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News

Toxic Substances

Supporters of Asbestos Ban Seek to Broaden Scope as Bill Moves From Senate to House

As Senate-approved legislation that would ban many uses and types of asbestos moves to the House, some supporters of the bill say they would like to broaden its scope or make other changes so it is clear the legislation does not ban all products containing asbestos.

They also want to ensure the bill does not suggest that products containing small amounts of asbestos are acceptable, according to interviews with people tracking the legislation.

However, a representative of the National Stone, Sand & Gravel Association told BNA he hopes the House will move the bill approved by the Senate.

On Oct. 4, the Senate passed by unanimous consent S. 742, the Ban Asbestos in America Act of 2007. The bill would ban uses of six regulated forms of asbestos and three durable fibers and would cover "asbestos-containing materials" as defined by the Toxic Substances Control Act, meaning it covers any material that contains more than 1 percent asbestos by weight (193 DEN A-10, 10/5/07 ).

Energy & Commerce Hearing in December

The House Energy and Commerce Committee is expected to hold a hearing on related bills introduced in the House in early December, according to a committee spokeswoman.

As they prepare for the House hearing, a representative of an organization concerned about asbestos, a physician and expert in asbestos diseases, and an environmental consultant told BNA they are trying to decide what legislative language to support.

While nearly each person BNA interviewed praised Sens. Patty Murray (D-Wash.) and Barbara Boxer (D-Calif.), who chairs the Senate Environment and Public Works Committee, for their efforts to get the Senate bill passed, and most people supported many aspects of the bill, some are concerned about a compromise reached last summer to ensure S. 742's passage.

TSCA's Definition Used

The compromise was to use TSCA's definition of asbestos-containing materials for those products that would be banned under the bill instead of banning all asbestos-containing products, according to an aide for the Senate Environment and Public Works Committee.

The compromise was made because some Republicans made it clear they would block the bill if it covered all asbestos-containing products, the aide said.

Rather than have the bill, which Murray has been working on for years, delayed yet again, the compromise was made, according to staff from Murray's office and the Environment and Public Works Committee.

"Senator Murray still views the bill as a victory and a huge step forward. It is still her intention to get to a 100 percent ban, but getting anything through the Senate takes compromise," Murray's aide said.

Research that would be funded in the bill should help provide the scientific data to proceed, in a future Congress, to ban all uses of asbestos, the committee's and Murray's aides said.

Concentrations Below 1 Percent Harmful

"My heart is breaking," said Michael R. Harbut, a physician who recently learned about the compromise. Harbut serves on several boards for organizations addressing asbestos-caused diseases and is the co-director of the National Center for Vermiculite and Asbestos-Related Cancers in Detroit.

Mesothelioma, which asbestos can cause, "kills within six months; it's a horrible, ugly, tragic death," Harbut said, adding exposure to materials that contain concentrations of asbestos at less than 1 percent can cause disease.

In addition to being concerned about the concentration limit, he said he also was concerned that the legislation does not cover all the forms of asbestos that can cause cancer and other illnesses. Harbut said he is trying to determine how best to address his concerns as the House takes up the issue.

Richard Lemen, a retired assistant surgeon general and former deputy director of the National Institute for Occupational Safety and Health, agreed that materials containing less than 1 percent asbestos can still cause disease if the asbestos becomes airborne. Lemen said he hopes the House bill will address all asbestos-containing products and cover additional forms of asbestos.

Both Harbut and Lemen testified in June in support of an earlier version of S. 742.

Impact on Road Construction Cited

Gus Edwards, vice president of the National Stone, Sand & Gravel Association, said he supports the goal of banning forms of asbestos that cause illness, but he does not want the ban to cover mineral forms that do not.

The very broad definition of asbestos-containing products that was in the original Senate version would have covered minerals that do not cause disease, so-called non-asbestiform minerals, he said. This would have affected road construction throughout the country because non-asbestiform minerals are found on rocks used to make asphalt and gravel, he said.

Barry Castleman, an environmental consultant based in Garrett Park, Md., who also testified in support of an earlier version of S. 742, said he wants legislative language that would best protect public health.

The Senate version would ban the same types of asbestos-containing products that already have been banned in many other countries, Castleman said.

Castleman said his key concern, however, is that the law be written so that the courts could not interpret the 1 percent limit as a safe or acceptable concentration.

Like Castleman, Linda Reinstein, whose husband died of mesothelioma and who serves as executive director of the Asbestos Disease Awareness Organization, wants to prevent future cases of that illness and others caused by asbestos.

At a minimum, there should be "truth in advertising," Reinstein said. If the bill does not cover products with concentrations of asbestos less than 1 percent, it should not be called a ban, she said.

Either within the title of the bill or its language, the legislation should be very clear about what it does and does not do, she said.

Two Bills Introduced in House

Two related bills have been introduced in the House.

The Ban Asbestos in America Act of 2007 (H.R. 3285), introduced Aug. 1 by Rep. Steve Cohen (D-Tenn.), uses the broad definition of asbestos-containing products found in the earlier version of the Senate bill.

The Bruce Vento Ban Asbestos and Prevent Mesothelioma Act of 2007 (H.R. 3339), introduced Aug. 2 by Rep. Betty McCollum (D-Minn.), uses TSCA's definition of asbestos and is consistent with the bill passed by the Senate, an aide for her office confirmed.

Both bills state that more than 2,000 metric tons of asbestos were used in the United States in 2006 for purposes that include making roofing materials, brake parts, and coatings.

"Millions of workers in the United States have been, and continue to be, exposed to dangerous levels of asbestos," both bills state. 

By Pat Rizzuto