

1 Title: To amend the Toxic Substances Control Act to prohibit the manufacture, processing, and
2 distribution in commerce of asbestos and asbestos-containing mixtures and articles, and for other
3 purposes.
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6 Be it enacted by the Senate and House of Representatives of the United States of America in
7 Congress assembled,

8 SECTION 1. SHORT TITLE.

9 This Act may be cited as the “Alan Reinstein Ban Asbestos Now Act of 2021”.

10 SEC. 2. DEFINITIONS.

11 In this Act:

12 (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the
13 Environmental Protection Agency.

14 (2) ASBESTOS.—the term “asbestos” means the asbestiform varieties of—

- 15 (A) chrysotile (serpentine);
- 16 (B) crocidolite (riebeckite);
- 17 (C) amosite (cummingtonite-grunerite);
- 18 (D) anthophyllite;
- 19 (E) tremolite;
- 20 (F) actinolite;
- 21 (G) richterite; and
- 22 (H) winchite.

23 SEC. 3. COMMERCIAL ASBESTOS BAN AND 24 REPORTING.

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

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

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

28 “(j) Asbestos.—

29 “(1) DEFINITIONS.—In this subsection:

30 “(A) ASBESTOS.—The term ‘asbestos’ means the asbestiform varieties of—

- 31 “(i) chrysotile (serpentine);
- 32 “(ii) crocidolite (riebeckite);
- 33 “(iii) amosite (cummingtonite-grunerite);

- 1 “(iv) anthophyllite;
- 2 “(v) tremolite;
- 3 “(vi) actinolite;
- 4 “(vii) richterite; and
- 5 “(viii) winchite.

6 “(B) DISTRIBUTE IN COMMERCE.—

7 “(i) IN GENERAL.—Except as provided in clause (ii), the terms ‘distribute in
8 commerce’ and ‘distribution in commerce’ have the meanings given the terms in
9 section 3.

10 “(ii) EXCLUSIONS.—The terms ‘distribute in commerce’ and ‘distribution in
11 commerce’ do not include, with respect to asbestos—

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

14 “(II) distribution of a mixture or article containing asbestos solely for the
15 purpose of disposal of the mixture or article in compliance with applicable
16 Federal, State, and local requirements.

17 “(C) MIXTURE OR ARTICLE CONTAINING ASBESTOS.—The term ‘mixture or article
18 containing asbestos’ does not include a mixture or article in which asbestos is present
19 solely as an impurity (as defined in section 720.3 of title 40, Code of Federal
20 Regulations (or successor regulations)).

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

24 “(3) CHLOR-ALKALI INDUSTRY.—Notwithstanding paragraph (2), an owner, operator, or
25 agent of an owner or operator of a chlor-alkali facility that is in operation on the date of
26 enactment of this subsection may—

27 “(A) until the date that is 4 years after that date of enactment, import processed
28 asbestos fibers solely for the purpose of manufacturing diaphragms for use in the
29 chlor-alkali process; and

30 “(B) until the date that is 8 years after that date of enactment, use, hold, or process
31 asbestos fibers solely for the purpose of manufacturing diaphragms for use in the
32 chlor-alkali process.

33 “(4) EXEMPTION FOR NATIONAL SECURITY REASONS.—

34 “(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the
35 President may, on application, grant any person an exemption from the prohibition
36 under paragraph (2) once for the manufacture, processing, or distribution in commerce
37 of asbestos or any mixture or article containing asbestos only if the President
38 determines that—

39 “(i) the manufacture, processing, or distribution in commerce of asbestos or any

1 mixture or article containing asbestos by the person is necessary to protect the
2 national security interests of the United States; and

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

6 “(B) DURATION.—

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

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

12 “(C) TERMS AND CONDITIONS.—An exemption granted under this paragraph
13 (including any extension granted under subparagraph (B)(ii)) shall include such terms
14 and conditions as are necessary to achieve the maximum extent practicable reduction
15 in exposure to asbestos.

16 “(D) PUBLICATION.—

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

20 “(ii) EXEMPTIONS.—Not later than 30 days after granting an exemption under
21 this paragraph (including an extension under subparagraph (B)(ii)), the President
22 shall publish in the Federal Register—

23 “(I) a notice of the exemption; and

24 “(II) the terms and conditions included under subparagraph (C).

25 “(iii) EXCEPTION.—The President, on a determination that publication under
26 this subparagraph of information relating to an application or granting of a
27 particular exemption would harm the national security interests of the United
28 States—

29 “(I) shall not publish that information in the Federal Register; but

30 “(II) shall provide that information to the Committee on Energy and
31 Commerce of the House of Representatives and the Committee on
32 Environment and Public Works of the Senate.

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

35 “(5) REPORTS.—

36 “(A) TIMING AND COVERAGE.—

37 “(i) PREVIOUS ACTION.—Not later than 120 days after the date of enactment of
38 this subsection, any person who has manufactured, processed, or distributed in
39 commerce asbestos or any mixture or article containing asbestos during the 3-year

1 period preceding that date of enactment shall submit to the Administrator a report
2 described in subparagraph (B).

3 “(ii) LATER ACTION.—Any person manufacturing, processing, or distributing in
4 commerce asbestos or any mixture or article containing asbestos during the period
5 that begins on the date of enactment of this subsection and ends on the date on
6 which the prohibition under paragraph (2) takes effect shall submit to the
7 Administrator a report described in subparagraph (B) not later than 60 days
8 after—

9 “(I) the date of enactment of this subsection, for any person who has
10 manufactured, processed, or distributed in commerce asbestos or any mixture
11 or article containing asbestos before that date of enactment; or

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

15 “(iii) REPORTS BY CHLOR-ALKALI INDUSTRY.—An owner, operator, or agent of
16 an owner or operator of a chlor-alkali facility importing, using, holding, or
17 processing an article containing asbestos pursuant to paragraph (3) in a calendar
18 year shall submit to the Administrator a report described in subparagraph (B)—

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

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

23 “(iv) REPORTS DURING EXEMPTED PERIOD.—Any person granted an exemption
24 under paragraph (4) shall submit to the Administrator a report described in
25 subparagraph (B) not later than 27 months after—

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

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

28 “(B) CONTENTS.—Each report submitted under subparagraph (A) shall include—

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

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

32 “(iii) the location of the facility or facilities where the manufacture, processing,
33 or distribution in commerce of asbestos or mixtures or articles containing asbestos
34 has occurred, or will occur, during the reporting period;

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

40 “(v) the quantity of asbestos, and the quantity and concentration of asbestos in

1 any mixture or article containing asbestos, that is manufactured, processed, or
2 distributed in commerce, or expected to be manufactured, processed, or
3 distributed in commerce, by the person during the reporting period;

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

7 “(vii) reasonably ascertainable estimates of—

8 “(I) the number of individuals who, as a result of the reported
9 manufacture, processing, and distribution activities—

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

12 “(bb) will be so exposed; and

13 “(II) the nature, duration, frequency, and levels of any exposure described
14 in subclause (I).

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

17 “(i) subparagraph (A)(i) shall be the 3-year period preceding the date of
18 enactment of this subsection;

19 “(ii) subparagraph (A)(ii) shall be the period that begins on the date of
20 enactment of this subsection and ends on the date on which the prohibition under
21 paragraph (2) takes effect;

22 “(iii) subparagraph (A)(iii) shall be the calendar year before the calendar year
23 in which the report is submitted;

24 “(iv) subparagraph (A)(iv)(I) shall be the period that begins on the date on
25 which an exemption is granted under paragraph (4) and ends on the date on which
26 that exemption expires (not including any extension of that exemption); and

27 “(v) subparagraph (A)(iv)(II) shall be the period that begins on the date on
28 which an exemption is extended under paragraph (4)(B)(ii) and ends on the date
29 on which that extension expires.

30 “(D) REPORTING FORMS AND INSTRUCTIONS.—Not later than 30 days after the date
31 of enactment of this subsection, the Administrator shall publish a notice in the Federal
32 Register that provides instructions for reporting under this paragraph and a form or
33 forms for use by persons submitting reports under this paragraph.

34 “(E) AVAILABILITY.—Not later than 90 days after the date on which a report is
35 submitted under subparagraph (A), the Administrator shall, subject to section 14, make
36 that report available to the public.

37 “(F) SUMMARY AND ANALYSIS.—Not later than 180 days after the date on which a
38 report is submitted under subparagraph (A), the Administrator shall, subject to section
39 14, make available to the public a summary and analysis of the information that report
40 contains.”.

1 **SEC. 4. RISK EVALUATION FOR ASBESTOS IMPURITIES.**

2 The Administrator shall address the risks of mixtures and articles in which asbestos is present
3 solely as an impurity (as defined in section 720.3 of title 40, Code of Federal Regulations (or
4 successor regulations)) in the part 2 risk evaluation of asbestos conducted by the Administrator
5 under section 6(b)(4) of the Toxic Substances Control Act (15 U.S.C. 2605(b)(4)).

6 **SEC. 5. LEGACY ASBESTOS: REPORT AND**
7 **RECOMMENDATIONS.**

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

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

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

16 (b) Contents.—The report described in subsection (a) shall—

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

19 (2) provide the following:

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

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

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

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

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

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

38 (c) Recommendations.—

- 1 (1) IN GENERAL.—The report described in subsection (a) shall contain—
- 2 (A) an assessment of the sufficiency of existing statutes, regulations, policies, and
- 3 programs implemented by the Environmental Protection Agency, the Department of
- 4 Labor, and other agencies in protecting against exposures to legacy asbestos; and
- 5 (B) recommendations for modifications or additions to those statutes, regulations,
- 6 policies, and programs as necessary to reduce or eliminate risks to human health.
- 7 (2) INCLUSIONS.—Recommendations under paragraph (1)(B) may include
- 8 recommendations for new, additional, or modified regulations, policies, or programs for—
- 9 (A) the inspection of buildings to determine the presence and condition of asbestos;
- 10 (B) inventorying the presence and condition of asbestos in buildings;
- 11 (C) removal of asbestos from buildings;
- 12 (D) handling asbestos during building maintenance, repair, demolition, and other
- 13 commercial and industrial activities with the potential for asbestos exposure; and
- 14 (E) disposal of asbestos-containing waste and debris.
- 15 (d) Deadlines.—
- 16 (1) AGREEMENT.—The Administrator, in consultation with the Secretary of Health and
- 17 Human Services and the Secretary of Labor, shall seek to enter into an agreement with the
- 18 National Academy of Sciences under subsection (a) not later than 120 days after the date of
- 19 enactment of this Act.
- 20 (2) REPORT.—Under the agreement entered into pursuant to subsection (a), not later than
- 21 18 months after the date of enactment of this Act, the National Academy of Sciences shall
- 22 submit to Congress and the Administrator the report described in that subsection.
- 23 (e) Effect on Existing Law.—Compliance with this section shall not relieve the Administrator,
- 24 the Secretary of Health and Human Services, or the Secretary of Labor of any other obligation
- 25 arising under this Act (or an amendment made by this Act) or any other law.