AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1603

OFFERED BY M__. _____

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Alan Reinstein Ban Asbestos Now Act of 2019''.

SEC. 2. ASBESTOS BAN AND REPORTING.

(a) IN GENERAL.—Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

''(k) ASBESTOS.—

''(1) PROHIBITION OF MANUFACTURE, PROCESSING, AND DISTRIBUTION IN COMMERCE.—Effective one year after the date of enactment of this subsection, no person may manufacture, process, or distribute in commerce asbestos or any mixture or article containing asbestos.

''(2) EXEMPTION FOR NATIONAL SECURITY REASONS.—

''(A) IN GENERAL.—The President may, upon application, grant any person an exemp-

tion from the prohibition under paragraph (1) once for the manufacture, processing, or distribution in commerce of asbestos or any mixture or article containing asbestos only if the President determines that—

''(i) the manufacture, processing, or distribution in commerce of asbestos or any mixture or article containing asbestos by the person is necessary to protect the national security interests of the United States; and

''(ii) no feasible alternative to the manufacture, processing, or distribution in commerce of asbestos or any mixture or article containing asbestos exists for the intended use.

''(B) DURATION.—

''(i) IN GENERAL.—The period of an exemption granted under subparagraph (A) shall not exceed 3 years.

''(ii) EXTENSION.—The President may, in accordance with subparagraph (A), extend an exemption granted under such subparagraph once, for a period not to exceed 3 years.

''(C) TERMS AND CONDITIONS.—An exemption granted under this paragraph (including an extension thereof) shall include such terms and conditions as are necessary to achieve maximum practicable reduction in exposure to the asbestos that is the covered by the exemption.

''(D) PUBLICATION.—

''(i) APPLICATIONS.—Not later than 30 days after receipt of an application for an exemption under this paragraph (including an extension thereof), the President shall publish the application in the Federal Register.

''(ii) EXEMPTIONS.—Not later than 30 days after granting an exemption under this paragraph (including an extension thereof), the President shall publish in the Federal Register notice of the exemption and the terms and conditions included under subparagraph (C).

''(iii) EXCEPTION.—The President, upon a determination that publication under this paragraph of information pertaining to an application or granting of a

particular exemption would harm the national security interests of the United States, shall not publish such information in the Federal Register but shall provide such information to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate.

''(E) APPLICATION OF WAIVER AUTHORITY.—Notwithstanding section 22, the Administrator may not issue a waiver under such section with respect to asbestos.

''(3) CHLOR-ALKALI INDUSTRY.—Notwithstanding paragraph (1), the owner, operator, or agent thereof of a chlor-alkali facility that is in operation on the date of enactment of this subsection may—

''(A) until the date that is 5 years after such date of enactment, import processed asbestos fibers solely for the purpose of manufacturing diaphragms for use in the chlor-alkali process; and

''(B) until the date that is 10 years after such date of enactment, use, hold, or process asbestos fibers solely for the purpose of manu-

facturing diaphragms for use in the chlor-alkali process.

''(4) REPORTS.—

''(A) TIMING AND COVERAGE.—

''(i) PREVIOUS ACTION.—Not later than 120 days after the date of enactment of this subsection, any person who has manufactured, processed, or distributed in commerce asbestos or any mixture or article containing asbestos (not including any mixture or article in which asbestos is present only as an impurity) in the 36 months preceding such date of enactment shall submit to the Administrator a report described in subparagraph (B).

''(ii) LATER ACTION.—Any person manufacturing, processing, or distributing in commerce asbestos or any mixture or article containing asbestos during the period that begins on the date of enactment of this subsection and ends on the date on which the prohibition under paragraph (1) takes effect shall submit to the Administrator a report described in subparagraph (B) not later than 120 days after—

''(I) the date of enactment of this subsection, for any person who has manufactured, processed, or distributed in commerce asbestos or any mixture or article containing asbestos before such date of enactment; or

''(II) the date on which the person initiates any such manufacture, processing, or distribution in commerce, for any person initiating such manufacturing, processing, or distribution in commerce on or after such date of enactment.

''(iii) REPORTS DURING EXEMPTED PERIOD.—Any person granted an exemption under paragraph (2) shall submit to the Administrator a report described in subparagraph (B) not later than 27 months after—

''(I) the exemption is granted; and

''(II) the exemption is extended, if applicable.

''(iv) REPORTS BY CHLOR-ALKALI INDUSTRY.—Any owner, operator, or agent

thereof of a chlor-alkali facility importing, using, holding, or processing asbestos pursuant to paragraph (3) in a calendar year shall submit to the Administrator a report described in subparagraph (B)—

"(I) not later than March 1 of the following calendar year; and

"(II) annually thereafter until the person has submitted such a report with respect to each calendar year after the date of enactment of this subsection in which such person imported, used, held, or processed such an article.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall, if not previously reported to the Administrator, include—

"(i) the name and address of the person submitting the report;

"(ii) the name, title, and contact information of an authorized representative of the person submitting the report;

"(iii) the location of the facility or facilities where the manufacture, processing, or distribution in commerce of asbestos or

mixtures or articles containing asbestos has occurred during the applicable reporting period;

''(iv) a description of the manufacture, processing, or distribution activity during the applicable reporting period of the person submitting the report, and the intended and known uses of asbestos and each mixture or article containing asbestos that was manufactured, processed, or distributed in commerce by such person during such period;

''(v) the amount of asbestos, and reasonable estimates of the amount and concentration of asbestos in any mixture or article containing asbestos, that is manufactured, processed, or distributed in commerce, or expected to be manufactured, processed, or distributed in commerce, by the person during the applicable reporting period;

''(vi) to the extent practicable, reasonable estimates of the amount of asbestos to be disposed of as a result of the reported manufacture, processing, or distribution

activities, and the manner of such disposal; and

''(vii) reasonable estimates of—

''(I) the number of individuals who, as a result of their involvement in the reported manufacture, processing, and distribution activities—

''(aa) have been exposed to asbestos or mixtures or articles containing asbestos; and

''(bb) will be so exposed; and

''(II) the nature, duration, frequency, and levels of any such exposure.

''(C) REPORTING PERIOD.—For purposes of subparagraph (B), the reporting period for a report submitted under—

''(i) subparagraph (A)(i) shall be the period that begins on the date that is 36 months prior to the date of enactment of this subsection and ends on the date of enactment of this subsection;

''(ii) subparagraph (A)(ii) shall be the period that begins on the date of enactment of this subsection and ends on the

date on which the prohibition under paragraph (1) takes effect;

''(iii) subparagraph (A)(iii)(I) shall be the period that begins on the date on which an exemption is granted under paragraph (2) and ends on the date such exemption expires (not including an extension thereof);

''(iv) subparagraph (A)(iii)(II) shall be the period that begins on the date on which an exemption is extended under paragraph (2) and ends on the date such extension expires; and

''(v) subparagraph (A)(iv) shall be the calendar year prior to the calendar year in which the report is submitted.

''(D) REPORTING FORMS AND INSTRUCTIONS.—Not later than 45 days after the date of the enactment of this subsection, the Administrator shall publish a notice in the Federal Register that provides instructions for reporting under this paragraph and a form or forms for use by persons submitting reports under this paragraph.

''(E) AVAILABILITY.—Not later than 3 months after a report is submitted under subparagraph (A), the Administrator shall, subject to section 14, make such report available to the public.

''(F) SUMMARY AND ANALYSIS.—Not later than 180 days after a report is submitted under subparagraph (A), the Administrator shall, subject to section 14, make available to the public a summary and analysis of the information such report contains.

''(5) DEFINITIONS.—In this subsection:

''(A) ASBESTOS.—The term 'asbestos' means the following chemical substances:

''(i) The asbestiform varieties of chrysotile, actinolite, amosite, anthophyllite, crocidolite, richterite, winchite, and tremolite.

''(ii) The acicular and fibrous forms of richterite and winchite.

''(B) DISTRIBUTE IN COMMERCE.—The terms 'distribute in commerce' and 'distribution in commerce' have the meaning given the terms in section 3(5), but, notwithstanding such sec-

tion 3(5), do not include, with respect to asbestos—

''(i) end-use of a mixture or article containing asbestos and installed in a building or other structure before the date of enactment of this subsection; or

''(ii) distribution of a mixture or article containing asbestos solely for the purpose of disposal of the mixture or article in compliance with applicable Federal, State, and local requirements.

''(C) MIXTURE OR ARTICLE CONTAINING ASBESTOS.—The term 'mixture or article containing asbestos' does not include—

''(i) a mixture or article in which asbestos is present as an impurity, as defined in section 720.3(m) of title 40, Code of Federal Regulations, as of the date of enactment of this clause, in an amount that does not exceed a content of 0.1 percent of the mixture or article; or

''(ii) with regard to mined construction materials, including aggregates, stone, sand, and gravel, a mixture or article in which less than 0.25 percent by weight of

naturally occurring asbestos is present in the bulk content of such materials.''.

(b) TESTING.—Nothing in the amendment made by this section requires a manufacturer, processor, or distributor in commerce to test for the presence of asbestos in any mixture or article.

(c) CHEMICAL SUBSTANCE.—The definition of ''asbestos'' under the amendment made by this section shall apply only to ''chemical substance'' as defined under section 3(2), including subparagraph (B)(vi) of such section, of the Toxic Substances Control Act.

SEC. 3. LEGACY ASBESTOS: REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services and the Secretary of Labor, shall seek to enter into an agreement with the National Academy of Sciences to prepare a report assessing—

(1) the presence of asbestos in residential, commercial, industrial, public, and school buildings; and

(2) the extent of exposure to the asbestos present in such buildings from all commercial, industrial, and consumer activities that may result in asbestos exposure.

(b) CONTENTS.—The report described in subsection (a) shall be based upon the best available information, and information that can feasibly be obtained through surveys or other reliable means, and shall provide the following:

(1) An estimate of the number of residential, commercial, industrial, public, and school buildings where asbestos is present.

(2) An estimate of the amount of asbestos in such buildings and the portion of such asbestos that is friable.

(3) A description of the types of building components and systems containing asbestos in such buildings and the categories of mixtures and articles containing asbestos that are present, such as thermal insulation, roofing materials, asbestos cement pipe, and asbestos cement sheet.

(4) For each category of building, an estimate of the number of people potentially exposed to asbestos, the conditions and activities with the greatest potential for exposure, and estimates of the levels of exposure.

(5) A description of the role of handling, maintenance, and construction practices in creating exposure to asbestos and the impact of building aging on the potential for asbestos exposure.

(6) A best estimate of the amount of asbestos waste generated from building renovation, repair, and demolition for each of the last 5 years and the procedures that are utilized for the handling, transport, and disposal of such waste.

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—The report described in subsection (a) shall contain—

(A) an assessment of the sufficiency of existing statutes, regulations, policies, and programs, implemented by the Environmental Protection Agency, the Department of Labor, and other agencies, in protecting against exposures to legacy asbestos; and

(B) recommendations for modifications or additions to such statutes, regulations, policies, and programs, as necessary to reduce or eliminate risks to human health.

(2) INCLUSIONS.—Recommendations under paragraph (1)(B) may include recommendations for new, additional, or modified statutes, regulations, policies, or programs for—

(A) the inspection of buildings to determine the presence and condition of asbestos;

(B) inventorying the presence and condition of asbestos in buildings;

(C) removal of asbestos from buildings;

(D) handling asbestos during building maintenance, repair, demolition, and other commercial and industrial activities with the potential for asbestos exposure; and

(E) disposal of asbestos-containing waste and debris.

(d) DEADLINES.—

(1) AGREEMENT.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services and the Secretary of Labor, shall seek to enter into a contract with the National Academy of Sciences under this section not later than 4 months after the date of enactment of this Act.

(2) REPORT.—Under the agreement entered into pursuant to subsection (a), the National Academy of Sciences shall, not later than 18 months after the date of enactment of this Act, submit to Congress and to the Administrator of the Environmental Protection Agency the report described in this section.

(e) EFFECT ON EXISTING LAW.—Compliance with this section shall not relieve the Administrator of the Environmental Protection Agency, the Secretary of Health and Human Services, or the Secretary of Labor, of any other obligation arising under this Act or any other law.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000.

(g) DEFINITION OF ASBESTOS.—In this section, the term ''asbestos'' means—

(1) the asbestiform varieties of chrysotile, actinolite, amosite, anthophyllite, crocidolite, richterite, winchite, and tremolite; and

(2) the acicular and fibrous forms of richterite and winchite.

SEC. 4. PREEMPTION.

For purposes of section 18 of the Toxic Substances Control Act, subsection (k) of section 6 of such Act (as added by this Act) shall be considered to be a rule promulgated under such section 6.

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