

April 16, 2020

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- Ellen Costa
- Linda Reeves
- Linda Reinstein

The Honorable Nancy Pelosi
 Speaker of the United States House of Representatives
 H 222, U.S. Capitol
 Washington, DC 20515

National Spokesperson

- Jordan Zevon

The Honorable Steny Hoyer
 House Majority Leader
 H-148, U.S. Capitol
 Washington, D.C. 20515

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Re: Urge the House to Move the Alan Reinstein Ban Asbestos Now Act (H.R. 1603) to the Floor

Dear Speaker Pelosi and Majority Leader Hoyer,

I am writing as President of the Asbestos Disease Awareness Association (ADAO), the largest United States-based independent asbestos victims' organization. Our mission is simple: We seek to eliminate asbestos-related diseases, which take the lives of nearly 40,000 Americans each year.

We have been working closely with Congress to pass [The Alan Reinstein Ban Asbestos Now Act of 2019 \(ARBAN\) \(H.R. 1603\)](#), a landmark bill that would finally prohibit the importation and use of dangerous asbestos and asbestos-containing products in the US. Although substantial progress has been made in advancing ARBAN's public health protections, the bill awaits action by the full House.

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The urgency of enacting ARBAN was recently underscored by the EPA draft risk evaluation of asbestos which demonstrates the serious risks posed by asbestos but is flawed and incomplete. As Chairman Pallone stated: *"It is now clear that this EPA has no intention of addressing this dangerous, proven carcinogen. Therefore, Congress must pass the Alan Reinstein Ban Asbestos Now Act and put an end to this public health threat once and for all."*

We recognize that the House is currently fully occupied with the extraordinary public health emergency created by COVID-19 and that providing health care and economic relief to hard-hit Americans takes priority over normal business. However, we hope that when regular order resumes and the current crisis subsides, the House can focus on passing ARBAN, which has broad bipartisan support.

ARBAN Has Broad and Deep Support

It has been over a year since ARBAN was introduced in the House and Senate. The bicameral bill is sponsored by nearly 70 Senators and Representatives. Thanks to the exceptional leadership and hard work of Representatives Pallone, Walden, Tonko and Shimkus, ARBAN

was voted out of the Committee on Energy and Commerce with a strong bipartisan margin of 47-1 on November 19, 2019.

Influential stakeholders who support ARBAN include 19 State Attorneys General; the AFL-CIO; American Federation of State, County and Municipal Employees; American Federation of Teachers; American Public Health Association; International Association of Fire Fighters; Less Cancer and dozens of other public health and environmental organizations around the nation.

On October 15, 2019, two former administrators of the Environmental Protection Agency (EPA), Gina McCarthy and William K. Reilly, [wrote an op-ed in The New York Times](#) expressing their strong support for ARBAN. “Congress should do what this EPA has failed to do: Consider all the science and ban asbestos once and for all. Pass the Alan Reinstein Ban Asbestos Now Act, save tens of thousands of lives and close the book on asbestos use for good,” Reilly and McCarthy wrote in their op-ed, “[Asbestos Kills Nearly 40,000 Americans a Year. Ban It.](#)”

On January 15, 2020, 17 ARBAN supporters urged [Speaker Pelosi to bring ARBAN to the House floor](#). They emphasized that the “strong bipartisan support [for ARBAN] is evidence of the compelling need to ban asbestos” and that the “bill is truly a milestone in the long fight to rid our society of asbestos, a known carcinogen that kills nearly 40,000 Americans every year.”

On World Cancer Day, February 4, 2020, nearly forty preeminent and internationally recognized asbestos experts wrote [to Speaker Pelosi and Majority Leader Hoyer](#) to call for immediate passage of H.R. 1603. The scientists, who have devoted their careers as researchers, teachers and government officials to combating the public health threat of asbestos, underscored that “there is no safe level of exposure to asbestos” and that “the public will not be protected unless we ban all asbestos mining, importation and use.” They further emphasized that ARBAN “provides Congress with a unique opportunity to eliminate asbestos from US commerce.”

On March 3, 2020, reinforcing their letter of July 12, 2019, 19 state attorney generals (AGs) wrote to Speaker Pelosi and Majority Leader Hoyer to “express strong support for scheduling [ARBAN] for floor consideration with due dispatch.” The AGs emphasized that “the Reinstein Bill provisions are what is required to address the dire risks that asbestos continues to pose to human health in light of the failure to date to institute a proper ban of the toxic chemical.” They “urge[d] leadership to move this crucial health and public safety legislation and promptly schedule the Reinstein Bill for consideration by the full House.”

Litigation Concerns Should Not Block ARBAN From Moving Forward

Despite this overwhelming support, H.R. 1603 did not advance to the House floor in the months following its bipartisan approval by the E&C Committee. This delay occurred because an association of trial attorneys claimed that the bill’s definition of asbestos might impact the claims of plaintiffs in suits involving talc-based baby powder and other cosmetics products. ADAO is very sensitive to asbestos victims’ litigation and recognizes that the lawsuits involving exposure to talc-based cosmetics raise important public health issues. However, ARBAN was not written for use in courtrooms and these litigation-related concerns should not be used to hold H.R. 1603 and the health of millions of Americans hostage. Chairman Pallone expressly made this point at the November 19, 2019 markup: “I want to be clear that this bill is not intended to have any impact on [talc cosmetic] litigation.”

Representative DeGette of Colorado expressed concern at the markup that ARBAN might have the [inadvertent result](#) of “barring impending lawsuits around talc.” However, this scenario is simply not realistic in light of the “savings clause” included in the 2016 amendments to the Toxic Substances Control Act (TSCA). As Chairman Pallone also explained at the markup, under this clause, TSCA requirements and implementing actions cannot be “dispositive in any civil action” for the benefit of plaintiffs or defendants. The TSCA savings clause, inserted in the law at the request of the association of trial attorneys, would necessarily apply to ARBAN as an amendment to TSCA.

In addition, TSCA does not cover cosmetics and therefore they would be excluded from ARBAN. Language was added to ARBAN at markup to specifically confirm that the bill only applies to “chemical substances” as defined in TSCA and not to other products that are beyond TSCA’s scope. As Chairman Pallone explained, The bill is an amendment to TSCA and the definition of [chemical substance under TSCA] . . . explicitly excludes cosmetics. So cosmetics are not covered by the definition of asbestos in this bill.”

There is No Consensus to Change the Asbestos Definition

Since it would amend TSCA, the asbestos definition in ARBAN is virtually identical to the definition in TSCA Title II and existing EPA regulations. A different definition would be a change in current law and require a strong scientific consensus and broad stakeholder buy-in. However, there are strong differences of opinion about what a new definition of asbestos should be. These differing opinions were on display at the February 4, 2020 Food and Drug Administration (FDA) public meeting on testing methods for talc-based cosmetics. It would be a profound mistake to delay a much-needed and long-overdue ban on asbestos while scientific debate proceeds about a possible new definition. Waiting to resolve this debate will take several years. The consequence of inaction during this time would be to prioritize civil litigation over immediate protection of public health.

In their February 4 letter, the leading asbestos scientists emphasized that the definitional debate should not block the important benefits that ARBAN can deliver now. Stressing that “the current definition will achieve the public health benefits of the bill,” the scientists noted that further discussion of the definition should be aimed at “future legislative and regulatory actions.”

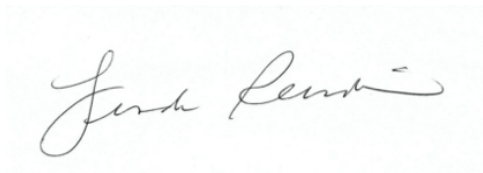
The EPA Asbestos Risk Evaluation Strengthens the Case for ARBAN

On March 30, EPA released its draft risk evaluation, finding that **all** ongoing commercial and consumer uses of asbestos reviewed by the Agency present a cancer risk that is unreasonable under TSCA and that over a million Americans are at risk of asbestos exposure. Although EPA’s evaluation fails to include many exposures to asbestos and understates the risks of those uses it addresses, it still demonstrates yet again the extreme dangers of asbestos and the severe threat of death and serious disease it continues to pose to Americans. Had EPA undertaken the comprehensive risk evaluation its own experts and public health advocates urged it to conduct, the Agency would have certainly found that asbestos presents an even greater risk to public health, as ADAO and others have repeatedly emphasized. For example, EPA continues to ignore the presence of legacy asbestos products in millions of buildings across the US despite a decision by the Ninth Circuit Court of Appeals that exposure to these products must be addressed in its TSCA risk evaluation. The next steps under TSCA will take years to complete and there’s no assurance that EPA will ultimately take strong and comprehensive action to eliminate asbestos from US commerce. Thus, Congress must ban asbestos now.

The Time for Action is in This Congress

Once Congress is again conducting normal legislative business, we strongly urge you to end the needless delay that has kept this life-saving legislation from a vote and move ARBAN to the House floor. For more than 30 years Americans have been unnecessarily put at risk of asbestos exposure. Over a million people have died because of asbestos-related illness and disease and every moment we delay action is yet another moment Americans are in danger. We cannot let the historic opportunity to achieve landmark public health protection by finally banning asbestos slip away. With continued bipartisan leadership, we are confident that Members on both sides of the aisle will get behind this bipartisan bill and send it to the Senate, where we expect there will also be strong bipartisan support too.

With sincere gratitude for your leadership,

A handwritten signature in cursive script, appearing to read "Linda Reinstein", is centered on the page. The signature is written in dark ink on a light-colored background.

Linda Reinstein, ADAO President and Co-founder

Direct Phone: (310) 437-3886

Direct Email: Linda.Reinstein@gmail.com

CC: Rep. Frank Pallone
Rep. Suzanne Bonamici
Rep. Paul Tonko
Sen. Jeff Merkley
Robert Sussman