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 SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself, Mr. BLUMENTHAL, Mr. WHITEHOUSE, Mr. TESTER, Mr. BOOKER, Ms. HARRIS, Mr. SANDERS, Mr. DURBIN, Mrs. FEINSTEIN, Mr. MARKEY, Ms. KLOBUCHAR, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee

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,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Alan Reinstein Ban

5 Asbestos Now Act of 2019”.
SEC. 2. ASBESTOS BAN AND REPORTING.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following:

"(j) ASBESTOS.—

"(1) DEFINITIONS.—In this subsection:

"(A) Asbestos.—The term ‘asbestos’ means—

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

"(ii) the nonasbestiform varieties of richterite and winchite.

"(B) Distribute in Commerce.—

"(i) In general.—Except as provided in clause (ii), the terms ‘distribute in commerce’ and ‘distribution in commerce’ have the meanings given the terms in section 3.

"(ii) Exclusions.—The terms ‘distribute in commerce’ and ‘distribution in commerce’ have the meanings given the terms in section 3.
commerce’ 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’ includes a mixture or article in which asbestos is present as an impurity.

“(2) Prohibition of Manufacture, Processing, and Distribution in Commerce.—Effective 1 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.

“(3) Exemption for National Security Reasons.—
“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the President may, on application, grant any person an exemption from the prohibition under paragraph (2) 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 that subparagraph once, for a period not to exceed 3 years.

“(C) Terms and Conditions.—An exemption granted under this paragraph (including any extension granted under subparagraph (B)(ii)) shall include such terms and conditions as are necessary to achieve the maximum practicable reduction in exposure to asbestos.

“(D) Publication.—

“(i) Applications.—Not later than 30 days after receipt of an application for an exemption under this paragraph (including an extension under subparagraph (B)(ii)), 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 under subparagraph (B)(ii)), the President shall publish in the Federal Register—

“(I) a notice of the exemption; and

“(II) the terms and conditions included under subparagraph (C).
“(E) Application of waiver authority.—Notwithstanding section 22, the Administrator may not issue a waiver under that section with respect to asbestos.

“(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 during the 3-year period preceding that 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 (2) takes effect shall submit to the Administrator a report described in subparagraph (B) not later than 60 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 that date of enactment; or

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

“(iii) Reports during exempted period.—Any person granted an exemption under paragraph (3) shall submit to the Administrator a report described in subparagraph (B) not later than 27 months after—

“(I) the date on which the exemption is granted; and

“(II) the date on which the exemption is extended, if applicable.

“(B) Contents.—Each report submitted under subparagraph (A) shall 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, or will occur, during the reporting period;

“(iv) a description of the manufacture, processing, or distribution activity during the reporting period of the person submitting the report and the intended and known uses of asbestos and each mixture or article containing asbestos by that person and all other persons to whom the asbestos, mixture, or article is sold or otherwise distributed in commerce;

“(v) the quantity of asbestos, and the quantity and concentration of asbestos in any mixture or article containing asbestos, that is manufactured, processed, or distributed in commerce, or expected to be manu-
factured, processed, or distributed in commerce, by the person during the reporting period;

“(vi) reasonable estimates of the quantity of asbestos to be disposed of as a result of the reported manufacture, processing, or distribution activities, and the manner of the disposal; and

“(vii) reasonable estimates of—

“(I) the number of individuals who, as a result of 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 exposure described in subclause (I).

“(C) REPORTING PERIOD.—For purposes of subparagraph (B), the reporting period for a report submitted under—
“(i) subparagraph (A)(i) shall be the 3-year period preceding 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 (2) takes effect;

“(iii) subparagraph (A)(iii)(I) shall be the period that begins on the date on which an exemption is granted under paragraph (3) and ends on the date on which that exemption expires (not including any extension of that exemption); and

“(iv) subparagraph (A)(iii)(II) shall be the period that begins on the date on which an exemption is extended under paragraph (3)(B)(ii) and ends on the date on which that extension expires.

“(D) REPORTING FORMS AND INSTRUCTIONS.—Not later than 30 days after the date of 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 90 days after the date on which a report is submitted under subparagraph (A), the Administrator shall make that report available to the public.

“(F) SUMMARY AND ANALYSIS.—Not later than 180 days after the date on which a report is submitted under subparagraph (A), the Administrator shall make available to the public a summary and analysis of the information that report contains.”.

SEC. 3. LEGACY ASBESTOS: REPORT AND RECOMMENDATIONS.

(a) 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 nonasbestiform varieties of richterite and winchite.

(b) REPORT.—Not later than 540 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, in consultation with the
Secretary of Health and Human Services and the Secretary of Labor, shall prepare and submit to Congress a report assessing—

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

(2) the extent of exposure and risk to human health associated with the asbestos present in those buildings from all commercial, industrial, and consumer activities that may result in asbestos exposure.

(c) CONTENTS.—The report required under subsection (b) shall—

(1) be based on the best available information, and information that can feasibly be obtained through surveys or other means; and

(2) provide the following:

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

(B) An estimate of the quantity of asbestos in those buildings and the portion of that asbestos that is friable.

(C) A description of the types of building components and systems containing asbestos in those 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.

(D) 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.

(E) 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.

(F) An estimate of the quantity of asbestos waste generated from building renovation, repair, and demolition for each of the 5 calendar years preceding the date of submission of the report, and the procedures that are used for the handling, transport, and disposal of that waste.

(d) RECOMMENDATIONS.—

(1) IN GENERAL.—The report submitted under subsection (b) shall contain—

(A) an assessment of the sufficiency of existing statutes, regulations, policies, and pro-
grams 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 those 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 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.

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