OLR Bill Analysis
sSB 47 (File 209, as amended by Senate "A")*

AN ACT PROHIBITING THE SALE OF GOODS AND USE OF BUILDING MATERIALS CONTAINING ASBESTOS.

SUMMARY

This bill expands upon existing limits on asbestos products. It generally prohibits introducing, or delivering for introduction, into commerce any asbestos-containing item that is subject to the U.S. Environmental Protection Agency’s (EPA) Final Rule concerning Restrictions on Discontinued Uses of Asbestos published April 25, 2019, including any asbestos-containing product as defined in federal regulations.

EPA’s final rule covers 19 categories of products that are no longer on the market. Under the rule, manufacturing, importing, or processing certain products with asbestos may not begin until EPA finishes a review and approves of the use (see BACKGROUND). The bill generally prohibits using such items in the state, even if the EPA approves it. The bill’s prohibition does not apply when these items are introduced or delivered for introduction into commerce as part of the sale or rental of real property.

Existing state law already prohibits introducing, or delivering for introduction, into commerce any:

1. toy or other article for sale containing asbestos and marketed for use by children younger than age 16; or

2. asbestos-containing item that reasonably could be expected to be used in building construction or repair without a warning label stating that it contains asbestos and that asbestos may cause cancer when inhaled.

Violations of the bill are subject to the same criminal penalties as
violations of existing law. A first offense is generally punishable as a class B misdemeanor, punishable by up to six months in prison, a fine of up to $1,000, or both. A repeat offense or an offense committed with the intent to defraud or mislead is a misdemeanor, punishable by up to one year in prison, a fine of up to $5,000, or both.

The bill’s prohibition (with the real estate exception) is incorporated into the State Child Protection Act, which includes the existing bans on the asbestos items noted above. Thus, the Department of Consumer Protection can take certain actions to enforce the prohibition, including (1) applying to court for an injunction (CGS § 21a-339) and (2) imposing civil penalties of up to $100 after notice and a hearing, with each violation and each day’s continuance of a violation deemed a separate offense (CGS § 21a-350).

*Senate Amendment “A” replaces the underlying bill, which prohibited (1) introducing, or delivering for introduction, into commerce any item containing asbestos, except when the item is part of the sale or rental of real property, and (2) using any materials containing asbestos for building construction or repair.

EFFECTIVE DATE: October 1, 2019

BACKGROUND

**EPA’s Final Rule on Restricting Discontinued Asbestos Uses**

In April 2019, EPA adopted a final rule requiring companies to obtain EPA approval in order to domestically manufacture, import, or process specific types of products with asbestos that are neither ongoing uses nor prohibited (i.e., products in which asbestos use is currently discontinued, but not banned).

Under the new rule, manufacturing, importing, or processing certain products with asbestos may not begin until EPA finishes its review and approves of the use. Consequently, a currently discontinued use of asbestos in the products may be allowed only after an EPA evaluation. The rule applies to the following 19 product categories:
1. adhesives, sealants, and coatings;
2. arc chutes;
3. beater-add gaskets;
4. cement products;
5. extruded sealant tape and other tape;
6. filler for acetylene cylinders;
7. friction materials (with certain exceptions);
8. high-grade electrical paper;
9. millboard;
10. missile liner;
11. packings;
12. pipeline wrap;
13. reinforced plastics;
14. roofing felt;
15. separators in fuel cells and batteries;
16. vinyl-asbestos floor tile;
17. woven products;
18. other building products; and
19. asbestos uses not otherwise identified.

(Federal law already bans asbestos for the following uses: corrugated paper, rollboard, commercial and specialty paper, flooring felt, and new commercial uses after August 25, 1989.)

COMMITTEE ACTION
Public Health Committee

Joint Favorable Substitute
Yea 18 Nay 5 (03/08/2019)

Judiciary Committee

Joint Favorable
Yea 23 Nay 13 (04/22/2019)