

HCS HB 363 -- ASBESTOS EXPOSURE

SPONSOR: Gregory (96)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Litigation Reform by a vote of 6 to 3. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 6 to 3.

The following is a summary of the House Committee Substitute for HB 363.

This bill applies to asbestos tort actions filed on or after August 28, 2021, and to pending asbestos tort actions where trial has not commenced as of such date. The bill:

(1) Requires a claimant to provide all parties in an action a sworn statement indicating that all asbestos trust claims that the claimant can file have been completed and filed. In addition, the claimant must provide all parties with all trust materials relating to the asbestos exposure and related claims;

(2) Allows any defendant in an asbestos tort action to file a motion for an order to stay the proceedings. The motion must contain information the defendant believes supports any additional asbestos trust claim that the claimant may file;

(3) Requires trust claims materials and trust governance documents to be admissible in evidence. Claims of privilege do not apply to trust claims materials or trust governance documents;

(4) Allows the parties in the asbestos tort action to introduce at trial any trust claims material to prove alternative causation for the exposed person's claimed injury, death, or loss to person to prove a basis to allocate responsibility for the claimant's claimed injury, death, or loss to person and to prove issues relevant to an adjudication of the asbestos claim, unless the exclusion of the trust claims material is otherwise required by the rules of evidence. Settlements with bankruptcy trusts shall reduce the claim by the stipulated amount of the agreement or amount of consideration paid; and

(5) Allows the court to, upon motion by the defendant, dismiss an action without prejudice for the claimant's failure to comply with these disclosure requirements. A defendant may, within three years after judgment, move to reopen a judgment in an asbestos action if a claimant files certain additional asbestos trust claims.

The bill shall not apply to asbestos actions filed by or on behalf

of First Responders. "First Responder" is defined as any paid, volunteer, or retired firefighter, paramedic, or emergency medical technician.

This bill is similar to HB 2139 (2020).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that the bill will provide greater transparency and efficiency in asbestos claims. Sixteen states have already passed this legislation and it has shown to have helped in those states. The court system and the trust system should communicate better. The bill will facilitate that communication and allow all evidence to be brought in front of both systems.

Testifying for the bill were Representative Gregory; Associated Industries of Missouri; Missouri Trucking Association; United States Chamber of Commerce; Associated Industries of Missouri; U.S. Chamber Institute For Legal Reform; Missouri Association of Criminal Defense Lawyers; Missouri Chamber of Commerce and Industry; Missouri Civil Justice Reform Coalition; American Property Casualty Insurance Association; and Missouri Insurance Coalition.

OPPONENTS: Those who oppose the bill say that the bill requires the injured party to provide evidence, that would normally be found during discovery, with the initial petition. The bill gives victims stricter burdens of proof and gives defendants more opportunities to delay resolution of cases.

Testifying against the bill were Arnie Dienoff; Missouri AFL-CIO; Cory Hogan, Missouri State Council of Fire Fighters; and Michael Brockland, Missouri Association of Trial Attorneys.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.