

109TH CONGRESS
1ST SESSION

S. 1788

To amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by any vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2005

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by any vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease.

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 “Libby Health Care
5 Act”.

1 **SEC. 2. EFFECT OF DISCHARGE OF DEBTS IN BANKRUPTCY.**

2 Section 524(g)(1) of title 11, United States Code, is
3 amended by adding at the end the following:

4 “(C)(i) Congress finds that—

5 “(I) the vermiculite ore mined and milled
6 in Libby, Montana, was contaminated by high
7 levels of asbestos, particularly tremolite asbes-
8 tos;

9 “(II) the vermiculite mining and milling
10 processes released thousands of pounds of as-
11 bestos-contaminated dust into the air around
12 Libby, Montana, every day, exposing mine
13 workers and Libby residents to high levels of
14 asbestos over a prolonged period of time;

15 “(III) the responsible party has known for
16 over 50 years that there are severe health risks
17 associated with prolonged exposure to asbestos,
18 including higher incidences of asbestos related
19 disease such as asbestosis, lung cancer, and
20 mesothelioma;

21 “(IV) the responsible party was aware of
22 accumulating asbestos pollution in Libby, Mon-
23 tana, but failed to take any corrective action for
24 decades, and once corrective action was taken,
25 it was inadequate to protect workers and resi-
26 dents and asbestos-contaminated vermiculite

1 dust continued to be released into the air in
2 and around Libby, Montana, until the early
3 1990s when the vermiculite mining and milling
4 process was finally halted;

5 “(V) current and former residents of
6 Libby, Montana, and former vermiculite mine
7 workers from the Libby mine suffer from asbes-
8 tos related diseases at a rate 40 to 60 times the
9 national average, and they suffer from the rare
10 and deadly asbestos-caused cancer, mesothe-
11 lioma, at a rate 100 times the national average;

12 “(VI) the State of Montana and the town
13 of Libby, Montana, face an immediate and se-
14 vere health care crisis because—

15 “(aa) many sick current and former
16 residents and workers who have been diag-
17 nosed with asbestos-related exposure or
18 disease cannot access private health insur-
19 ance;

20 “(bb) the costs to the community and
21 State government related to providing
22 health coverage for uninsured sick resi-
23 dents and former mine workers are cre-
24 ating significant pressures on the State’s

1 medicaid program and threaten the viabil-
2 ity of other community businesses;

3 “(cc) asbestos-related disease can
4 have a long latency period; and

5 “(dd) the only significant responsible
6 party available to compensate sick resi-
7 dents and workers has filed for bankruptcy
8 protection; and

9 “(VII) the responsible party should recog-
10 nize that it has a responsibility to work in part-
11 nership with the State of Montana, the town of
12 Libby, Montana, and appropriate health care
13 organizations to address escalating health care
14 costs caused by decades of asbestos pollution in
15 Libby, Montana.

16 “(ii) In this subparagraph—

17 “(I) the term ‘asbestos related disease or
18 illness’ means a malignant or non-malignant
19 respiratory disease or illness related to tremolite
20 asbestos exposure;

21 “(II) the term ‘eligible medical expense’
22 means an expense related to services for the di-
23 agnosis or treatment of an asbestos-related dis-
24 ease or illness, including expenses incurred for
25 hospitalization, prescription drugs, outpatient

1 services, home oxygen, respiratory therapy,
2 nursing visits, or diagnostic evaluations;

3 “(III) the term ‘responsible party’ means a
4 corporation—

5 “(aa) that has engaged in mining
6 vermiculite that was contaminated by
7 tremolite asbestos;

8 “(bb) whose officers or directors have
9 been indicted for knowingly releasing into
10 the ambient air a hazardous air pollutant,
11 namely asbestos, and knowingly endan-
12 gering the residents of Libby, Montana
13 and the surrounding communities; and

14 “(cc) for which the Department of
15 Justice has intervened in a bankruptcy
16 proceeding; and

17 “(IV) the term ‘Trust Fund’ means the
18 health care trust fund established pursuant to
19 clause (iii).

20 “(iii) A court may not enter an order con-
21 firming a plan of reorganization under chapter 11
22 involving a responsible party or issue an injunction
23 in connection with such order unless the responsible
24 party—

1 “(I) has established a health care trust
2 fund for the benefit of individuals suffering
3 from an asbestos related disease or illness; and

4 “(II) has deposited not less than
5 \$250,000,000 into the Trust Fund.

6 “(iv) Notwithstanding any other provision of
7 law, any payment received by the United States for
8 recovery of costs associated with the actions to ad-
9 dress asbestos contamination in Libby, Montana, as
10 authorized by the Comprehensive Environmental Re-
11 sponse, Compensation, and Liability Act of 1980 (42
12 U.S.C. 9601 et seq.), shall be deposited into the
13 Trust Fund.

14 “(v) An individual shall be eligible for medical
15 benefit payments, not to exceed \$500,000, from the
16 Trust Fund if the individual—

17 “(I) has an asbestos related disease or ill-
18 ness;

19 “(II) has an eligible medical expense; and

20 “(III)(aa) was a worker at the vermiculite
21 mining and milling facility in Libby, Montana;

22 or

1 “(bb) lived, worked, or played in Libby,
2 Montana for at least 6 consecutive months be-
3 fore December 31, 2004.”.

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