

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1603
OFFERED BY M. _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Alan Reinstein Ban
3 Asbestos Now Act of 2019”.

4 SEC. 2. ASBESTOS BAN AND REPORTING.

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

8 “(k) ASBESTOS.—

9 “(1) PROHIBITION OF MANUFACTURE, PROC-
10 ESSING, AND DISTRIBUTION IN COMMERCE.—Effec-
11 tive one year after the date of enactment of this sub-
12 section, no person may manufacture, process, or dis-
13 tribute in commerce asbestos or any mixture or arti-
14 cle containing asbestos.

15 “(2) EXEMPTION FOR NATIONAL SECURITY
16 REASONS.—

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

1 tion from the prohibition under paragraph (1)
2 once for the manufacture, processing, or dis-
3 tribution in commerce of asbestos or any mix-
4 ture or article containing asbestos only if the
5 President determines that—

6 “(i) the manufacture, processing, or
7 distribution in commerce of asbestos or
8 any mixture or article containing asbestos
9 by the person is necessary to protect the
10 national security interests of the United
11 States; and

12 “(ii) no feasible alternative to the
13 manufacture, processing, or distribution in
14 commerce of asbestos or any mixture or
15 article containing asbestos exists for the
16 intended use.

17 “(B) DURATION.—

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

21 “(ii) EXTENSION.—The President
22 may, in accordance with subparagraph (A),
23 extend an exemption granted under such
24 subparagraph once, for a period not to ex-
25 ceed 3 years.

1 “(C) TERMS AND CONDITIONS.—An ex-
2 emption granted under this paragraph (includ-
3 ing an extension thereof) shall include such
4 terms and conditions as are necessary to
5 achieve maximum practicable reduction in expo-
6 sure to the asbestos that is the covered by the
7 exemption.

8 “(D) PUBLICATION.—

9 “(i) APPLICATIONS.—Not later than
10 30 days after receipt of an application for
11 an exemption under this paragraph (in-
12 cluding an extension thereof), the Presi-
13 dent shall publish the application in the
14 Federal Register.

15 “(ii) EXEMPTIONS.—Not later than
16 30 days after granting an exemption under
17 this paragraph (including an extension
18 thereof), the President shall publish in the
19 Federal Register notice of the exemption
20 and the terms and conditions included
21 under subparagraph (C).

22 “(iii) EXCEPTION.—The President,
23 upon a determination that publication
24 under this paragraph of information per-
25 taining to an application or granting of a

1 particular exemption would harm the na-
2 tional security interests of the United
3 States, shall not publish such information
4 in the Federal Register but shall provide
5 such information to the Committee on En-
6 ergy and Commerce of the House of Rep-
7 resentatives and the Committee on Envi-
8 ronment and Public Works of the Senate.

9 “(E) APPLICATION OF WAIVER AUTHOR-
10 ITY.—Notwithstanding section 22, the Adminis-
11 trator may not issue a waiver under such sec-
12 tion with respect to asbestos.

13 “(3) CHLOR-ALKALI INDUSTRY.—Notwith-
14 standing paragraph (1), the owner, operator, or
15 agent thereof of a chlor-alkali facility that is in oper-
16 ation on the date of enactment of this subsection
17 may—

18 “(A) until the date that is 5 years after
19 such date of enactment, import processed asbes-
20 tos fibers solely for the purpose of manufac-
21 turing diaphragms for use in the chlor-alkali
22 process; and

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

1 facturing diaphragms for use in the chlor-alkali
2 process.

3 “(4) REPORTS.—

4 “(A) TIMING AND COVERAGE.—

5 “(i) PREVIOUS ACTION.—Not later
6 than 120 days after the date of enactment
7 of this subsection, any person who has
8 manufactured, processed, or distributed in
9 commerce asbestos or any mixture or arti-
10 cle containing asbestos (not including any
11 mixture or article in which asbestos is
12 present only as an impurity) in the 36
13 months preceding such date of enactment
14 shall submit to the Administrator a report
15 described in subparagraph (B).

16 “(ii) LATER ACTION.—Any person
17 manufacturing, processing, or distributing
18 in commerce asbestos or any mixture or
19 article containing asbestos during the pe-
20 riod that begins on the date of enactment
21 of this subsection and ends on the date on
22 which the prohibition under paragraph (1)
23 takes effect shall submit to the Adminis-
24 trator a report described in subparagraph
25 (B) not later than 120 days after—

1 “(I) the date of enactment of this
2 subsection, for any person who has
3 manufactured, processed, or distrib-
4 uted in commerce asbestos or any
5 mixture or article containing asbestos
6 before such date of enactment; or

7 “(II) the date on which the per-
8 son initiates any such manufacture,
9 processing, or distribution in com-
10 merce, for any person initiating such
11 manufacturing, processing, or dis-
12 tribution in commerce on or after
13 such date of enactment.

14 “(iii) REPORTS DURING EXEMPTED
15 PERIOD.—Any person granted an exemp-
16 tion under paragraph (2) shall submit to
17 the Administrator a report described in
18 subparagraph (B) not later than 27
19 months after—

20 “(I) the exemption is granted;
21 and

22 “(II) the exemption is extended,
23 if applicable.

24 “(iv) REPORTS BY CHLOR-ALKALI IN-
25 DUSTRY.—Any owner, operator, or agent

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

6 “(I) not later than March 1 of
7 the following calendar year; and

8 “(II) annually thereafter until
9 the person has submitted such a re-
10 port with respect to each calendar
11 year after the date of enactment of
12 this subsection in which such person
13 imported, used, held, or processed
14 such an article.

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

18 “(i) the name and address of the per-
19 son submitting the report;

20 “(ii) the name, title, and contact in-
21 formation of an authorized representative
22 of the person submitting the report;

23 “(iii) the location of the facility or fa-
24 cilities where the manufacture, processing,
25 or distribution in commerce of asbestos or

1 mixtures or articles containing asbestos
2 has occurred during the applicable report-
3 ing period;

4 “(iv) a description of the manufac-
5 ture, processing, or distribution activity
6 during the applicable reporting period of
7 the person submitting the report, and the
8 intended and known uses of asbestos and
9 each mixture or article containing asbestos
10 that was manufactured, processed, or dis-
11 tributed in commerce by such person dur-
12 ing such period;

13 “(v) the amount of asbestos, and rea-
14 sonable estimates of the amount and con-
15 centration of asbestos in any mixture or
16 article containing asbestos, that is manu-
17 factured, processed, or distributed in com-
18 merce, or expected to be manufactured,
19 processed, or distributed in commerce, by
20 the person during the applicable reporting
21 period;

22 “(vi) to the extent practicable, reason-
23 able estimates of the amount of asbestos to
24 be disposed of as a result of the reported
25 manufacture, processing, or distribution

1 activities, and the manner of such disposal;

2 and

3 “(vii) reasonable estimates of—

4 “(I) the number of individuals
5 who, as a result of their involvement
6 in the reported manufacture, proc-
7 essing, and distribution activities—

8 “(aa) have been exposed to
9 asbestos or mixtures or articles
10 containing asbestos; and

11 “(bb) will be so exposed; and

12 “(II) the nature, duration, fre-
13 quency, and levels of any such expo-
14 sure.

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

18 “(i) subparagraph (A)(i) shall be the
19 period that begins on the date that is 36
20 months prior to the date of enactment of
21 this subsection and ends on the date of en-
22 actment of this subsection;

23 “(ii) subparagraph (A)(ii) shall be the
24 period that begins on the date of enact-
25 ment of this subsection and ends on the

1 date on which the prohibition under para-
2 graph (1) takes effect;

3 “(iii) subparagraph (A)(iii)(I) shall be
4 the period that begins on the date on
5 which an exemption is granted under para-
6 graph (2) and ends on the date such ex-
7 emption expires (not including an exten-
8 sion thereof);

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

14 “(v) subparagraph (A)(iv) shall be the
15 calendar year prior to the calendar year in
16 which the report is submitted.

17 “(D) REPORTING FORMS AND INSTRUC-
18 TIONS.—Not later than 45 days after the date
19 of the enactment of this subsection, the Admin-
20 istrator shall publish a notice in the Federal
21 Register that provides instructions for reporting
22 under this paragraph and a form or forms for
23 use by persons submitting reports under this
24 paragraph.

1 “(E) AVAILABILITY.—Not later than 3
2 months after a report is submitted under sub-
3 paragraph (A), the Administrator shall, subject
4 to section 14, make such report available to the
5 public.

6 “(F) SUMMARY AND ANALYSIS.—Not later
7 than 180 days after a report is submitted under
8 subparagraph (A), the Administrator shall, sub-
9 ject to section 14, make available to the public
10 a summary and analysis of the information
11 such report contains.

12 “(5) DEFINITIONS.—In this subsection:

13 “(A) ASBESTOS.—The term ‘asbestos’
14 means the following chemical substances:

15 “(i) The asbestiform varieties of
16 chrysotile, actinolite, amosite,
17 anthophyllite, crocidolite, richterite,
18 winchite, and tremolite.

19 “(ii) The acicular and fibrous forms
20 of richterite and winchite.

21 “(B) DISTRIBUTE IN COMMERCE.—The
22 terms ‘distribute in commerce’ and ‘distribution
23 in commerce’ have the meaning given the terms
24 in section 3(5), but, notwithstanding such sec-

1 tion 3(5), do not include, with respect to asbes-
2 tos—

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

7 “(ii) distribution of a mixture or arti-
8 cle containing asbestos solely for the pur-
9 pose of disposal of the mixture or article in
10 compliance with applicable Federal, State,
11 and local requirements.

12 “(C) MIXTURE OR ARTICLE CONTAINING
13 ASBESTOS.—The term ‘mixture or article con-
14 taining asbestos’ does not include—

15 “(i) a mixture or article in which as-
16 bestos is present as an impurity, as defined
17 in section 720.3(m) of title 40, Code of
18 Federal Regulations, as of the date of en-
19 actment of this clause, in an amount that
20 does not exceed a content of 0.1 percent of
21 the mixture or article; or

22 “(ii) with regard to mined construc-
23 tion materials, including aggregates, stone,
24 sand, and gravel, a mixture or article in
25 which less than 0.25 percent of naturally

1 occurring asbestos is present in the bulk
2 content of such materials.”.

3 (b) TESTING.—Nothing in the amendment made by
4 this section requires a manufacturer, processor, or dis-
5 tributor in commerce to test for the presence of asbestos
6 in any mixture or article.

7 (c) CHEMICAL SUBSTANCE.—The definition of “as-
8 bestos” under the amendment made by this section shall
9 apply only to “chemical substance” as defined under sec-
10 tion 3(2), including subparagraph (B)(vi) of such section,
11 of the Toxic Substances Control Act.

12 **SEC. 3. LEGACY ASBESTOS: REPORT AND RECOMMENDA-**
13 **TIONS.**

14 (a) REPORT.—The Administrator of the Environ-
15 mental Protection Agency, in consultation with the Sec-
16 retary of Health and Human Services and the Secretary
17 of Labor, shall seek to enter into an agreement with the
18 National Academy of Sciences to prepare a report assess-
19 ing—

20 (1) the presence of asbestos in residential, com-
21 mercial, industrial, public, and school buildings; and

22 (2) the extent of exposure to the asbestos
23 present in such buildings from all commercial, indus-
24 trial, and consumer activities that may result in as-
25 bestos exposure.

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

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

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

11 (3) A description of the types of building com-
12 ponents and systems containing asbestos in such
13 buildings and the categories of mixtures and articles
14 containing asbestos that are present, such as ther-
15 mal insulation, roofing materials, asbestos cement
16 pipe, and asbestos cement sheet.

17 (4) For each category of building, an estimate
18 of the number of people potentially exposed to asbes-
19 tos, the conditions and activities with the greatest
20 potential for exposure, and estimates of the levels of
21 exposure.

22 (5) A description of the role of handling, main-
23 tenance, and construction practices in creating expo-
24 sure to asbestos and the impact of building aging on
25 the potential for asbestos exposure.

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

6 (c) RECOMMENDATIONS.—

7 (1) IN GENERAL.—The report described in sub-
8 section (a) shall contain—

9 (A) an assessment of the sufficiency of ex-
10 isting statutes, regulations, policies, and pro-
11 grams, implemented by the Environmental Pro-
12 tection Agency, the Department of Labor, and
13 other agencies, in protecting against exposures
14 to legacy asbestos; and

15 (B) recommendations for modifications or
16 additions to such statutes, regulations, policies,
17 and programs, as necessary to reduce or elimi-
18 nate risks to human health.

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

23 (A) the inspection of buildings to deter-
24 mine the presence and condition of asbestos;

1 (B) inventorying the presence and condi-
2 tion of asbestos in buildings;

3 (C) removal of asbestos from buildings;

4 (D) handling asbestos during building
5 maintenance, repair, demolition, and other com-
6 mercial and industrial activities with the poten-
7 tial for asbestos exposure; and

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

10 (d) DEADLINES.—

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

18 (2) REPORT.—Under the agreement entered
19 into pursuant to subsection (a), the National Acad-
20 emy of Sciences shall, not later than 18 months
21 after the date of enactment of this Act, submit to
22 Congress and to the Administrator of the Environ-
23 mental Protection Agency the report described in
24 this section.

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

6 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to carry out this section
8 \$1,500,000.

9 (g) DEFINITION OF ASBESTOS.—In this section, the
10 term “asbestos” means—

11 (1) the asbestiform varieties of chrysotile, actin-
12 olite, amosite, anthophyllite, crocidolite, richterite,
13 winchite, and tremolite; and

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

16 **SEC. 4. PREEMPTION.**

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

