

Suspend the Rules and Pass the Bill, H.R. 1603, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
2^D SESSION

H. R. 1603

To amend the Toxic Substances Control Act to prohibit the manufacture, processing, and distribution in commerce of asbestos and asbestos-containing mixtures and articles, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2019

Ms. BONAMICI (for herself, Mr. PALLONE, Ms. SLOTKIN, Mr. TONKO, Mr. POCAN, Mr. COHEN, Mr. HUFFMAN, Mrs. DINGELL, Ms. SCHAKOWSKY, Mr. KENNEDY, Mr. RASKIN, Mr. MCNERNEY, Ms. BLUNT ROCHESTER, Ms. BARRAGÁN, Mr. SOTO, Ms. ESHOO, Ms. MCCOLLUM, Mr. BLUMENAUER, Mr. TED LIEU of California, Ms. CLARKE of New York, Ms. VELÁZQUEZ, Ms. SÁNCHEZ, Mr. DEFazio, Ms. NORTON, Mr. MCGOVERN, Mr. JOHNSON of Georgia, and Mr. SCHRADER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Toxic Substances Control Act to prohibit the manufacture, processing, and distribution in commerce of asbestos and asbestos-containing mixtures and articles, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Alan Reinstein Ban
5 Asbestos Now Act of 2020”.

6 **SEC. 2. ASBESTOS BAN AND REPORTING.**

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

10 “(k) ASBESTOS.—

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

17 “(2) EXEMPTION FOR NATIONAL SECURITY
18 REASONS.—

19 “(A) IN GENERAL.—The President may,
20 upon application, grant any person an exemp-
21 tion from the prohibition under paragraph (1)
22 once for the manufacture, processing, or dis-
23 tribution in commerce of asbestos or any mix-
24 ture or article containing asbestos only if the
25 President determines that—

1 “(i) the manufacture, processing, or
2 distribution in commerce of asbestos or
3 any mixture or article containing asbestos
4 by the person is necessary to protect the
5 national security interests of the United
6 States; and

7 “(ii) no feasible alternative to the
8 manufacture, processing, or distribution in
9 commerce of asbestos or any mixture or
10 article containing asbestos exists for the
11 intended use.

12 “(B) DURATION.—

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

16 “(ii) EXTENSION.—The President
17 may, in accordance with subparagraph (A),
18 extend an exemption granted under such
19 subparagraph once, for a period not to ex-
20 ceed 3 years.

21 “(C) TERMS AND CONDITIONS.—An ex-
22 emption granted under this paragraph (includ-
23 ing an extension thereof) shall include such
24 terms and conditions as are necessary to
25 achieve maximum practicable reduction in expo-

1 sure to the asbestos that is the covered by the
2 exemption.

3 “(D) PUBLICATION.—

4 “(i) APPLICATIONS.—Not later than
5 30 days after receipt of an application for
6 an exemption under this paragraph (in-
7 cluding an extension thereof), the Presi-
8 dent shall publish the application in the
9 Federal Register.

10 “(ii) EXEMPTIONS.—Not later than
11 30 days after granting an exemption under
12 this paragraph (including an extension
13 thereof), the President shall publish in the
14 Federal Register notice of the exemption
15 and the terms and conditions included
16 under subparagraph (C).

17 “(iii) EXCEPTION.—The President,
18 upon a determination that publication
19 under this paragraph of information per-
20 taining to an application or granting of a
21 particular exemption would harm the na-
22 tional security interests of the United
23 States, shall not publish such information
24 in the Federal Register but shall provide
25 such information to the Committee on En-

1 ergy and Commerce of the House of Rep-
2 representatives and the Committee on Envi-
3 ronment and Public Works of the Senate.

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

8 “(3) CHLOR-ALKALI INDUSTRY.—Notwith-
9 standing paragraph (1), the owner, operator, or
10 agent thereof of a chlor-alkali facility that is in oper-
11 ation on the date of enactment of this subsection
12 may—

13 “(A) until the date that is 5 years after
14 such date of enactment, import processed asbes-
15 tos fibers solely for the purpose of manufac-
16 turing diaphragms for use in the chlor-alkali
17 process; and

18 “(B) until the date that is 10 years after
19 such date of enactment, use, hold, or process
20 asbestos fibers solely for the purpose of manu-
21 facturing diaphragms for use in the chlor-alkali
22 process.

23 “(4) REPORTS.—

24 “(A) TIMING AND COVERAGE.—

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

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

22 “(I) the date of enactment of this
23 subsection, for any person who has
24 manufactured, processed, or distrib-
25 uted in commerce asbestos or any

1 mixture or article containing asbestos
2 before such date of enactment; or

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

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

16 “(I) the exemption is granted;
17 and

18 “(II) the exemption is extended,
19 if applicable.

20 “(iv) REPORTS BY CHLOR-ALKALI IN-
21 DUSTRY.—Any owner, operator, or agent
22 thereof of a chlor-alkali facility importing,
23 using, holding, or processing asbestos pur-
24 suant to paragraph (3) in a calendar year

1 shall submit to the Administrator a report
2 described in subparagraph (B)—

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

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

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

15 “(i) the name and address of the per-
16 son submitting the report;

17 “(ii) the name, title, and contact in-
18 formation of an authorized representative
19 of the person submitting the report;

20 “(iii) the location of the facility or fa-
21 cilities where the manufacture, processing,
22 or distribution in commerce of asbestos or
23 mixtures or articles containing asbestos
24 has occurred during the applicable report-
25 ing period;

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

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

19 “(vi) to the extent practicable, reason-
20 able estimates of the amount of asbestos to
21 be disposed of as a result of the reported
22 manufacture, processing, or distribution
23 activities, and the manner of such disposal;
24 and

25 “(vii) reasonable estimates of—

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

5 “(aa) have been exposed to
6 asbestos or mixtures or articles
7 containing asbestos; and

8 “(bb) will be so exposed; and

9 “(II) the nature, duration, fre-
10 quency, and levels of any such expo-
11 sure.

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

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

20 “(ii) subparagraph (A)(ii) shall be the
21 period that begins on the date of enact-
22 ment of this subsection and ends on the
23 date on which the prohibition under para-
24 graph (1) takes effect;

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

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

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

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

23 “(E) AVAILABILITY.—Not later than 3
24 months after a report is submitted under sub-
25 paragraph (A), the Administrator shall, subject

1 to section 14, make such report available to the
2 public.

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

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

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

12 “(i) The asbestiform varieties of
13 chrysotile, actinolite, amosite,
14 anthophyllite, crocidolite, richterite,
15 winchite, and tremolite.

16 “(ii) The acicular and fibrous forms
17 of richterite and winchite.

18 “(B) DISTRIBUTE IN COMMERCE.—The
19 terms ‘distribute in commerce’ and ‘distribution
20 in commerce’ have the meaning given the terms
21 in section 3(5), but, notwithstanding such sec-
22 tion 3(5), do not include, with respect to asbes-
23 tos—

24 “(i) end-use of a mixture or article
25 containing asbestos and installed in a

1 building or other structure before the date
2 of enactment of this subsection; or

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

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

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

18 “(ii) with regard to mined construc-
19 tion materials, including aggregates, stone,
20 sand, and gravel, a mixture or article in
21 which less than 0.25 percent of naturally
22 occurring asbestos is present in the bulk
23 content of such materials.”.

24 (b) TESTING.—Nothing in the amendment made by
25 this section requires a manufacturer, processor, or dis-

1 tributor in commerce to test for the presence of asbestos
2 in any mixture or article.

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

8 (d) EFFECT.—The prohibitions, requirements, and
9 definitions in the amendment made by this section shall—

10 (1) apply only to chemical substances as defined
11 in section 3(2) of the Toxic Substances Control Act
12 (15 U.S.C. 2602(2)); and

13 (2) have no effect on the prohibitions, require-
14 ments, or definitions relating to asbestos for any
15 other purpose, including—

16 (A) defining asbestos for purposes of regu-
17 lating cosmetics under the Federal Food, Drug,
18 and Cosmetic Act (21 U.S.C. 301 et seq.); and

19 (B) determining whether a cosmetic con-
20 tains asbestos either as an ingredient or as an
21 accessory mineral to an ingredient such as talc.

22 **SEC. 3. LEGACY ASBESTOS: REPORT AND RECOMMENDA-**
23 **TIONS.**

24 (a) REPORT.—The Administrator of the Environ-
25 mental Protection Agency, in consultation with the Sec-

1 retary of Health and Human Services and the Secretary
2 of Labor, shall seek to enter into an agreement with the
3 National Academy of Sciences to prepare a report assess-
4 ing—

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

7 (2) the extent of exposure to the asbestos
8 present in such buildings from all commercial, indus-
9 trial, and consumer activities that may result in as-
10 bestos exposure.

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

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

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

21 (3) A description of the types of building com-
22 ponents and systems containing asbestos in such
23 buildings and the categories of mixtures and articles
24 containing asbestos that are present, such as ther-

1 mal insulation, roofing materials, asbestos cement
2 pipe, and asbestos cement sheet.

3 (4) For each category of building, an estimate
4 of the number of people potentially exposed to asbes-
5 tos, the conditions and activities with the greatest
6 potential for exposure, and estimates of the levels of
7 exposure.

8 (5) A description of the role of handling, main-
9 tenance, and construction practices in creating expo-
10 sure to asbestos and the impact of building aging on
11 the potential for asbestos exposure.

12 (6) A best estimate of the amount of asbestos
13 waste generated from building renovation, repair,
14 and demolition for each of the last 5 years and the
15 procedures that are utilized for the handling, trans-
16 port, and disposal of such waste.

17 (c) RECOMMENDATIONS.—

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

20 (A) an assessment of the sufficiency of ex-
21 isting statutes, regulations, policies, and pro-
22 grams, implemented by the Environmental Pro-
23 tection Agency, the Department of Labor, and
24 other agencies, in protecting against exposures
25 to legacy asbestos; and

1 (B) recommendations for modifications or
2 additions to such statutes, regulations, policies,
3 and programs, as necessary to reduce or elimi-
4 nate risks to human health.

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

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

11 (B) inventorying the presence and condi-
12 tion of asbestos in buildings;

13 (C) removal of asbestos from buildings;

14 (D) handling asbestos during building
15 maintenance, repair, demolition, and other com-
16 mercial and industrial activities with the poten-
17 tial for asbestos exposure; and

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

20 (d) DEADLINES.—

21 (1) AGREEMENT.—The Administrator of the
22 Environmental Protection Agency, in consultation
23 with the Secretary of Health and Human Services
24 and the Secretary of Labor, shall seek to enter into
25 a contract with the National Academy of Sciences

1 under this section not later than 4 months after the
2 date of enactment of this Act.

3 (2) REPORT.—Under the agreement entered
4 into pursuant to subsection (a), the National Acad-
5 emy of Sciences shall, not later than 18 months
6 after the date of enactment of this Act, submit to
7 Congress and to the Administrator of the Environ-
8 mental Protection Agency the report described in
9 this section.

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

15 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated to carry out this section
17 \$1,500,000.

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

20 (1) the asbestiform varieties of chrysotile, actin-
21 olite, amosite, anthophyllite, crocidolite, richterite,
22 winchite, and tremolite; and

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

1 **SEC. 4. PREEMPTION.**

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