

Essay by Asbestos Worker, Bill Yund

This is hard to write. Its not sexy, it's not happy. It will make you mad. And who wants to sit eyeball to eyeball with a devil, and smell it's breath?

It's the dark side of our trade, the disease we risk. But we need to deal with what's going on here, because "they" are out to get us...again. As construction workers, we're hardwired. Plumb is plumb, square is square; what will be, will be. We try to be careful at work. We pay our dues, trusting the Union to take care of "big" problems. The International well knows the political drill, and has funded asbestos research for years. But if things still go wrong, we need to get involved. Right now, in Washington D.C, things are going wrong.

Senator Orrin Hatch, (Republican, Utah) has pushed a Bill (S1125) onto the Senate floor called "Fairness In Asbestos Injury Resolution Act", or "FAIR."

That's double-talk. S1125 is nothing about fairness. It will eliminate the right to sue in exchange for a fund for asbestos victims. It's something like workers' comp, but harder to get. Also something like the tobacco settlement, but no one had to smoke. They did have to work and breathe. This is a working class issue. Working people do the jobs that lead to exposure, live in the older houses and environments where asbestos products still exist. Orrin Hatch plays to an audience who lives on profits. As billionaire Warren Buffet recently said, if there is class warfare in this country, his class is winning.

Many people think the asbestos issue is old stuff. Not so. In 2003, almost 10,000 people in the U.S. are expected to die of asbestos-related disease. Hundreds of thousands of workers and family members have suffered and/or died from asbestos exposure. More than a million cases are expected. We've learned to protect ourselves at work, but people are still exposed in daily life. (S1125 doesn't care about job exposure after 1982, but we'll get to that in a minute.)

Contrary to belief, asbestos has not been banned in the United States. It is outlawed in more than 30 other countries. 13,000 metric tons of asbestos are being put into American products each year in industry, and in consumer products. In recent years it's been found in children's crayons and in vermiculite. The EPA publishes a partial list of over thirty suspect items. Not all are labeled with warnings. That would be bad for business.

Back in the 1920s, public health workers began presenting evidence of the deadly effects of asbestos exposure. The industry knew asbestos was lethal in the 1930s. They squelched the information, leaving millions of people open to asbestos-related death and disease. So did the government. A lot of working people sensed danger, but they had to make a living. They were sandbagged by misinformation for decades. Thousands upon thousands got sick. Many died painfully.

Reality Check. Whether by application or removal, a lot of us have made a good living with asbestos. Like a rattlesnake, asbestos itself is not the problem if you know where and what it is, and how to stop it from entering the human body. It's the lies, deceit, and greed that have brought so much misery and sickness, and there's no abatement of these things in the U.S. Senate in 2003.

Like many Great Lies, there is an element of worth in S1125. Hatch proposes timely help for mesothelioma victims, whom (here comes the lie) he says are being ripped off by lawyers and people who aren't "really sick." He is referring to victims who do not have disability, but must file within a statute (asbestos) of limitations or forfeit their right to compensation. These suits are creating a jam in the court system, and many needy victims never live to settlement. Hatch ignores the fact that his own corporate backers in industry make dying victims go through the long trial procedure, and he flips off the California solution that guarantees mesothelioma plaintiffs a fast trial. S1125 would actually be slower. The fact is the corporations who would benefit from S1125 have deprived mesothelioma victims of life and income, but Hatch slyly blames asbestosis victims for the problems of mesothelioma victims. (More on this later.)

Essentially, Hatch's bill protects corporations by excluding many asbestos victims from fair compensation, and reducing the amount of money for those who manage to pass S1125's restrictive criteria. (VP Dick Cheney's pet company Halliburton will immediately save 3.5 billion.) As a bonus for his friends, Hatch clamps down on the tort system for victims that business and Republicans hate.

Here is a quick summary of S1125's crimes. Lift a detail, find a rat:

1. It removes the most effective screening tools for diagnosing Asbestos Related Disease (ARD). CT scans and oxygen diffusion (lung function) are out. X-rays are OK, but may miss indications early on, when treatment can be most beneficial. Nearly 20% of insulators with asbestosis had normal x-rays in the Selikoff groups' study. If Hatch were sincere, all reliable testing would be included, especially the most effective.
2. Excludes specialists like "B" readers, experienced in asbestos diagnosis. S1125 specifies "treating" physicians without defining what they are. ARD is often misdiagnosed by physicians unfamiliar with the diseases. Even among the best readers, there is disagreement 20% of the time. "Doctor Hatch" prefers less accuracy.
3. Requires independent verification of the duration, proximity, regularity, and intensity, 20 to 40 years after exposure. In other words, victims must identify products by name; length of exposure, how close, and how much dust. This is no easy task for those of us in the industry, who keep paycheck notations, job logs and worksheets. For most victims, it would be impossible.

4. S1125 requires occupational exposure before Dec. 31, 1982. As written, it excludes victims exposed after that date. The 1982 cutoff date comes from the Manville bankruptcy, and relates to Manville products. In S1125, this is irrelevant. Hatch apparently figures if he throws enough crap at the wall, some will stick. If this job sticks, it will be a magnificent gift to Hatch's backers. Strict regulation did not happen until 1986, and the nuts-and-bolts of safe procedure took more time to reach the field. Awareness of the coming expense of asbestos removal grew from the late 1970s on, giving irresponsible managers more than a half-decade window of opportunity to dump asbestos any way they could with little fear of penalty.

At the same time, the steel industry was crashing, and many thousands were losing jobs, homes, and families. Desperate times bring desperate actions, and many workers asked no questions. Given the 20 to 40 year latency period, exposure then is just beginning to show effects. Under S1125 they'll never show up. Among countless others, workers at the 9/11 disaster would be eliminated. As much as ten tons of asbestos went into the air when the WTC fell, and those who did the recovery work are already having respiratory problems. Because of the event's high emotional profile, action should be taken in their behalf, but many of us exposed after 1982 would still be excluded. This makes absolutely no sense, except to benefit defendant corporations.

Bad as this is, Hatch is just getting started. Sit back and grind your teeth. There's more, and it's close to home.

5. S1125 uses non-medically based statistical mumbo-jumbo to disqualify many legitimate and disabled victims. It also excludes family members. Asbestos related disease includes pleural scarring, asbestosis, lung cancer, mesothelioma, colon cancer, gastrointestinal, laryngeal and pharyngeal cancers. All of these have occurred among members of Local 2 and their families. We've had (at least) one family member with mesothelioma who was never on a job. She died of fibers brought home on clothing before the danger was confirmed.

Under S1125, she would not qualify for compensation, nor would many with plural scarring and asbestosis, even if severely impaired. Colorectal cancer would be excluded. Some smokers are excluded, and all smokers would get less than the amounts they now receive.

6. All levels of compensation are severely reduced from current awards. You may think the highest S1125 award, \$1 million for mesothelioma, sounds adequate. That's a lot of job-time wake-ups, a lot of hours. But we're talking Death here, not disability, and it's less than most current settlements for this excruciatingly painful passing. The amount would be further reduced by amounts paid for medical expenses by private insurance and union health plans, dumping costs back onto the victims.

7. The fund is capped at \$108 billion. This amount is based on decades-old data. More recent estimates run as high as \$200 billion. Previous estimates have all proven low. In

short, the fund may run dry before claims are settled. To get his bill out of committee, Hatch agreed to further funds of about \$50 billion if the \$108 doesn't cut it. (lipstick on a pig: plenty of time to weasel out of this). Hatch whined that he was the "only one giving concessions." Considering it's neither his money nor his lungs, Orrin must confuse himself with God.

8. The fund is supposed to be non-adversarial, (no lawyers). But S1125 calls for a five judge court (appointed by the President) who appear to have no function but to force victims to prove their cases against odds. There would be no appeals to decisions.

S1125 makes a farce of the acronym "FAIR". Hatch's sleazy campaign to blame less injured asbestos victims for depriving lung cancer and meso patients of justice is beneath contempt. It is classic "divide-and-conquer" tactics, implying that asbestosis victims and workers with scarred lungs are freeloaders, their lawyers are ambulance chasers, and Hatch is a hero. Zero that hero. This scam is designed to turn victim against victim, and public opinion against claimants and their lawyers. Meso victims alone have little chance to become politically significant. They are too sick, they die too quickly. Their percentage in asbestos disease is comparatively small, though hugely tragic. About 4000 people are diagnosed each year. Due to ignorance of the disease, their true numbers are mis-diagnosed, under-reported, and unknown. No one wants to put milder cases before the heartbreaking tragedy of deathly-ill patients. They must have priority. But strength is in numbers, and asbestos victims cannot be divided if they have any chance for fair settlement.

We need to understand Hatch's deception, because it may affect many of us. It should be this simple. Say you're going about your life, and with no warning someone sucker-punches you. You get a busted nose, blurred vision, and miss some work. But you know the goon, take him to court, and prove beyond doubt he acted maliciously and without provocation. You win a settlement. Justice is served.

That's what asbestosis is: a sucker-punch to the lungs, leaving scars, damage and worry.

But it's not that simple. Unlike a broken nose, there's no corrective surgery. The condition is irreversible. It may stay the same, or it may get worse. It carries the potential for future mischief, and tragedy. If that happens, you can go back to court, just as you would if the sucker punch led to later blindness or other disability. This is how it works in many states, including Pa. You're entitled to justice for the initial injury because the goon was clearly to blame for injuring you. If problems result later, you go back to court. That's justice.

And it's still not that simple. Say, in your younger years you bought a small life insurance policy. You were newly wed, had a big mortgage, and small children. Years later, you can afford more and figure you should get it, because your chest x-rays show shadows. When you call your insurance agent, he takes a fast hike.

Because of those scars, which S1125 says are meaningless, you're denied further protection for your family. If you get a small settlement, it's nowhere near the insurance amount you would have chosen. (The Insurance industry also backs S1125. By saying asbestosis IS a problem they protect profits. Then, by saying it's NOT a problem they protect profits. These are the people who claim they can best control Healthcare.)

You also know that further exposure to toxic dusts and vapors can aggravate your condition. Try to find construction jobs where those things don't exist. Last but not least, when someone says, "Hey, you lost some weight!" you'll worry...

There are many things the Hatch-ings could be doing to help asbestos victims. They could fund research in gene therapy and other promising treatments. They could improve education. They could establish a national victims registry to track the disease. Because mesothelioma has no known cause but asbestos, they could make prompt treatment and fair compensation for needy victims automatic. They could work for a national healthcare system that would insure no fatally ill citizen would have the salt of financial collapse rubbed into the wound of physical pain and frailty. But They are doing none of this.

Considering it's huge potential impact on the health of so many, there has been surprising little news coverage of the details of this issue. There is a TV spot by the Chamber of Commerce claiming that S1125 will save jobs and the economy. They also blame the problems of the deathly-ill on victims, and not on the lies of the industry. The Industry and it's paid-for politicians and lobbyists choose to continue a long tradition of deceit and misdirection.

We need to help ourselves. Call your politicians. Raise Hell before they leave you swinging in the dust.

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