



## Senate Committee Approves Feinstein Asbestos Amendment for Environmental Exposure

April 28, 2005

**Washington, DC** – The U.S. Senate Judiciary Committee approved an amendment today by Senator Dianne Feinstein (D-Calif.) to provide \$40 million to help determine the extent and location of naturally occurring asbestos in local communities, establish remediation plans and set important guidelines for construction to minimize exposure.

**“A new threat is emerging in California from naturally occurring asbestos,”** Senator Feinstein said. **“I have been hearing from individuals and public officials who are trying to ensure the safety of their communities. There is a growing concern because naturally occurring asbestos has been located in veins in serpentine rock which is being churned by bulldozers and graders, creating a potential hazard. And this provision responds directly to those concerns.”**

Earlier this month, in western El Dorado County state environmental regulators recommended that residents in one California community should pave over asbestos-containing serpentine gravel. Newspapers have also reported that a federal health agency's draft recommendation suggested that those who have played, coached sports or tended fields at the local high school should be checked for early signs of asbestos-related disease.

**“To help address this situation, the definition of asbestos in the bill now being considered by the Judiciary Committee was amended to include the type of asbestos found in California. This ensures that if California residents get sick from exposure to amphibole asbestos they would be covered under the bill. In addition, the definition in the asbestos ban was amended to ensure we are banning the use and distribution of amphibole asbestos.”**

**“Secondly, I offered an amendment that was approved by the Committee today which will do several things to protect all Americans from medical risks associated with naturally occurring asbestos,”** Senator Feinstein added. **“This amendment emphasizes practical, cooperative measures to identify problem areas and remedy them.**

**“The amendment would provide \$7 million to map the veins in serpentine rocks where asbestos fibers naturally occur, including in the fast-growing Sierra foothill counties, and would include additional funding to standardize testing protocols so we can confirm where there are risks to the public’s health.**

**“The Environmental Protection Agency (EPA) would also be provided \$10 million for remediation efforts through a matching grant program; it would develop guidelines to**

**minimize dust-borne asbestos from new construction; and study whether it is feasible and necessary to adopt a national health-based standard for naturally occurring asbestos.”**

The bill creates a national no-fault trust fund to compensate victims for asbestos disease and is sponsored by Senators Arlen Specter (R-PA), Patrick Leahy (D-VT), Orrin Hatch (R-UT) and Feinstein. After some debate, the overall vote on the bill was postponed until the Committee reconvenes after the Senate’s recess.

Under this legislation, the federal government would establish a national trust fund that would be privately funded by asbestos defendant companies and insurers. The trust fund, administered by the Department of Labor, would be available to claimants who meet the medical criteria for mesothelioma, lung cancer, asbestosis or other asbestos-related diseases. The legislation does not provide compensation to individuals who do not have markers from asbestos with a clear line that their cancer was caused by asbestos.

The total dollar amount for the fund is set at \$140 billion, with significant start-up funding. If the fund is unable to pay all claims, victims will also have the option to return to the tort system to seek compensation. If there is a reversion to the tort system, suits may be filed in Federal Court, the state court in which the plaintiff resides or in the state court where the asbestos exposure occurred.

Based on negotiations and input from Senator Feinstein, the bill:

- Includes Senator Feinstein’s proposal for higher award values for victims;
- Provides options so that victims who have a terminal diagnosis will have their claims resolved as quickly as possible. Specifically, Senator Feinstein included a procedure that, immediately upon enactment, would allow mesothelioma victims and terminally ill individuals with a life expectancy of one year or less to receive a settlement for 100% of what they would get under the Trust Fund;
- Ensures that cases with a verdict, final judgment or final order issued by a trial court, cases in trial, or cases that have an enforceable settlement remain outside the trust.
- Includes additional venue options to victims if the trust fund runs out of money so that they can go to federal or state court where they live or where they were exposed to asbestos; and
- Prevents subrogation of awards, ensuring that victims’ awards can’t be reduced; and includes a longer statute of limitations.

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