

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

7 JAN -4 P5:49

SENATE
S. B. No. 40

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Asbestos is classified by scientists as a category A human carcinogen, the highest cancer hazard classification for a substance. Further, there is no known safe level of exposure to asbestos. Even low levels of exposure may cause asbestos-related diseases, such as mesothelioma.

Many people incorrectly believe that there is no risk of exposure to asbestos through the use of new commercial products. However, asbestos is still being used in roofing products, coatings, and friction products.

Millions of workers in the Philippines have been, and continue to be, exposed to dangerous levels of asbestos. Families of workers are also put at risk because of asbestos brought home by the workers on their shoes, clothes, skin, and hair.

Asbestos has already been banned in 40 countries, including Argentina, Australia, Austria, Belgium, Chile, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Latvia, Luxembourg, the Netherlands, Norway, Poland, Portugal, Saudi Arabia, the Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom. It was banned throughout the European Union in 2005.

Banning asbestos from being used in or imported into the country will provide certainty to manufacturers, builders, environmental firms, workers, and consumers that after a specific date, asbestos will not be used or added to new construction and manufacturing materials used in this country.

MIRIAM DEFENSOR SANTIAGO
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THIRTEENTH CONGRESS OF THE REPUBLIC)
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SENATE
S. B. No. 1040



Introduced by Senator Miriam Defensor Santiago

AN ACT
BANNING THE IMPORTATION, MANUFACTURE, PROCESSING, OR DISTRIBUTION
IN COMMERCE OF ASBESTOS-CONTAINING PRODUCTS

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress Assembled:

SECTION 1. *Short Title.* - This Act shall be known as the "Ban Asbestos Act of 2007."

SECTION 2. *Declaration of Policy.* - It is the policy of the State to promote the general welfare of the people. Pursuant to this policy, this Act shall ban

SECTION 3. *Definition of Terms.* - For purposes of this Act, the term:

- (A) "Asbestos-containing product" means any product (including any part) to which asbestos is deliberately or knowingly added or in which asbestos is deliberately or knowingly used in any concentration;
- (B) "Biopersistent durable fiber" means a silicate fiber that occurs naturally in the environment; and is similar to asbestos in resistance to dissolution; leaching; and other physical, chemical, or biological processes expected from contact with lung cells and other cells and fluids in the human body.

The term "biopersistent durable fiber" includes richterite; winchite; erionite; and non-asbestiform varieties of amosite, crocidolite, anthophyllite, tremolite, and actinolite.

- (C) "Contaminant-asbestos product" means any product that contains asbestos as a contaminant of any mineral or other substance, in any concentration.

- (D) “Distribute in commerce” means an action taken with respect to an asbestos-containing product in connection with the end use of the asbestos-containing product by a person that is an end user; or distribution of an asbestos-containing product by a person solely for the purpose of disposal of the asbestos-containing product in compliance with applicable laws;
- (E) “Fiber” means an acicular single crystal or similarly elongated polycrystalline aggregate particle with a length to width ratio of 3 to 1 or greater; and
- (F) “Person” means any individual, corporation, company, association, firm, partnership, joint venture, sole proprietorship, or other for-profit or nonprofit business entity (including any manufacturer, importer, distributor, or processor); or any government department, agency, or instrumentality.

SECTION 4. *Research and Reporting.* – The Department of Health shall conduct a study and, not later than eighteen (18) months after the date of enactment of this Act, submit to Congress, and government departments and agencies, as appropriate,

- (A) A report containing a description of the current state of the science relating to the disease mechanisms and health effects of exposure to asbestos and other biopersistent durable fibers; and methods for measuring and analyzing asbestos;
- (B) A description of the current status of labeling practices relating to asbestos-containing material; and
- (C) Recommendations for future asbestos-related disease research and exposure assessment practice needs.

SECTION 5. *Prohibition on Asbestos-containing Products.* – The Secretary of Health shall promulgate not later than one (1) year after the date of enactment of this Act, proposed regulations that prohibit persons from importing, manufacturing, processing, or distributing in commerce asbestos-containing products; and provide for implementation of paragraphs B and C of the Section 4. Not later than 2 years after the date of enactment of this Act, he or she shall also issue final regulations that, effective beginning sixty (60) days after the date of promulgation,

prohibit persons from importing, manufacturing, processing, or distributing in commerce asbestos-containing products.

SECTION 6. *Exemptions.* -- Any person may petition the Secretary of Health for, and the Secretary may grant, an exemption from the requirements of set forth in the preceding Section if the Secretary determines that the exemption would not result in an unreasonable risk of injury to public health or the environment; and the person has made good faith efforts to develop, but has been unable to develop, a substance, or identify a mineral, that does not present an unreasonable risk of injury to public health or the environment; and may be substituted for an asbestos-containing product.

An exemption granted under this Section shall be in effect for such period, not to exceed one (1) year, and subject to such terms and conditions as the Secretary of Health may prescribe.

The Secretary of Health shall provide an exemption from the requirements of Section 5, without review or limit on duration, if

- (A) The exemption for an asbestos-containing product is sought by the Secretary of National Defense and the Secretary of Defense certifies, and provides a copy of that certification to Congress, that the use of the asbestos containing product is necessary to the critical functions of the Department of National Defense;
- (B) No reasonable alternatives to the asbestos containing product exist for the intended purpose; and
- (C) The use of the asbestos containing product will not result in an unreasonable risk to health or the environment.

Except as provided in the next preceding paragraph, and not later than two (2) years after the date of enactment of this Act, each person that possesses an asbestos-containing product that is subject to the prohibition established under this Section shall dispose of the asbestos-containing product, by a means that is in compliance with applicable national and local requirements.

Nothing in paragraph this Section applies to an asbestos-containing product that is no longer in the stream of commerce; or is in the possession of an end user; or requires that an

asbestos-containing product be removed or replaced.

SECTION 7. *Public Education Program.* - Not later than one (1) year after the date of enactment of this Act, the Secretary of Health, in consultation with the Secretary of Trade and Industry and the Secretary of Labor, shall establish a plan to

- (A) Increase awareness of the dangers posed by asbestos-containing products and contaminants in homes and workplaces; and asbestos-related diseases;
- (B) Provide current and comprehensive information to asbestos-related disease patients, family members of patients, and front-line health care providers on the dangers of asbestos exposure; asbestos-related labeling information; health effects of exposure to asbestos; symptoms of asbestos exposure; and available and developing treatments for asbestos-related diseases, including clinical trials;
- (C) Encourage asbestos-related disease patients, family members of patients, and front-line health care providers to participate in research and treatment endeavors relating to asbestos; and
- (D) Encourage health care providers and researchers to provide to asbestos-related disease patients and family members of patients information relating to research, diagnostic, and clinical treatments relating to asbestos.

In establishing the program, the Secretary of Health shall give priority to asbestos-containing products and contaminant-asbestos products used by consumers and workers that pose the greatest risk of injury to human health.

SECTION 8. *Research on Asbestos-related Diseases; Asbestos-related Disease Registry.*
- The Secretary of Health shall expand, intensify, and coordinate programs for the conduct and support of research on diseases caused by exposure to asbestos, particularly mesothelioma, asbestosis, and pleural injuries.

Not later than one (1) year after the date of enactment of this Act, the Secretary of Health, shall establish a mechanism by which to obtain, coordinate, and provide data and specimens

from cancer registries; public and private hospitals; and entities participating in the asbestos-related disease research and treatment network in Section 9. The data and specimens obtained shall form the basis for establishing a national clearinghouse for data and specimens relating to asbestos-related diseases, with a particular emphasis on mesothelioma.

SECTION 9. *Asbestos-related Disease Research and Treatment Network.* – (A) For each of fiscal years 2008 through 2012, the Secretary of Health, in collaboration with other applicable government agencies and instrumentalities, shall establish and maintain an asbestos-related disease research and treatment network (hereinafter, Network) to support the detection, prevention, treatment, and cure of asbestos-related diseases, with particular emphasis on malignant mesothelioma.

The Network shall include intramural research initiatives of the Department of Health; and at least ten (10) extramural asbestos-related disease research and treatment centers, as selected by the Secretary of Health in accordance with the immediately succeeding paragraph.

(B) *Extramural Asbestos-Related Disease Research and Treatment Centers.* For each fiscal year during which the Network is operated and maintained, the Secretary of Health shall select for inclusion in the Network not less than ten (10) nonprofit hospitals, universities, or medical or research institutions incorporated or organized in the Philippines that, as determined by the Secretary of Health, have exemplary experience and qualifications in research and treatment of asbestos-related diseases; access to an appropriate population of patients with asbestos-related diseases; and are geographically distributed throughout the Philippines, with special consideration given to areas of high incidence of asbestos-related diseases.

(C) *Requirements.* -- Each center selected under paragraph B above shall be chosen by the Secretary of Health after competitive peer review; the conduct of laboratory and clinical research, including clinical trials, relating to mechanisms for effective therapeutic treatment of asbestos-related diseases; early detection and prevention of asbestos-related diseases; palliation of asbestos-related disease symptoms; and pain management with respect to asbestos-related diseases; offer to asbestos-related disease patients travel and lodging assistance as necessary to accommodate the maximum number of patients practicable; and to serve a number of patients at

the center sufficient to conduct a meaningful clinical trial; coordinate the research and treatment efforts of the center with other entities included in the Network.

A center selected by the Secretary of Health shall be included in the Network for the one (1) year period beginning on the date of selection of the center; or such longer period as the Secretary of Health determines to be appropriate.

(D) *Grants.* – The Secretary of Health shall provide to each center selected for inclusion in the Network for the fiscal year a financial grant to support the detection, prevention, treatment, and cure of asbestos-related diseases, with particular emphasis on malignant mesothelioma.

SECTION 10. *Appropriations.* – Such sums as may be necessary for the initial implementation of this Act shall be taken from the current appropriations of the Department of Health. Thereafter, the fund necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

SECTION 11. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, presidential proclamation, rule and regulation or parts thereof inconsistent with the provisions of this Act, are hereby repealed, modified, or amended accordingly.

SECTION 12. *Separability Clause.* If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SECTION 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,

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