Public Law 101-637
101st Congress

An Act

To reauthorize the Asbestos School Hazard Abatement Act of 1984.

Nov. 28, 1990
[S. 1893]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Asbestos School Hazard Abatement Reauthorization Act of 1990.
20 USC 4011 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos School Hazard Abatement Reauthorization Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

20 USC 4011 note.

(a) FINDINGS.—Congress finds the following:

(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act to inspect for asbestos, develop an asbestos management plan, and implement such plan.

(3) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

(6) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

SEC. 3. AMENDMENTS TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1984.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.).

SEC. 4. ASBESTOS HAZARDS ABATEMENT PROGRAM.

20 USC 4012.

Subsection (b) of section 503 is amended—

(1) in paragraph (2), by inserting "educational" after "local";

(2) in paragraph (2), by inserting ", including parent and employee organizations," after "institutions"; and

(3) by amending paragraph (3) to read as follows:

"(3) not later than November 15 of each year for which this title is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and".

SEC. 5. STATE RECORDS AND PRIORITY LISTS.

20 USC 4013.

(a) MAINTENANCE OF RECORDS.—Subsection (a) of section 504 is amended—

(1) by striking out "Not later than" and all that follows through "maintaining records on—" and inserting in lieu thereof "The Governor of each State shall maintain records on—";

(2) in paragraph (2), by inserting "and other response actions" after "abatement activities";

(3) by inserting "and" after the semicolon at the end of paragraph (2); and

(4) in paragraph (3), by striking out "subparagraph (B)" and inserting in lieu thereof "paragraph (2)".

(b) DELETION OF DEPARTMENT OF EDUCATION REFERENCES.—Subsection (b)(1) of section 504 is amended—

(1) by striking out "Not later than six months after the date of the enactment of this title and annually thereafter," and inserting in lieu thereof "Each year, in accordance with procedures established by the Administrator,";

(2) in subparagraphs (A) and (B), by striking out "and the Secretary of the Department of Education" both places it appears;

(3) in subparagraph (A), by inserting "and" after the semicolon at the end of such subparagraph; and

(4) by striking out subparagraph (C).

(c) DETERMINATION OF ADEQUACY OF RESOURCES.—Subsection (b)(4) of section 504 is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.".

(d) CONFORMING AMENDMENT.—Section 504 is further amended by striking out subsection (c).

SEC. 6. FINANCIAL ASSISTANCE.

(a) APPLICATION APPROVAL DEADLINE.—Subsection (b) of section 505 is amended— 20 USC 4014.

(1) in paragraph (2), by striking out "applications shall be submitted," and inserting in lieu thereof "the Governor shall submit applications,";

(2) in paragraph (2), by adding at the end the following: "The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year."; and

(3) by striking out paragraph (3).

(b) RANKING APPLICATIONS.—Subsection (c)(2)(B)(iv) of section 505 is amended by striking out "is cost-effective compared to other techniques including management of material containing asbestos" and inserting in lieu thereof "uses the least burdensome methods which protect human health and the environment".

(c) DELETION OF REFERENCE TO DEPARTMENT OF EDUCATION REPORT.—Subsection (c)(3) of such section is amended by striking out "shall consider—" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4).".

(d) ADDITIONAL LIMITATION.—Subsection (d) of such section is amended to read as follows:

"(d) LIMITATION.—In no event shall financial assistance be provided under this title to an applicant if—

"(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

"(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).".

(e) REQUIREMENT TO DEPOSIT FUNDS INTO ASBESTOS TRUST FUND.—Subsection (f) of such section is amended in paragraph (3) by striking out "for deposit in the general fund" and inserting in lieu thereof the following: "for deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (Public Law 99-519; 20 U.S.C. 4022)".

(f) ADDITIONAL REQUIREMENTS FOR APPLICATION APPROVAL.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking out "within the five-year period beginning on the effective date of this title" and inserting in lieu thereof "in accordance with such procedures as may be developed by the Administrator";

(2) in paragraph (2)(B), by amending clauses (i) and (ii) to read as follows:

"(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

"(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Sub-

stances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;"; and

(3) by striking out paragraph (4).

SEC. 7. ADMINISTRATIVE PROVISIONS.

20 USC 4015.

Section 506 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) PROCEDURES.—The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505, for—

"(1) abating asbestos materials in school buildings;

"(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

"(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing contained in this title shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.".

SEC. 8. ANNUAL REPORT.

20 USC 4016.

(a) REPORT DEADLINE.—The first sentence of section 507 is amended to read as follows: "During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 505 of this title.".

(b) CONTENTS OF REPORT.—Paragraph (6) of such section is amended by inserting before the period the following: "and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards".

SEC. 9. RECOVERY OF COSTS.

20 USC 4017.

Paragraph (2) of section 508(a) is amended by inserting after "repay to the United States," the following: "by deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (20 U.S.C. 4022),".

SEC. 10. DEFINITIONS.

20 USC 4020.

Section 511 is amended—

(1) in paragraph (3), by inserting ", vibration," after "damage from water"; and

(2) by adding at the end the following new paragraph:

"(9) The term 'response action' has the meaning given such term by section 202(11) of the Toxic Substances Control Act (15 U.S.C. 2642(11)).".

SEC. 11. AUTHORIZATION.

20 USC 4021.

(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended to read as follows: "There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by

section 5 of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years.".

(b) SPECIFIC PROGRAMS.—Subsection (b) of section 512 is amended by striking out paragraph (2) and inserting in lieu thereof the following: 20 USC 4021.

"(2) Of those sums appropriated for the implementation of this title, not more than 5 percent may be reserved during each fiscal year for the administration of this title and for programs including (but not limited to) the following:

"(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

"(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

"(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

"(D) The development of a comprehensive testing and technical assistance program.

"(3) Of those sums appropriated for any fiscal year for the implementation of this title, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

"(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

"(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.".

SEC. 12. CONFORMING AMENDMENTS TO ASBESTOS TRUST FUND.

(a) AMOUNTS TRANSFERRED TO TRUST FUND.—Section 5(b)(1) of the Asbestos Hazard Emergency Response Act of 1986 (Public Law 99-519) is amended— 20 USC 4022.

(1) in subparagraph (A), by striking out "as in effect on the date of the enactment of this Act, and" and inserting in lieu thereof a comma;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 508(a)(1) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4017(a)(1))."

(b) EXPENDITURES FROM TRUST FUND.—Section 5(d) of such Act is amended by striking out "as in effect on the date of the enactment of this Act".

SEC. 13. EPA INFORMATION OR ADVISORY.

Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof: 15 USC 2643.

"(7) The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local

education agencies and State Governors information or an advisory to—

"(A) facilitate public understanding of the comparative risks associated with in-place management of asbestos-containing building materials and removals;

"(B) promote the least burdensome response actions necessary to protect human health, safety, and the environment; and

"(C) describe the circumstances in which asbestos removal is necessary to protect human health.

Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished, and redistributed as appropriate, to reflect new scientific findings.".

SEC. 14. TECHNICAL AMENDMENTS.

20 USC 4011 note.

(a) SECTION HEADINGS.—(1) Section 501 is amended by striking out "SEC. 501." and inserting the following section heading:

"SEC. 501. SHORT TITLE.".

20 USC 4011.

(2) Section 502 is amended by striking out the section heading and "SEC. 502." and inserting in lieu of the section heading the following:

"SEC. 502. FINDINGS AND PURPOSES.".

20 USC 4012.

(3) Section 503 is amended by striking out the section heading and "SEC. 503." and inserting in lieu of the section heading the following:

"SEC. 503. ASBESTOS HAZARD ABATEMENT PROGRAM.".

20 USC 4013.

(4) Section 504 is amended by striking out the section heading and "SEC. 504." and inserting in lieu of the section heading the following:

"SEC. 504. STATE RECORDS AND PRIORITY LISTS.".

20 USC 4014.

(5) Section 505 is amended by striking out the section heading and "SEC. 505." and inserting in lieu of the section heading the following:

"SEC. 505. FINANCIAL ASSISTANCE.".

20 USC 4015.

(6) Section 506 is amended by striking out "SEC. 506." and inserting the following section heading:

"SEC. 506. ADMINISTRATIVE PROVISIONS.".

20 USC 4016.

(7) Section 507 is amended by striking out "SEC. 507." and inserting the following section heading:

"SEC. 507. ANNUAL REPORT.".

20 USC 4017.

(8) Section 508 is amended by striking out "SEC. 508." and inserting the following section heading:

"SEC. 508. RECOVERY OF COSTS.".

20 USC 4018.

(9) Section 509 is amended by striking out "SEC. 509." and inserting the following section heading:

"SEC. 509. EMPLOYEE PROTECTION.".

20 USC 4019.

(10) Section 510 is amended by striking out "SEC. 510." and inserting the following section heading:

"SEC. 510. AFFECT ON RIGHTS UNDER OTHER LAWS.".

20 USC 4020.

(11) Section 511 is amended by striking out "SEC. 511." and inserting the following section heading:

"SEC. 511. DEFINITIONS.".

(12) Section 512 is amended by striking out "SEC. 512." and inserting the following section heading: 20 USC 4021.

"SEC. 512. AUTHORIZATION.".

(b) SUBSECTION HEADINGS.—(1) Section 502(a) is amended by inserting "FINDINGS.—" after "(a)". 20 USC 4011.

(2) Section 502(b) is amended by inserting "PURPOSE.—" after "(b)".

(3) Section 503(a) is amended by striking out "(1)" and inserting in lieu thereof "ABATEMENT PROGRAM.—". 20 USC 4012.

(4) Section 503(b) is amended by inserting "DUTIES.—" after "(b)".

(5) Section 504(a) is amended by inserting "RECORDS.—" after "(a)". 20 USC 4013.

(6) Section 504(b) is amended—

(A) by inserting "PRIORITY LIST.—" after "(b)";

(B) by inserting "activities and other response actions" after "abatement" each place it appears in subparagraphs (A) and (B) of paragraph (1);

(C) in paragraph (1)(B), by striking out "section 503(b)(3) and"; and

(D) in paragraph (4)(C), by inserting a comma after "per capita income".

(7) Section 505 is amended— 20 USC 4014.

(A) in subsection (a), by inserting "ASSISTANCE PROGRAM.—" after "(a)";

(B) in subsection (b), by inserting "APPLICATION SUBMISSION.—" after "(b)";

(C) in subsection (c), by inserting "REVIEW OF APPLICATION.—" after "(c)";

(D) in subsection (e), by inserting "AMOUNT OF LOAN OR GRANT.—" after "(e)";

(E) in subsection (f), by inserting "LOAN AGREEMENT.—" after "(f)"; and

(F) in subsection (g), by inserting "APPLICATION REQUIREMENTS.—" after "(g)".

(8) Section 506(a) is amended by inserting "REGULATIONS.—" after "(a)". 20 USC 4015.

(9) Section 506(d) (as redesignated by section 7) is amended—

(A) by inserting "OTHER AUTHORITY.—" after "(d)"; and

(B) by inserting a comma after "standards" the first place it appears.

(10) Section 508(a) is amended by inserting "LOAN CONDITION.—" after "(a)". 20 USC 4017.

(11) Section 508(b) is amended by inserting "EXPEDITIOUS RECOVERY.—" after "(b)".

(c) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 505(b) is amended in paragraph (1) by striking out the comma after "educational agency".

(2) Section 505(c) is amended—

(A) in paragraph (2), by inserting "and" after the semicolon at the end of subparagraph (A); and

(B) in paragraph (2), by inserting a comma after "confined space" in subparagraph (B)(ii) and after "techniques" in subparagraph (B)(iv).

20 USC 4014.

(3) Section 505(e) is amended by striking out "per centum" both places it appears and inserting in lieu thereof "percent".

(4) Section 505(g) is amended—

(A) by redesignating the subparagraph (B) appearing after paragraph (3) as paragraph (4) and conforming the margin accordingly; and

(B) by inserting a comma in paragraph (4) (as so redesignated) after "section 512(b)(1)".

20 USC 4017.

(5) Section 508 is amended by striking out "sections" and inserting in lieu thereof "section".

20 USC 4020.

(6) Section 511 is amended—

(A) by striking out "For purposes of this title—" and inserting in lieu thereof "For purposes of this title:";

(B) by striking out "the" at the beginning of each paragraph and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of each paragraph and inserting in lieu thereof a period;

(D) by striking out the word "each" in paragraph (3); and

(E) by inserting "secondary" before "school" in paragraph (5).

SEC. 15. ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) ACCREDITATION REQUIREMENT FOR WORKERS IN PUBLIC AND COMMERCIAL BUILDINGS.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

15 USC 2646 note.

(3) Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the model contractor accreditation plan promulgated under section 206(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2646(b)(1)) to increase the minimum number of hours of training, including additional hours of hands-on health and safety training, required for asbestos abatement workers and to make such other changes as may be necessary to implement the amendments made by paragraphs (1) and (2).

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(1) inspects for asbestos-containing material in a school, public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

15 USC 2646 note.

(b) DISCLAIMER.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environ-

mental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641) and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act. 15 USC 2646 note.

SEC. 16. TRAINING GRANTS.

(a)(1) AUTHORIZATION FOR TRAINING GRANTS.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended by adding at the end the following:

"SEC. 216. TRAINING GRANTS. 15 USC 2656.

"(a) GRANTS.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a not-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administrator prescribes.

"(b) AUTHORIZATION.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.".

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

15 USC 2656 note.

(b) EFFECTIVE DATE.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 1893:

SENATE REPORTS: No. 101-353 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed Senate.
Oct. 26, considered and passed House.

O