production plant not from products that were sold by others and used by others. You also have to be aware of dose - dihydrogen oxide can be highly toxic but it is not banned - it even kills and sickens more people than PCBs but we don't ban it or call on people who make it to be liable for misuse forever. Each situation is different - exposure in schools may be very low - rip it out of walls and you let it loose and create a real risk of harm

^ | v • Reply • Share ›

patzagame → Tont Davies • a day ago

Listen, GMOLOL troll, take your dihydrogen oxide and go suck wind. It even kills and sickens more people than PCBs??? where did you pull that B.S. out of? GLP or Biofortified? Monsanto knowingly knew the dangers of PCBs and continued to manufacture and sell them. Monsanto was a slime ball then as a chemical company and still operates with the same hidden agendas as a supposed Ag company now.

3 ^ | v • Reply • Share ›

Robert → Vera Gottlieb • 13 hours ago

No, just as you can't really sue the government for anything else. Besides, we need governments to spend money on R&D of clean energy and storage, not to be taxing us more to pay for such lawsuits. Sue the company which knowingly poisons.

^ | v • Reply • Share ›

Sirios • a day ago

Where is the cast of usual defenders of the on going crimes of Monsanto. Maybe they are becoming wary of aligning themselves with the manipulating compassionless acts that Monsanto spews out daily. One cannot abuse its benefactor, (nature) endlessly, without dire consequences. Wake up Monsanto, you receive the grace and gifts of nature that keep you alive every day and show zero gratitude.

7 ^ | v • Reply • Share ›

Warren Lauzon → Sirios • a day ago

What crimes would those be?

^ | v • Reply • Share ›

Krissalee85 → Warren Lauzon • a day ago

Environmental annihilation, mainly.

2 ^ | v • Reply • Share ›

Krissalee85 • a day ago

What a great idea it is to trust this wonderful corporation with the world's food supply. Surely we need them to feed us all.

7 ^ | v • Reply • Share ›

Tont Davies → Krissalee85 • a day ago

do you trust the Germans today with anything? or do you blame the 2 year old for Hitler. They were both Hitler. Today's Monsanto isn't the company that made PCBs

^ | v • Reply • Share ›

Rob Bright → Tont Davies • a day ago

Ridiculous straw men you've lined up there...

4 ^ | v • Reply • Share ›

razorjack → Rob Bright • a day ago

When that is all they've got and their desperate to change the subject this is the kind of deflective drivel they give us

3 ^ | v • Reply • Share ›

Krissalee85 → Tont Davies • a day ago

Yet they are behaving in the exact same way. To play on your analogy- If he had any, would you trust the grandchildren of Hitler to rule the country? You might say yes if they were good people, unlike Hitler. But what if they displayed the same corrupt behaviors? Would you still want them to rule?

2 ^ | v • Reply • Share ›

John Barnhart • a day ago

Another payoff...

5 ^ | v • Reply • Share ›

Jacqueline • a day ago

Joe Biden's Moon Shot on cancer can't be separated from his states cozy alliance with Monsanto. This relationship exceeds all known corruption of public officials.

4 ^ | v • Reply • Share ›

Tont Davies → Jacqueline • a day ago

what are you babbling about That's a load of bull. Revolving door - all you see is over 30 years the old Monsanto before 2000 had some employees who went to work in government - considering they were lawyers or scientists it could be expected some of the thousand Monsanto employees would get jobs elsewhere. They took probably lower paying government jobs and without a thimble full of evidence they are apparent corrupt taking bribes etc. That is just not adult or sensible. We can run our lives randomly creating "facts" and behave like complete idiots or try to have sense of intelligence.

If anyone has an ounce of proof that anyone on the government payroll is taking Monsanto from Monsanto they are welcome to call the attorney general's office but I am pretty sure those idiots have nothing but nonsense to share

^ | v • Reply • Share ›

razorjack → Tont Davies • a day ago

More nonsense.

Compensation takes many forms and is often deferred.

It is not about proving compensation, but it is about watching what these revolving door \$hill do. It is the same for the academic corruption of our land grant institutions as well.

2 ^ | v • Reply • Share ›

agelbert • a day ago

Monsanto moles have so infiltrated the US Government to engineer watered down laws and health endangering policies protecting Monsanto bottom lines that it has reached the level of mind boggling corruption.

Just Google "Monsanto to government revolving door" to see what I mean. And don't forget all the judges they have in their pocket. :>(

6 ^ | v • Reply • Share ›

Tont Davies → agelbert • a day ago

That's a load of bull. Revolving door - all you see is over 30 years the old Monsanto before 2000 had some employees who went to work in government - considering they were lawyers or scientists it could be expected some of the thousand Monsanto employees would get jobs elsewhere. They took probably lower paying government jobs and without a thimble full of evidence they are apparent corrupt taking bribes etc. That is just not adult or sensible. We can run our lives randomly creating "facts" and behave like complete idiots or try to have sense of intelligence.

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^ | v • Reply • Share ›

agelbert → Tont Davies • a day ago

The **"old" Monsanto!!!?** You mean the "New and improved" Monsanto is not every bit as crooked as the "old" Monsanto?

You must be in corporate advertising. I.E. it's far more "effective" for corporate bottom lines to "rebrand" than to be honest about the polluting piggery.

Nice try, \$hill.

5 ^ | v • Reply • Share ›

razorjack → Tont Davies • a day ago

Nonsense.

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3 ^ | v • Reply • Share ›

Southern → Tont Davies • 21 hours ago

No it's not, the revolving door is well known and documented, you obviously have access to a computer, try look it up.

You're Appointing Who? Please Obama, Say It's Not So!

Watch This Monsanto Lobbyist Refuse To Drink Glass Of Roundup That He Claims Is Safe

2 ^ | v • Reply • Share ›

Rob Bright • a day ago

Corrupt politicians serving corrupt corporations... this 'same old, same old' needs to stop, or the US will face such a certain crisis of legitimacy that public trust in government and regulators will utterly disappear...

3 ^ | v • Reply • Share ›

Tont Davies → Rob Bright • a day ago

That's a load of bull. Revolving door - all you see is over 30 years the old Monsanto before 2000 had some employees who went to work in government - considering they were lawyers or scientists it could be expected some of the thousand Monsanto employees would get jobs elsewhere. They took probably lower paying government jobs and without a thimble full of evidence they are apparent corrupt taking bribes etc. That is just not adult or sensible. We can run our lives randomly creating "facts" and behave like complete idiots or try to have sense of intelligence.

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^ | v • Reply • Share ›

razorjack → Tont Davies • a day ago

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2 ^ | v • Reply • Share ›

Robert → Tont Davies • 14 hours ago

Your cut and paste "bull" is repetitively making you look like an ass. I guess you really are a shill. Too many greedy f... f'n up the world and not enough people that care.

WHERE'S THE PETITION!

^ | v • Reply • Share ›

Thomas Martin • a day ago

One of government's jobs is to protect the safety and welfare of the people.

5 ^ | v • Reply • Share ›

Vera Gottlieb → Thomas Martin • a day ago

Isn't this what the government is doing...protecting Monsanto??? One merchant of death among many others. Boycott them!!!

7 ^ | v • Reply • Share ›

toodorky → Thomas Martin • a day ago

Well, Mr. Martin....they are not doing a very good job are they?

5 ^ | v • Reply • Share ›

Krissalee85 → Thomas Martin • 5 hours ago

Lol

^ | v • Reply • Share ›

nick quinlan • 21 hours ago

Monsanto's business model is toxic products, and absolute corruption, hand in hand with the absolutely corrupt United States Government. The US government only serves banks and corporations, human health or the environment take a back seat to profits. What a disgusting, corrupt mess this government entails

2 ^ | v • Reply • Share ›

Arthur Doucette → nick quinlan • 21 hours ago

Monsanto's business model is creating seeds and herbicides that farmers want to buy and use.

Seems to be pretty successful, since they started an international revolution in how we grow a number of the world's largest crops.

^ | v • Reply • Share ›

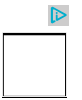
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