

110TH CONGRESS
1ST SESSION

S. _____

To amend the Public Health Service Act to reduce the health risks posed by asbestos-containing products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Public Health Service Act to reduce the health risks posed by asbestos-containing products, 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 “Ban Asbestos in Amer-
5 ica Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1)(A) the Administrator of the Environmental
9 Protection Agency has classified asbestos as a cat-

1 category A human carcinogen, the highest cancer haz-
2 ard classification for a substance; and

3 (B) the International Agency for Research on
4 Cancer has classified asbestos as a class 1 human
5 carcinogen;

6 (2) many people in the United States incor-
7 rectly believe that—

8 (A) asbestos has been banned in the
9 United States; and

10 (B) there is no risk of exposure to asbestos
11 through the use of new commercial products;

12 (3) the United States Geological Survey re-
13 ported that, in 2006, the United States used 2,000
14 metric tons of asbestos, of which approximately—

15 (A) 55 percent was used in roofing prod-
16 ucts;

17 (B) 26 percent was used in coatings; and

18 (C) 19 percent was used in other products,
19 such as friction products;

20 (4) the Department of Commerce estimates
21 that the United States imports more than
22 \$100,000,000 of brake parts per year;

23 (5) available evidence suggests that—

24 (A) imports of some types of asbestos-con-
25 taining products are increasing; and

1 (B) some of those products are imported
2 from foreign countries in which asbestos is
3 poorly regulated;

4 (6) there is no known safe level of exposure to
5 asbestos;

6 (7) even low levels of exposure to asbestos may
7 cause asbestos-related diseases, including mesothe-
8 lioma;

9 (8) millions of workers in the United States
10 have been, and continue to be, exposed to dangerous
11 levels of asbestos;

12 (9) worker deaths from noncancerous lung dis-
13 ease can occur at levels of exposure to asbestos
14 below the levels allowed by the Occupational Safety
15 and Health Administration as of the date of enact-
16 ment of this Act;

17 (10) families of workers are put at risk because
18 of asbestos brought home by the workers on the
19 shoes, clothes, skin, and hair of the workers;

20 (11) approximately $\frac{1}{3}$ of mesothelioma victims
21 were exposed to asbestos while serving the United
22 States on Navy ships or shipyards;

23 (12) the National Institutes of Health reported
24 to Congress in 2006 that mesothelioma is a difficult
25 disease to detect, diagnose, and treat;

1 (13) the Environmental Working Group esti-
2 mates that as many as 10,000 citizens of the United
3 States die each year from mesothelioma and other
4 asbestos-related diseases;

5 (14)(A) mesothelioma responds poorly to con-
6 ventional chemotherapy; and

7 (B) although new combination treatments for
8 mesothelioma have demonstrated some benefits—

9 (i) the median survival period for mesothe-
10 lioma is only 1 year after diagnosis of the dis-
11 ease; and

12 (ii) the majority of mesothelioma patients
13 die within 2 years of diagnosis of the disease;

14 (15) in hearings before Congress in the early
15 1970s, the example of asbestos was used to justify
16 the need for comprehensive legislation on toxic sub-
17 stances;

18 (16) in 1976, Congress passed the Toxic Sub-
19 stances Control Act (15 U.S.C. 2601 et seq.);

20 (17) in 1989, the Administrator promulgated
21 final regulations under title II of the Toxic Sub-
22 stances Control Act (15 U.S.C. 2641 et seq.) to
23 phase out asbestos in consumer products by 1997;

24 (18) in 1991, the United States Court of Ap-
25 peals for the 5th Circuit overturned portions of the

1 regulations, and the Federal Government did not ap-
2 peal the decision to the Supreme Court;

3 (19) as a result, while new applications for as-
4 bestos were banned, asbestos is still being imported
5 and used in some consumer and industrial products
6 in the United States;

7 (20) the National Cancer Institute recognizes a
8 clear need for new agents to improve the outlook for
9 patients with mesothelioma and other asbestos-re-
10 lated diseases;

11 (21) the National Institutes of Health should
12 continue to improve detection, treatment, and man-
13 agement of asbestos-related diseases, such as meso-
14 thelioma, including by providing continued support
15 for the pleural mesothelioma treatment and research
16 program and peritoneal surgical initiatives;

17 (22) given the risk of asbestos exposure for
18 members and veterans of the Armed Forces, the De-
19 partment of Defense has an obligation to study dis-
20 eases related to asbestos exposure in the military
21 and veteran population, including by conducting re-
22 search in coordination with the National Institutes
23 of Health on the early detection and treatment of
24 mesothelioma;

1 (23) asbestos has been banned in 40 countries,
2 including Argentina, Australia, Austria, Belgium,
3 Chile, Croatia, the Czech Republic, Denmark, Esto-
4 nia, Finland, France, Germany, Iceland, Ireland,
5 Italy, Japan, Latvia, Luxembourg, the Netherlands,
6 Norway, Poland, Portugal, Saudi Arabia, the Slovak
7 Republic, Spain, Sweden, Switzerland, and the
8 United Kingdom;

9 (24) asbestos was banned throughout the Euro-
10 pean Union in 2005; and

11 (25) banning asbestos from being used in or
12 imported into the United States will provide cer-
13 tainty to manufacturers, builders, environmental re-
14 mediation firms, workers, and consumers that after
15 a specific date, asbestos will not be used or added
16 to new construction and manufacturing materials
17 used in this country.

18 **SEC. 3. ASBESTOS-RELATED DISEASES.**

19 (a) IN GENERAL.—Subpart 1 of part C of title IV
20 of the Public Health Service Act (42 U.S.C. 285 et seq.)
21 is amended by adding at the end the following:

22 **“SEC. 417E. RESEARCH ON ASBESTOS-RELATED DISEASES.**

23 “(a) IN GENERAL.—The Secretary, acting through
24 the Director of NIH and the Director of the Centers for
25 Disease Control and Prevention, shall expand, intensify,

1 and coordinate programs for the conduct and support of
2 research on diseases caused by exposure to asbestos, par-
3 ticularly mesothelioma, asbestosis, and pleural injuries.

4 “(b) ADMINISTRATION.—The Secretary shall carry
5 out this section in collaboration with—

6 “(1) the Administrator of the Agency for Toxic
7 Substances and Disease Registry;

8 “(2) the Director of the National Institute for
9 Occupational Safety and Health; and

10 “(3) the head of any other agency, as the Sec-
11 retary determines to be appropriate.

12 “(c) ASBESTOS-RELATED DISEASE REGISTRY.—

13 “(1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this section, the Director
15 of the Centers for Disease Control and Prevention,
16 in cooperation with the Director of the National In-
17 stitute for Occupational Safety and Health and the
18 Administrator of the Agency for Toxic Substances
19 and Disease Registry, shall establish a mechanism
20 by which to obtain, coordinate, and provide data and
21 specimens from—

22 “(A) State cancer registries and other can-
23 cer registries;

24 “(B) the National Mesothelioma Virtual
25 Registry and Tissue Bank; and

1 “(b) INCLUSIONS.—The Network shall include—

2 “(1) intramural research initiatives of the Na-
3 tional Institutes of Health; and

4 “(2) at least 10 extramural asbestos-related dis-
5 ease research and treatment centers, as selected by
6 the Director of NIH in accordance with subsection
7 (c).

8 “(c) EXTRAMURAL ASBESTOS-RELATED DISEASE
9 RESEARCH AND TREATMENT CENTERS.—

10 “(1) IN GENERAL.—For each fiscal year during
11 which the Network is operated and maintained
12 under subsection (a), the Director of NIH shall se-
13 lect for inclusion in the Network not less than 10
14 nonprofit hospitals, universities, or medical or re-
15 search institutions incorporated or organized in the
16 United States that, as determined by the Director of
17 NIH—

18 “(A) have exemplary experience and quali-
19 fications in research and treatment of asbestos-
20 related diseases;

21 “(B) have access to an appropriate popu-
22 lation of patients with asbestos-related diseases;
23 and

24 “(C) are geographically distributed
25 throughout the United States, with special con-

1 sideration given to areas of high incidence of
2 asbestos-related diseases.

3 “(2) REQUIREMENTS.—Each center selected
4 under paragraph (1) shall—

5 “(A) be chosen by the Director of NIH
6 after competitive peer review;

7 “(B) conduct laboratory and clinical re-
8 search, including clinical trials, relating to—

9 “(i) mechanisms for effective thera-
10 peutic treatment of asbestos-related dis-
11 eases;

12 “(ii) early detection and prevention of
13 asbestos-related diseases;

14 “(iii) palliation of asbestos-related dis-
15 ease symptoms; and

16 “(iv) pain management with respect
17 to asbestos-related diseases;

18 “(C) offer to asbestos-related disease pa-
19 tients travel and lodging assistance as nec-
20 essary—

21 “(i) to accommodate the maximum
22 number of patients practicable; and

23 “(ii) to serve a number of patients at
24 the center sufficient to conduct a meaning-
25 ful clinical trial;

1 “(D) seek to collaborate with at least 1
2 medical center of the Department of Veterans
3 Affairs to provide research benefits and care to
4 veterans who have suffered excessively from as-
5 bestos-related diseases, particularly mesothe-
6 lioma; and

7 “(E) coordinate the research and treat-
8 ment efforts of the center (including specimen
9 sharing and use of common infomatics) with
10 other entities included in—

11 “(i) the Network; and

12 “(ii) the National Virtual Mesothe-
13 lioma Registry and Tissue Bank.

14 “(3) PERIOD OF INCLUSION.—A center selected
15 by the Director of NIH under this subsection shall
16 be included in the Network for—

17 “(A) the 1-year period beginning on the
18 date of selection of the center; or

19 “(B) such longer period as the Director of
20 NIH determines to be appropriate.

21 “(d) GRANTS.—The Director of NIH shall provide to
22 each center selected for inclusion in the Network under
23 subsection (c) for the fiscal year a grant in an amount
24 equal to \$1,000,000 to support the detection, prevention,

1 treatment, and cure of asbestos-related diseases, with par-
2 ticular emphasis on malignant mesothelioma.

3 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
4 is authorized to be appropriated to carry out this section
5 \$10,000,000 for each of fiscal years 2008 through 2012.

6 **“SEC. 417G. DEPARTMENT OF DEFENSE RESEARCH.**

7 “(a) IN GENERAL.—The Secretary, acting through
8 the United States Army Medical Research and Materiel
9 Command, shall support research on mesothelioma and
10 other asbestos-related diseases that has clear scientific
11 value and direct relevance to the health of members and
12 veterans of the Armed Forces, in accordance with the ap-
13 propriate congressionally directed medical research pro-
14 gram, with the goal of advancing the understanding, early
15 detection, and treatment of asbestos-related mesothelioma
16 and other asbestos-related diseases.

17 “(b) ADMINISTRATION.—The Secretary shall carry
18 out this section in collaboration with—

19 “(1) the Director of NIH;

20 “(2) the Director of the National Institute of
21 Occupational Safety and Health; and

22 “(3) the head of any other agency, as the Sec-
23 retary determines to be appropriate.

24 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out this section

1 such sums as are necessary for fiscal year 2008 and each
2 fiscal year thereafter.”.

3 **SEC. 4. ASBESTOS-CONTAINING PRODUCTS.**

4 (a) IN GENERAL.—Title II of the Toxic Substances
5 Control Act (15 U.S.C. 2641 et seq.) is amended—

6 (1) by inserting before section 201 (15 U.S.C.
7 2641) the following:

8 **“Subtitle A—General Provisions”;**

9 and

10 (2) by adding at the end the following:

11 **“Subtitle B—Asbestos-Containing**
12 **Products**

13 **“SEC. 221. DEFINITIONS.**

14 “In this subtitle:

15 “(1) ASBESTOS-CONTAINING PRODUCT.—The
16 term ‘asbestos-containing product’ means any prod-
17 uct (including any part) to which asbestos is delib-
18 erately or knowingly added or in which asbestos is
19 deliberately or knowingly used in any concentration.

20 “(2) BIOPERSISTENT DURABLE FIBER.—

21 “(A) IN GENERAL.—The term ‘bioper-
22 sistent durable fiber’ means a silicate fiber
23 that—

24 “(i) occurs naturally in the environ-
25 ment; and

1 “(ii) is similar to asbestos in—
2 “(I) resistance to dissolution;
3 “(II) leaching; and
4 “(III) other physical, chemical,
5 or biological processes expected from
6 contact with lung cells and other cells
7 and fluids in the human body.

8 “(B) INCLUSIONS.—The term ‘bioper-
9 sistent durable fiber’ includes—

10 “(i) richterite;
11 “(ii) winchite;
12 “(iii) erionite; and
13 “(iv) non-asbestiform varieties of
14 amosite, crocidolite, anthophyllite,
15 tremolite, and actinolite.

16 “(3) CONTAMINANT-ASBESTOS PRODUCT.—The
17 term ‘contaminant-asbestos product’ means any
18 product that contains asbestos as a contaminant of
19 any mineral or other substance, in any concentra-
20 tion.

21 “(4) DISTRIBUTE IN COMMERCE.—

22 “(A) IN GENERAL.—The term ‘distribute
23 in commerce’ has the meaning given the term
24 in section 3.

1 “(B) EXCLUSIONS.—The term ‘distribute
2 in commerce’ does not include—

3 “(i) an action taken with respect to
4 an asbestos-containing product in connec-
5 tion with the end use of the asbestos-con-
6 taining product by a person that is an end
7 user; or

8 “(ii) distribution of an asbestos-con-
9 taining product by a person solely for the
10 purpose of disposal of the asbestos-con-
11 taining product in compliance with applica-
12 ble Federal, State, and local requirements.

13 “(5) FIBER.—The term ‘fiber’ means an acie-
14 ular single crystal or similarly elongated
15 polycrystalline aggregate particle with a length to
16 width ratio of 3 to 1 or greater.

17 “(6) PERSON.—The term ‘person’ means—

18 “(A) any individual;

19 “(B) any corporation, company, associa-
20 tion, firm, partnership, joint venture, sole pro-
21 prietorship, or other for-profit or nonprofit
22 business entity (including any manufacturer,
23 importer, distributor, or processor);

24 “(C) any Federal, State, or local depart-
25 ment, agency, or instrumentality; and

1 “(D) any interstate body.

2 **“SEC. 222. NATIONAL INSTITUTE FOR OCCUPATIONAL**
3 **SAFETY AND HEALTH STUDY.**

4 “(a) IN GENERAL.—The National Institute for Occu-
5 pational Safety and Health shall conduct a study and, not
6 later than 18 months after the date of enactment of this
7 subtitle, submit to the Administrator, the Committees on
8 Environment and Public Works and Health, Education,
9 Labor, and Pensions of the Senate, and other Federal
10 agencies, as appropriate, a report containing—

11 “(1) a description of the current state of the
12 science relating to—

13 “(A) the disease mechanisms and health
14 effects of exposure to asbestos and other bioper-
15 sistent durable fibers; and

16 “(B) methods for measuring and analyzing
17 asbestos;

18 “(2) a description of the current status of label-
19 ing practices relating to asbestos-containing mate-
20 rial; and

21 “(3) recommendations for future asbestos-re-
22 lated disease research and exposure assessment
23 practice needs.

1 “(i) use of the asbestos containing
2 product is necessary to the critical func-
3 tions of the Department;

4 “(ii) no reasonable alternatives to the
5 asbestos containing product exist for the
6 intended purpose; and

7 “(iii) use of the asbestos containing
8 product will not result in an unreasonable
9 risk to health or the environment; or

10 “(B) sought by the Administrator of the
11 National Aeronautics and Space Administration
12 and the Administrator of the National Aero-
13 nautics and Space Administration certifies, and
14 provides a copy of that certification to Con-
15 gress, that—

16 “(i) the asbestos-containing product is
17 necessary to the critical functions of the
18 National Aeronautics and Space Adminis-
19 tration;

20 “(ii) no reasonable alternatives to the
21 asbestos-containing product exist for the
22 intended purpose; and

23 “(iii) the use of the asbestos-con-
24 taining product will not result in an unrea-
25 sonable risk to health or the environment.

1 “(c) DISPOSAL.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), not later than 2 years after the date of
4 enactment of this subtitle, each person that pos-
5 sesses an asbestos-containing product that is subject
6 to the prohibition established under this section shall
7 dispose of the asbestos-containing product, by a
8 means that is in compliance with applicable Federal,
9 State, and local requirements.

10 “(2) EXEMPTION.—Nothing in paragraph (1)—

11 “(A) applies to an asbestos-containing
12 product that—

13 “(i) is no longer in the stream of com-
14 merce; or

15 “(ii) is in the possession of an end
16 user; or

17 “(B) requires that an asbestos-containing
18 product described in subparagraph (A) be re-
19 moved or replaced.

20 **“SEC. 224. PUBLIC EDUCATION PROGRAM.**

21 “(a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this subtitle, the Administrator, in
23 consultation with the Chairman of the Consumer Product
24 Safety Commission, the Director of the Centers for Dis-

1 ease Control and Prevention, and the Secretary of Labor,
2 shall establish a plan—

3 “(1) to increase awareness of the dangers posed
4 by—

5 “(A) asbestos-containing products and con-
6 taminants in homes and workplaces; and

7 “(B) asbestos-related diseases;

8 “(2) to provide current and comprehensive in-
9 formation to asbestos-related disease patients, family
10 members of patients, and front-line health care pro-
11 viders on—

12 “(A) the dangers of asbestos exposure;

13 “(B) asbestos-related labeling information;

14 “(C) health effects of exposure to asbestos;

15 “(D) symptoms of asbestos exposure; and

16 “(E) available and developing treatments
17 for asbestos-related diseases, including clinical
18 trials;

19 “(3) to encourage asbestos-related disease pa-
20 tients, family members of patients, and front-line
21 health care providers to participate in research and
22 treatment endeavors relating to asbestos; and

23 “(4) to encourage health care providers and re-
24 searchers to provide to asbestos-related disease pa-
25 tients and family members of patients information

1 relating to research, diagnostic, and clinical treat-
2 ments relating to asbestos.

3 “(b) GREATEST RISKS.—In establishing the pro-
4 gram, the Administrator shall give priority to asbestos-
5 containing products and contaminant-asbestos products
6 used by consumers and workers that pose the greatest risk
7 of injury to human health.

8 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as are nec-
10 essary to carry out this section.”.

11 (b) CONFORMING AMENDMENT.—The table of con-
12 tents in sections 1 of the Toxic Substances Control Act
13 (15 U.S.C. prec. 2601) is amended—

14 (1) by inserting before the item relating to sec-
15 tion 201 the following:

“Subtitle A—General Provisions”;

16 and

17 (2) by adding at the end of the items relating
18 to title II the following:

“Subtitle B—Asbestos-Containing Products

“Sec. 221. Definitions.

“Sec. 222. National Institute for Occupational Safety and Health study.

“Sec. 223. Prohibition on asbestos-containing products.

“Sec. 224. Public education program.”.