

119TH CONGRESS
2D SESSION

S. 5235

To amend the Toxic Substances Control Act to prohibit the manufacture, processing, use, and distribution in commerce of commercial asbestos and mixtures and articles containing commercial asbestos, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2026

Mr. MERKLEY (for himself and Mr. CURTIS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Toxic Substances Control Act to prohibit the manufacture, processing, use, and distribution in commerce of commercial asbestos and mixtures and articles containing commercial asbestos, 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 “Alan Reinstein Ban
5 Asbestos Now Act of 2026”.

1 **SEC. 2. COMMERCIAL ASBESTOS BAN.**

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

4 (1) by redesignating subsection (j) as sub-
5 section (k); and

6 (2) by inserting after subsection (i) the fol-
7 lowing:

8 “(j) ASBESTOS.—

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

10 “(A) COMMERCIAL ASBESTOS.—The term
11 ‘commercial asbestos’ means the asbestiform
12 varieties of the following, if extracted and proc-
13 essed for their commercial value:

14 “(i) Chrysotile (serpentine).

15 “(ii) Crocidolite (riebeckite).

16 “(iii) Amosite (cummingtonite-
17 grunerite).

18 “(iv) Anthophyllite.

19 “(v) Tremolite.

20 “(vi) Actinolite.

21 “(vii) Richterite.

22 “(viii) Winchite.

23 “(B) DISTRIBUTE IN COMMERCE; DIS-
24 TRIBUTION IN COMMERCE.—

25 “(i) IN GENERAL.—Except as pro-
26 vided in clause (ii), the terms ‘distribute in

commerce’ and ‘distribution in commerce’
have the meanings given the terms in sec-
tion 3.

“(ii) EXCLUSIONS.—The terms ‘dis-
tribute in commerce’ and ‘distribution in
commerce’ do not include, with respect to
commercial asbestos—

“(I) end-use of a mixture or arti-
cle containing commercial asbestos
and installed in a building or other
structure, product, or equipment be-
fore the date of enactment of the Alan
Reinstein Ban Asbestos Now Act of
2026; or

“(II) distribution of a mixture or
article containing commercial 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
COMMERCIAL ASBESTOS.—The term ‘mixture or
article containing commercial asbestos’ does not
include a mixture or article in which commer-
cial asbestos is present solely as an impurity (as

defined in section 720.3 of title 40, Code of
Federal Regulations (or successor regulations)).

“(2) APPLICABILITY.—

“(A) IN GENERAL.—The prohibitions, re-
quirements, and definition of the term ‘commer-
cial asbestos’ in this subsection shall—

“(i) apply only—

“(I) to chemical substances; and

“(II) for purposes of regulating
chemical substances under this Act;
and

“(ii) have no effect on—

“(I) any other prohibition or def-
inition of the term ‘asbestos’; or

“(II) any other requirement reg-
ulating asbestos, including for pur-
poses of—

“(aa) regulating cosmetics
under the Federal Food, Drug,
and Cosmetic Act (21 U.S.C. 301
et seq.); and

“(bb) determining whether a
cosmetic contains asbestos as an
ingredient or as an impurity to
an ingredient.

1 “(B) IMPURITIES.—Nothing in this sub-
2 section applies to any chemical substance, mix-
3 ture, or article in which commercial asbestos is
4 present solely as an impurity.

5 “(3) PROHIBITION OF MANUFACTURE, PROC-
6 ESSING, USE, AND DISTRIBUTION IN COMMERCE.—
7 Effective on the date of enactment of the Alan
8 Reinstein Ban Asbestos Now Act of 2026, no person
9 may manufacture, process, use, or distribute in com-
10 merce commercial asbestos or any mixture or article
11 containing commercial asbestos.

12 “(4) CHLOR-ALKALI INDUSTRY.—

13 “(A) IN GENERAL.—Notwithstanding para-
14 graph (3), an owner, operator, or agent of an
15 owner or operator of a chlor-alkali facility that
16 is in operation on the date of enactment of the
17 Alan Reinstein Ban Asbestos Now Act of 2026,
18 until May 25, 2032, and subject to subpara-
19 graph (D)—

20 “(i) use, hold, or process commercial
21 asbestos fibers solely for the purpose of
22 manufacturing diaphragms for use in the
23 chlor-alkali process; and

24 “(ii) use asbestos diaphragms in
25 chlor-alkali production.

1 “(B) EXTENSION.—The date specified in
2 subparagraph (A) shall be extended until May
3 25, 2036, with respect to any person who meets
4 all of the following criteria:

5 “(i) On May 28, 2024, the person
6 owned or operated more than one facility
7 that used chrysotile asbestos in chlor-alkali
8 production.

9 “(ii) Between May 28, 2024, and May
10 28, 2029, the person has ceased all proc-
11 essing, distribution in commerce, and com-
12 mercial use of chrysotile asbestos at one or
13 more facilities that has undergone conver-
14 sion to non-chrysotile asbestos membrane
15 technology.

16 “(C) STATUTORY PRECLUSION.—An owner
17 or operator of a chlor-alkali facility described in
18 subparagraph (A) shall comply with the re-
19 quirements of this paragraph in lieu of all re-
20 quirements of—

21 “(i) section 751.505 of title 40, Code
22 of Federal Regulations; and

23 “(ii) section 751.507 of title 40, Code
24 of Federal Regulations.

25 “(D) INTERIM EXPOSURE CONTROLS.—

1 “(i) IN GENERAL.—An owner or oper-
2 ator of a chlor-alkali facility described in
3 subparagraph (A) shall, throughout the pe-
4 riod of the authorization described in sub-
5 paragraph (A), or, if applicable, subpara-
6 graph (B), comply with the interim expo-
7 sure-control requirements applicable to the
8 use of commercial asbestos in the chlor-al-
9 kali process.

10 “(ii) REQUIREMENTS.—For purposes
11 of clause (i), the interim exposure-control
12 requirements—

13 “(I) shall be the requirements
14 applicable to the use of commercial
15 asbestos in the chlor-alkali process,
16 excluding the requirements described
17 in subparagraph (C), that are in ef-
18 fect on the date of enactment of the
19 Alan Reinstein Ban Asbestos Now Act
20 of 2026; and

21 “(II) shall continue to apply as
22 requirements of this subsection with-
23 out regard to whether those require-
24 ments remain in effect under any

1 other provision of law (including regu-
2 lations).

3 “(5) SHEET GASKET PHASE-OUT.—Notwith-
4 standing paragraph (3), the processing, use, and dis-
5 tribution in commerce of commercial asbestos sheet
6 gaskets shall be subject to the applicable conditions,
7 restrictions, and compliance dates established by the
8 Administrator in subpart F of part 751 of title 40,
9 Code of Federal Regulations (as in effect on the
10 date of enactment of the Alan Reinstein Ban Asbes-
11 tos Now Act of 2026).

12 “(6) EXEMPTION FOR NATIONAL SECURITY
13 REASONS.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this subsection, the President
16 may, on application, grant any person an ex-
17 emption from the prohibition under paragraph
18 (3) once for the manufacture, processing, use,
19 or distribution in commerce of commercial as-
20 bestos or any mixture or article containing com-
21 mercial asbestos only if the President deter-
22 mines that—

23 “(i) the manufacture, processing, use,
24 or distribution in commerce of commercial
25 asbestos or any mixture or article con-

1 taining commercial asbestos by the person
2 is necessary to protect the national secu-
3 rity interests of the United States; and

4 “(ii) no feasible alternative to the
5 manufacture, processing, use, or distribu-
6 tion in commerce of commercial asbestos
7 or any mixture or article containing com-
8 mercial asbestos exists for the intended
9 use.

10 “(B) DURATION.—

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

14 “(ii) EXTENSION.—The President
15 may, in accordance with subparagraph (A),
16 extend an exemption granted under that
17 subparagraph once, for a period not to ex-
18 ceed 3 years.

19 “(C) TERMS AND CONDITIONS.—An ex-
20 emption granted under this paragraph (includ-
21 ing any extension granted under subparagraph
22 (B)(ii)) shall include such terms and conditions
23 as are necessary to achieve the maximum extent
24 practicable reduction in exposure to commercial
25 asbestos.

1 “(D) PUBLICATION.—

2 “(i) APPLICATIONS.—Not later than
3 30 days after receipt of an application for
4 an exemption under this paragraph (in-
5 cluding an extension under subparagraph
6 (B)(ii)), the President shall publish the ap-
7 plication in the Federal Register.

8 “(ii) EXEMPTIONS.—Not later than
9 30 days after granting an exemption under
10 this paragraph (including an extension
11 under subparagraph (B)(ii)), the President
12 shall publish in the Federal Register—

13 “(I) a notice of the exemption;

14 and

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

17 “(iii) EXCEPTION.—The President, on
18 a determination that publication under this
19 subparagraph of information relating to an
20 application or granting of a particular ex-
21 emption would harm the national security
22 interests of the United States—

23 “(I) shall not publish that infor-
24 mation in the Federal Register; but

1 “(II) shall provide that informa-
2 tion to the Committee on Environ-
3 ment and Public Works of the Senate
4 and the Committee on Energy and
5 Commerce of the House of Represent-
6 atives.

7 “(E) APPLICATION OF WAIVER AUTHOR-
8 ITY.—Notwithstanding section 22, the Adminis-
9 trator may not issue a waiver under that sec-
10 tion with respect to commercial asbestos.

11 “(7) METAL ORE MINING.—Nothing in this
12 subsection prohibits the extraction, beneficiation, or
13 mineral processing of ores in the metal ore mining
14 industry.”.

○