

## Asbestos Disease Awareness Organization (ADAO) Position Paper

The Chemical Safety Improvement Act (S. 1009) Would Prevent Banning Asbestos and Jeopardize Public Health

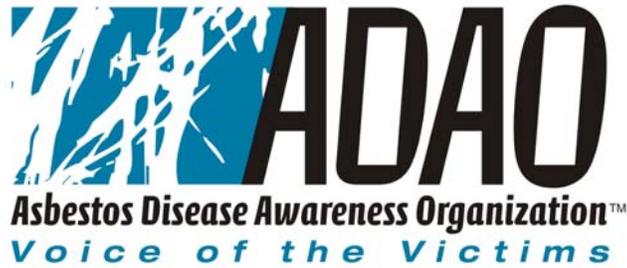
Asbestos kills. In fact, 10,000 Americans die annually from asbestos-related disease. That is why in 1989, the U.S. Environmental Protection Agency (EPA) issued a final rule under Section 6 of the Toxic Substance Control Act (TSCA) banning most asbestos-containing products. However, that rule was vacated and remanded by the Fifth Circuit Court of Appeals and the asbestos ban was overturned. Thus, TSCA, the principal federal law governing the use and safety of the thousands of chemicals we are exposed to in our everyday lives, failed to ban asbestos and occupational, environmental, and consumer asbestos exposure continues today.

Everyone agrees TSCA must be reformed to enable the EPA to protect Americans from toxic chemicals; however, the Chemical Safety Improvement Act (S. 1009) is the wrong bill for the job. Not only do the same hurdles that prevented the EPA from banning asbestos in 1989 remain in S. 1009, the bill would also prevent states from taking steps to complement federal efforts and protect their citizens from toxic chemicals, such as asbestos.

Here are **five** ways the Chemical Safety Improvement Act (CSIA) fails to give the EPA the authority it needs to swiftly ban asbestos:

- Next to Impossible to Phase Out or Ban Harmful Chemicals. The CSIA would make it next to impossible for the EPA to ban or phase out the worst of the worst toxic chemicals on the market. To do so, the EPA would have to engage in an onerous balancing of costs and benefits, factoring in layers upon layers of alternative approaches. In practice, this analysis takes years to complete, even for highly toxic chemicals such as asbestos. All the while, a chemical could stay on the market, causing the public to endure potentially harmful exposures.
- Grossly Inadequate Safety Standard. The CSIA's safety standard is grossly inadequate to protect public health and the environment. Like current law, the CSIA would require the EPA to show that a chemical presents an "unreasonable risk" of harm before enacting any restriction on its use, creating a substantial gap between what is legally safe and what is actually safe for people. Further, the safety standard makes no mention of the EPA being able to take greater precautions to protect vulnerable populations, such as children, pregnant women, workers, and the elderly from harmful exposures. As a result, the CSIA's safety standard would place a heavy burden on the EPA to find that a chemical such as asbestos is unsafe, rather than shifting the burden to chemical companies to show chemicals are safe.

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- Lack of Deadlines to Ensure Safety. The CSIA is virtually devoid of any deadlines that would require the EPA to act quickly to assess and restrict the use of harmful chemicals such as asbestos. If passed, the CSIA would give the EPA license to delay the review process for years, giving very little recourse for communities affected by toxic chemicals to compel the agency to act.
- Unworkable Standard of Court Review. The CSIA would retain the unworkable standard of court review found in TSCA, which ultimately prevented the EPA from being able to ban asbestos in 1989. The review standard requires judges to set aside any chemical safety standard determination or restriction that is not supported by “substantial evidence.” In practice, this is nearly impossible when S. 1009 requires the EPA to show that a chemical presents an “unreasonable risk” before adopting a ban. As a result, an asbestos ban would be just as unlikely under S. 1009 as it is under existing TSCA.
- Freeze on State Efforts to Protect People from Chemicals. The CSIA contains far-reaching language that would paralyze states from being able to enforce existing laws, as well as pass new ones, to increase protections against harmful chemicals such as asbestos. For example, assume the EPA finds that asbestos fails the CSIA’s safety standard, but is in the process of determining what risk management actions to propose and developing the record needed to justify its use restrictions or ban from the market. That process could take years to complete, but as soon as EPA makes the safety determination, states could no longer enact their own restrictions to protect people in the interim.

The CSIA is critically flawed when it comes to protecting the public from the dangers of asbestos, which remains in use throughout the United States and continues to be imported from abroad. Congress must stand up to the chemical industry on behalf of asbestos victims and pass a bill that would do more to protect the American people from exposure to harmful chemicals. The problems discussed above represent just a handful of the ways that the CSIA would fail to deliver meaningful reform. For that reason, the Asbestos Disease Awareness Organization, the largest U.S. independent asbestos victims’ organization, cannot support the bill as written.

### **About Asbestos Disease Awareness Organization**

Asbestos Disease Awareness Organization (ADAO) was founded by asbestos victims and their families in 2004. ADAO seeks to give asbestos victims and concerned citizens a united voice to raise public awareness about the dangers of asbestos exposure. ADAO is an independent global organization dedicated to preventing asbestos-related diseases through education, advocacy, and community. For more information, visit [www.asbestosdiseaseawareness.org](http://www.asbestosdiseaseawareness.org).

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