

SECOND REGULAR SESSION

HOUSE BILL NO. 2029

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PRATT (Sponsor) AND YATES (Co-sponsor).

Read 1st time March 16, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5053L.01I

AN ACT

To amend chapter 537, RSMo, by adding thereto twelve new sections relating to asbestos and silica claims.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto twelve new sections, to
2 be known as sections 537.900, 537.903, 537.906, 537.909, 537.912, 537.915, 537.918, 537.921,
3 537.924, 537.927, 537.930, and 537.933, to read as follows:

537.900. 1. Sections 537.900 to 537.933 shall be known and may be cited as the
2 **"Asbestos and Silica Claims Priorities Act".**

3 **2. As used in sections 537.900 to 537.933, the following terms shall mean:**

4 **(1) "AMA Guides to the Evaluation of Permanent Impairment", the most current**
5 **version of the American Medical Association's *Guides to the Evaluation of Permanent***
6 ***Impairment* in effect at the time of the performance of any examination or test on the**
7 **exposed person required by sections 537.900 to 537.933;**

8 **(2) "Asbestos", chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite**
9 **asbestos, actinolite asbestos, winchite, richterite, asbestiform amphibole minerals, and any**
10 **of these minerals that have been chemically treated or altered, including but not limited**
11 **to all minerals defined as asbestos in the most current version of 29 CFR 1910 in effect at**
12 **the time an asbestos claim is made;**

13 **(3) "Asbestos claim", any claim for damages, losses, indemnification, contribution,**
14 **or other relief of whatever nature arising out of, based on, or in any way related to the**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 alleged health effects associated with the inhalation or ingestion of asbestos, including loss
16 of consortium, personal injury or death, mental or emotional injury, risk or fear of disease
17 or other injury, or the costs of medical monitoring or surveillance, to the extent such claims
18 are recognized under state law, and any claim made by or on behalf of any person exposed
19 to asbestos, or a representative, spouse, parent, child, or other relative of the exposed
20 person. The term does not include a claim for compensatory benefits under a workers'
21 compensation law or a veterans' benefits program;

22 (4) "Asbestosis", bilateral diffuse interstitial fibrosis of the lungs caused by
23 inhalation of asbestos;

24 (5) "Board-certified internist", a qualified physician, as defined in this section, who
25 is certified by the American Board of Internal Medicine and whose certification was
26 current at the time of the performance of any examination and rendition of any report
27 required by sections 537.900 to 537.933;

28 (6) "Board-certified occupational medicine specialist", a qualified physician as
29 defined in this section, who is certified in the subspecialty of occupational medicine by the
30 American Board of Preventive Medicine and whose certification was current at the time
31 of the performance of any examination and rendition of any report required by sections
32 537.900 to 537.933;

33 (7) "Board-certified pathologist", a qualified physician as defined in this section,
34 who holds primary certification in anatomic pathology or combined anatomic or clinical
35 pathology from the American Board of Pathology, whose professional practice is
36 principally in the field of pathology and involves regular evaluation of pathology materials
37 obtained from surgical or post-mortem specimens, and whose certification was current at
38 the time of any tissue or slide examination or rendition of any report required by sections
39 537.900 to 537.933;

40 (8) "Board-certified pulmonologist", a qualified physician, as defined in this
41 section, who is certified in the subspecialty of pulmonary medicine by the American Board
42 of Internal Medicine and whose certification was current at the time of the performance
43 of any examination and rendition of any report required by sections 537.900 to 537.933;

44 (9) "Certified B-reader", a person who has successfully passed the B-reader
45 certification examination for X-ray interpretation sponsored by the National Institute for
46 Occupational Safety and Health, and whose certification was current at the time of any
47 readings required by sections 537.900 to 537.933;

48 (10) "Chest X-rays", radiographic films taken in accordance with all applicable
49 state and federal standards and in the posterior-anterior view;

50 (11) "Claimant", any party asserting an asbestos or silica claim, including a
51 plaintiff, counterclaimant, cross-claimant, or third-party plaintiff; if a claim is brought
52 through or on behalf of an estate, the term includes the claimant's decedent; if a claim is
53 brought through or on behalf of a minor or incompetent, the term includes the claimant's
54 parent or guardian;

55 (12) "DLCO", diffusing capacity of the lung for carbon monoxide, which is the
56 measurement of carbon monoxide transfer from inspired gas to pulmonary capillary
57 blood;

58 (13) "Exposed person", a person whose claimed exposure to asbestos or silica is the
59 basis for an asbestos or silica claim. Regarding claimed exposure to silica, the term
60 "exposed person" means a person whose claimed exposure to silica is by means of the
61 alleged inhalation of respirable silica;

62 (14) "FEV-1", forced expiratory volume in the first second, which is the maximal
63 volume of air expelled in one second during the performance of simple spirometric tests;

64 (15) "FVC", forced vital capacity, which is the maximal volume of air expired with
65 maximum effort from a position of full inspiration;

66 (16) "ILO scale", the system for the classification of chest X-rays set forth in the
67 most current version of the International Labor Office's *Guidelines for the Use of ILO*
68 *International Classification of Radiographs of Pneumoconioses* in effect at the time of the
69 performance of any examination or test on the exposed person required by sections 537.900
70 to 537.933;

71 (17) "Predicted lower limit of normal", the calculated standard convention lying
72 at the fifth percentile, below the upper ninety-five percent of the reference population,
73 based on age, height, and gender, according to the recommendations of the American
74 Thoracic Society as referenced in the AMA's *Guides to the Evaluation of Permanent*
75 *Impairment*;

76 (18) "Qualified physician", a board-certified internist, occupational medicine
77 specialist, pathologist or pulmonologist who:

78 (a) Is licensed to practice in this state or the state in which the claimant resides if
79 the claimant resides outside this state;

80 (b) Has personally conducted a physical examination of the exposed person, or in
81 the case of a board-certified pathologist, has examined the tissue samples or pathological
82 slides of the exposed person, or if the exposed person is deceased, based upon a detailed
83 review of the medical records and existing tissue samples and pathological slides of the
84 deceased person;

85 (c) Is treating or treated the exposed person and has or had a doctor-patient
86 relationship with the exposed person at the time of the physical examination, or in the case
87 of a board-certified pathologist, has examined tissue samples or pathological slides of the
88 exposed person at the request of such treating physician;

89 (d) Receives or received payment for the exposed person's diagnosis, examination,
90 and treatment from the exposed person or claimant or from the exposed person's health
91 maintenance organization or other medical provider, and such payment is not subject to
92 reimbursement by or on behalf of anyone providing legal services to the claimant; and

93 (e) Whose diagnosing, examining, testing, screening, or treating of the exposed
94 person was not, directly or indirectly, premised upon and did not require the exposed
95 person or claimant to retain the legal services of an attorney or law firm;

96 (19) "Silica", a respirable crystalline form of the naturally occurring mineral form
97 of silicon dioxide, including but not limited to, quartz, cristobalite, and tridymite;

98 (20) "Silica claim", any claim for damages, losses, indemnification, contribution,
99 or other relief of whatever nature arising out of, based on, or in any way related to the
100 alleged health effects associated with the inhalation of silica, including loss of consortium,
101 personal injury or death, mental or emotional injury, risk or fear of disease or other
102 injury, or the costs of medical monitoring or surveillance, to the extent such claims are
103 recognized under state law, and any claim made by or on behalf of any person exposed to
104 silica dust, or a representative, spouse, parent, child, or other relative of the exposed
105 person. The term does not include a claim for compensatory benefits under a workers'
106 compensation law or a veterans' benefits program;

107 (21) "Silicosis", fibrosis of the lung produced by inhalation of silica, including acute
108 silicosis, accelerated silicosis, and chronic silicosis;

109 (22) "Substantial contributing factor":

110 (a) In the context of an asbestos claim:

111 a. The claimant must identify the specific asbestos product to which the exposed
112 person was exposed, the location and duration of exposure, and the specific circumstances
113 of the exposure;

114 b. The exposure was more than incidental contact with the product and location,
115 and took place on a regular basis over an extended period of time in physical proximity to
116 the exposed person;

117 c. The exposed person inhaled respirable asbestos fibers in sufficient quantities to
118 be capable of causing harm; and

d. A qualified physician has determined with a reasonable degree of medical certainty that the exposed person's impairment would not have occurred but for the specific asbestos exposure;

(b) In the context of a silica claim:

a. The claimant must identify the specific silica product to which the exposed person was exposed, the location and duration of exposure, and the specific circumstances of the exposure;

b. The exposure was more than incidental contact with the product and location, and took place on a regular basis over an extended period of time in physical proximity to the exposed person;

c. The exposed person inhaled respirable silica particles in sufficient quantities to be capable of causing harm; and

d. A qualified physician has determined with a reasonable degree of medical certainty that the exposed person's impairment would not have occurred but for the specific silica exposure;

(23) "Total lung capacity", the volume of gas contained in the lungs at the end of a maximal inspiration;

(24) "Veterans' benefits program", a program for benefits in connection with military service administered by the Veterans' Administration under Title 38, United States Code;

(25) "Workers' compensation law", a law respecting a program administered by a state or the United States to provide compensatory benefits, funded by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries. The term includes the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Section 901 et seq. and the Federal Employees' Compensation Act Chapter 81 of Title 5, U.S.C., but does not include the Act of April ee, 1908 commonly known as the Federal Employers' Liability Act, 45 U.S.C. Section 51 et seq. or any claim for exemplary or punitive damages by an employee, estate, heir, representative, or any other person or entity against the employer of an exposed person arising out of or related to asbestos-related injury or silica-related injury.

537.903. Physical impairment of the exposed person, to which exposure to the defendant's asbestos or silica was a substantial contributing factor, shall be an essential element to bring or maintain an asbestos or silica claim.

537.906. The plaintiff in any civil action alleging an asbestos or silica claim shall file together with the complaint or other initial pleading a written report and supporting test results constituting prima facie evidence of the claimant's asbestos-related or silica-

4 related impairment meeting the requirements of sections 537.903 to 537.915. For any
5 asbestos or silica claim pending on the effective date of sections 537.900 to 537.933, the
6 claimant shall file such a written report and supporting test results no later than ninety
7 days after the effective date of sections 537.900 to 537.933 or no later than sixty days prior
8 to the commencement of trial, whichever occurs first. The defendant shall be afforded a
9 reasonable opportunity to challenge the adequacy of the proffered prima facie evidence of
10 impairment. The claim shall be dismissed without prejudice upon a finding of failure to
11 make the required prima facie showing.

537.909. 1. All asbestos claims and silica claims filed in this state on or after the
2 effective date of sections 537.900 to 537.933 shall include a sworn information form
3 containing:

4 (1) The claimant's name, address, date of birth, Social Security number, and
5 marital status;

6 (2) The exposed person's name, last address, date of birth, Social Security number,
7 and marital status;

8 (3) If the claimant alleges exposure to asbestos through another person, the name,
9 address, date of birth, Social Security number and marital status, for each person by which
10 claimant alleges exposure, hereafter the index person, and the claimant's relationship to
11 each such person;

12 (4) For each alleged exposure of the exposed person and for each index person; the
13 specific location and manner of the alleged exposure, the beginning and ending dates of the
14 alleged exposure, and the identity of the manufacturer of the specific asbestos or silica
15 product to which the exposed person or index person was exposed;

16 (5) The occupation and name of the employer of the exposed person at the time of
17 each alleged exposure;

18 (6) If the asbestos claim or silica claim involves more than one claimant, the identity
19 of the defendant or defendants against whom each claimant asserts a claim;

20 (7) The specific disease related to asbestos or silica claimed to exist; and

21 (8) Any supporting documentation of the condition claimed to exist and
22 documentation to support the claimant or index person's identification of the asbestos or
23 silica product and exposure thereto.

24 2. All asbestos claims and silica claims along with sworn information forms must
25 be individually filed. No claims on behalf of a group or class of persons shall be permitted.

537.912. 1. No person shall bring or maintain an asbestos claim related to an
2 alleged nonmalignant asbestos-related condition in the absence of a prima facie showing
3 of physical impairment of the exposed person for which exposure to the defendant's

asbestos is a substantial contributing factor. Such a prima facie showing shall include a detailed narrative medical report and diagnosis by a qualified physician that includes:

(1) Evidence verifying that the diagnosing, qualified physician has taken a detailed occupational and exposure history from the exposed person or, if that person is deceased, from a person who is knowledgeable about the exposures that form the basis for the claim, including identification of all of the exposed person's places of employment and exposures to airborne contaminants, including but not limited to, asbestos, silica, and other disease-causing dusts, mists, fumes, and airborne contaminants, that can cause pulmonary impairment, and the nature, duration, and level of each such exposure;

(2) Evidence verifying that the diagnosing, qualified physician has taken a detailed medical and smoking history from the exposed person, including a thorough review of the exposed person's past and present medical problems and their most probable cause, or, if the exposed person is deceased, from a person who is knowledgeable regarding such history;

(3) Evidence sufficient to demonstrate that at least fifteen years have elapsed between the exposed person's first exposure to asbestos and the date of diagnosis;

(4) A determination by the diagnosing, qualified physician, on the basis of a personal medical examination and pulmonary function testing of the exposed person, or if the exposed person is deceased, based upon the person's medical records, that the claimant has or the deceased person had a permanent respiratory impairment rating of at least Class 2 as defined by and evaluated under the AMA's *Guides to the Evaluation of Permanent Impairment*;

(5) Evidence verifying that the exposed person has:

(a) An ILO quality 1 chest X-ray, or a quality 2 chest X-ray if the exposed person is deceased and a quality 1 chest X-ray does not exist, read by a certified B-reader as showing, according to the ILO scale, bilateral small irregular opacities (s, t, or u) graded 1/1 or higher on the ILO scale or bilateral pleural thickening graded b2 or higher on the ILO scale including blunting of the costophrenic angle; or

(b) Pathological asbestosis graded 1(B) or higher under the criteria published in the *Asbestos-Associated Diseases*, Special Issue of the Archives of Pathological and Laboratory Medicine, Vol. 106, No. 11, Appendix 3 (Oct. 8, 1982);

(6) A determination by the diagnosing, qualified physician that asbestosis or diffuse bilateral pleural thickening is a substantial contributing factor to the exposed person's physical impairment, based at a minimum on a determination that the claimant has:

(a) Forced vital capacity below the predicted lower limit of normal and FEV1/FVC ratio, using actual values, at or above the predicted lower limit of normal; or

(b) Total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal;

(7) Verifies that the diagnosing, qualified physician has concluded that the exposed person's impairment was not more probably the result of causes other than asbestos as revealed by the exposed person's employment, medical, and smoking history. A conclusion which states that the medical findings and impairment are consistent or compatible with asbestos exposure or asbestos-related disease does not meet the requirements of this subdivision; and

(8) Is accompanied by copies of the B-reading, pulmonary function tests, including printouts of the flow volume loops, volume time curves, DLCO graphs, and data for all trials and all other elements required to demonstrate compliance with the equipment, quality, interpretation, and reporting standards set forth herein, lung volume tests, reports of X-ray examinations, diagnostic imaging of the chest, pathology reports, or other testing reviewed by the diagnosing qualified physician in reaching the physician's conclusions.

2. No person shall bring or maintain an asbestos claim related to an alleged asbestos-related cancer, other than mesothelioma, in the absence of a prima facie showing of a primary cancer for which exposure to the defendant's asbestos is a substantial contributing factor. Such a prima facie showing shall include a detailed narrative medical report and diagnosis by a qualified physician. The prima facie showing shall include all of the following minimal requirements:

(1) Evidence sufficient to demonstrate that at least fifteen years have elapsed between the exposed person's first exposure to asbestos and the date of diagnosis of the cancer;

(2) Evidence verifying that the exposed person has:

(a) An ILO quality 1 chest X-ray, or a quality 2 chest X-ray if the exposed person is deceased and a quality 1 chest X-ray does not exist, read by a certified B-reader as showing, according to the ILO scale, bilateral small irregular opacities (s, t, or u) graded 1/1 or higher on the ILO scale; or

(b) Pathological asbestosis graded 1(B) or higher under the criteria published in the Asbestos-Associated Diseases, Special Issue of the Archives of Pathological and Laboratory Medicine, Vol, 106, No. 11, Appendix 3 (Oct. 8, 1982);

(3) The diagnosing, qualified physician has concluded that the claimant's cancer was not more probably the result of causes other than asbestos as revealed by the exposed person's employment, medical, and smoking history. A conclusion which states that the medical findings and impairment are consistent or compatible with asbestos exposure or asbestos-related disease does not meet the requirements of this subdivision; and

(4) Is accompanied by copies of the B-reading, pulmonary function tests, including printouts of the flow volume loops, volume time curves, DLCO graphs, and data for all trials and all other elements required to demonstrate compliance with the equipment, quality, interpretation and reporting standards set forth herein, lung volume tests, reports of X-ray examinations, diagnostic imaging of the chest, pathology reports, or other testing reviewed by the diagnosing, qualified physician in reaching the physician's conclusions.

3. No person shall bring or maintain an asbestos claim related to alleged mesothelioma in the absence of a prima facie showing of an asbestos-related malignant tumor with a primary site of origin in the pleura, the peritoneum, or pericardium as a result of exposure to the defendant's asbestos. Such a prima facie showing shall include a report by a qualified board-certified pathologist certifying that exposure to the defendant's asbestos was a substantial contributing factor to the diagnosed mesothelioma, and a report by a qualified physician certifying that the mesothelioma was not more probably the result of causes other than asbestos exposure as revealed by the exposed person's employment, medical, and smoking history.

4. No person shall bring or maintain a silica claim related to an alleged silica-related condition, other than a silica-related cancer, in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to the defendant's silica was a substantial contributing factor. Such prima facie showing shall include a detailed narrative medical report and diagnosis by a qualified physician and shall include:

(1) Evidence verifying that the diagnosing, qualified physician has taken a detailed occupational and exposure history from the exposed person or, if that person is deceased, from a person who is knowledgeable about the exposures that form the basis for the claim, including identification of all of the exposed person's places of employment and exposures to airborne contaminants, including but not limited to, silica or other disease-causing dusts, mists, fumes, and airborne contaminants, that can cause pulmonary impairment, and the nature, duration, and level of each such exposure;

(2) Evidence verifying that the diagnosing, qualified physician has taken a detailed medical and smoking history from the exposed person, including a thorough review of the exposed person's past and present medical problems and their most probable cause;

(3) A determination by the diagnosing, qualified physician that the claimant has:

(a) An ILO quality 1 chest X-ray, or a quality 2 chest X-ray if the exposed person is deceased and a quality 1 chest X-ray does not exist, read by a certified B-reader as showing, according to the ILO scale, bilateral predominantly nodular opacities (p, q, or r) occurring primarily in the upper lung fields, grades 1/1 or higher;

(b) An ILO quality 1 chest X-ray, or a quality 2 chest X-ray if the exposed person is deceased and a quality 1 chest X-ray does not exist, read by a certified B-reader a showing, according to the ILO scale, A, B, or C sized opacities representing complicated silicosis, also known as progressive massive fibrosis;

(c) A pathological demonstration of classic silicotic nodules exceeding one centimeter in diameter as set forth in 112 *Archives of Pathology and Laboratory Medicine* 673-720 (1988); or

(d) Acute silicosis;

(4) Evidence verifying there has been a sufficient latency period for the applicable type of silicosis;

(5) A determination by the diagnosing, qualified physician, on the basis of a personal medical examination and pulmonary function testing of the exposed person, or if the exposed person is deceased, based upon the person's medical records, that the claimant has, or deceased person had, a permanent respiratory impairment rating of at least Class 2 as defined by and evaluated under the AMA's *Guides to the Evaluation of Permanent Impairment*;

(6) Verifies that the diagnosing, qualified physician has concluded that the exposed person's impairment was not more probably the result of causes other than silica exposure as revealed by the exposed person's employment, medical, and smoking history. A conclusion which states that the medical findings and impairment are consistent or compatible with silica exposure or silica-related disease does not meet the requirements of this subdivision; and

(7) Is accompanied by copies of the B-reading, pulmonary function tests, including printouts of the flow volume loops, volume time curves, DLCO graphs, and data for all trials and all other elements required to demonstrate compliance with the equipment, quality, interpretation, and reporting standards set forth herein, lung volume tests, reports of X-ray examinations, diagnostic imaging of the chest, pathology reports, or other testing reviewed by the diagnosing, qualified physician in reaching the physician's conclusions.

5. No person shall bring or maintain a silica claim related to an alleged silica-related cancer in the absence of a prima facie showing of a primary cancer for which exposure to defendant's silica is a substantial contributing factor. Such a prima facie showing shall include a detailed narrative medical report and diagnosis by a qualified physician. The prima facie showing shall include all of the following minimal requirements:

(1) Evidence verifying that the diagnosing, qualified physician has taken a detailed occupational and exposure history from the exposed person, or if that person is deceased,

from a person who is knowledgeable about the exposures that form the basis for the claim, including identification of all of the exposed person's places of employment and exposures to airborne contaminants, including but not limited to, silica or other disease-causing dusts, mists, fumes, and airborne contaminants, that can cause pulmonary impairment, and the nature, duration, and level of each such exposure;

(2) Evidence verifying the diagnosing, qualified physician has taken a detailed medical and smoking history from the exposed person, including a thorough review of the exposed person's past and present medical problems and their most probable cause;

(3) A determination by the diagnosing, qualified physician that the claimant has:

(a) An ILO quality 1 chest X-ray, or a quality 2 chest X-ray if the exposed person is deceased and a quality 1 chest X-ray does not exist, read by a certified B-reader as showing, according to the ILO scale, bilateral predominantly nodular opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or higher;

(b) An ILO quality 1 chest X-ray, or a quality 2 chest X-ray if the exposed person is deceased and a quality 1 chest X-ray does not exist, read by a certified B-reader as showing, according to the ILO scale, A, B, or C sized opacities representing complicated silicosis, also known as progressive massive fibrosis; or

(c) A pathological demonstration of classic silicotic nodules exceeding one centimeter in diameter as set forth in 112 *Archives of Pathology and Laboratory Medicine* 673-720 (1988);

(4) Evidence sufficient to demonstrate that at least fifteen years have elapsed between the exposed person's first exposure to silica and the date of diagnosis of the cancer;

(5) Verifies that the diagnosing, qualified physician has concluded that the claimant's cancer was not more probably the result of causes other than silica exposure as revealed by the exposed person's employment, medical, and smoking history. A conclusion which states that the medical findings and impairment are consistent or compatible with silica exposure or silica-related disease does not meet the requirements of this subdivision; and

(6) Is accompanied by copies of the B-reading, pulmonary function tests, including printouts of the flow volume loops, volume time curves, DLCO graphs, and data for all trials and all other elements required to demonstrate compliance with the equipment, quality, interpretation, and reporting standards set forth herein, lung volume tests, reports of X-ray examinations, pathology reports or other testing reviewed by the diagnosing, qualified physician in reaching the physician's conclusions.

537.915. Evidence relating to physical impairment under sections 537.900 to 537.933, including pulmonary function testing and diffusing studies, shall:

(1) Comply with the technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment in the AMA's *Guides to the Evaluation of Permanent Impairment*, and the most current version of the Official Statements of the American Thoracic Society regarding lung function testing, including general considerations for lung function testing, standardization of spirometry, standardization of the measurement of lung volumes, standardization of the single-breath determination of carbon monoxide uptake in the lung, and interpretative strategies for lung testing in effect at the time of the performance of any examination or test on the exposed person required by sections 537.900 to 537.933;

(2) Not be obtained and may not be based on testing or examinations that violate any law, regulation, licensing requirement, or medical code of practice of the state in which the examination, test, or screening was conducted, or of this state; and

(3) Not be obtained under the condition that the claimant retains the legal services of the attorney or law firm sponsoring the examination, test, or screening.

537.918. 1. Evidence relating to the prima facie showings required by sections 537.900 to 537.933 shall not create any presumption that the claimant has an asbestos or silica-related injury or impairment, and shall not be conclusive as to the liability of any defendant.

2. No evidence shall be offered at trial, and the jury shall not be informed of:

(1) The grant or denial of a motion to dismiss an asbestos or silica claim under the provisions of sections 537.900 to 537.933; or

(2) The provisions of sections 537.900 to 537.933 with respect to what constitutes a prima facie showing of asbestos or silica-related impairment.

3. Until such time as the trial court enters an order determining that the claimant has established prima facie evidence of impairment, no asbestos or silica claim shall be subject to discovery, except discovery related to establishing or challenging the prima facie evidence or by order of the trial court upon motion of one of the parties and for good cause shown.

4. A court may consolidate for trial any number and type of asbestos or silica claims with the consent of all the parties. In the absence of such consent, the court may consolidate for trial only asbestos claims or silica claims relating to the exposed person and members of his or her household.

19 **5. No class action or any other form of mass aggregation claim filing relating to**
20 **more than one exposed person, except claims relating to the exposed person and members**
21 **of his or her household, shall be permitted for asbestos or silica claims.**

22 **6. The provisions of this section do not preclude consolidation of cases by court**
23 **order for pretrial or discovery purposes only.**

537.921. 1. With respect to an asbestos or silica claim not barred by limitations in
2 **this state as of the effective date of sections 537.900 to 537.933, a claimant's cause of action**
3 **shall not accrue, nor shall the running of limitations commence, prior to the earlier of the**
4 **date:**

5 **(1) The exposed person received a medical diagnosis of an asbestos-related**
6 **impairment or silica-related impairment;**

7 **(2) The exposed person discovered facts that would have led a reasonable person**
8 **to obtain a medical diagnosis with respect to the existence of an asbestos-related**
9 **impairment or silica-related impairment; or**

10 **(3) The date of death of the exposed person having an asbestos-related or silica-**
11 **related impairment.**

12 **2. Nothing in this section shall be construed to revive or extend limitations with**
13 **respect to any claim for asbestos-related impairment or silica-related impairment that was**
14 **otherwise time-barred as a matter of applicable state law as of the date sections 537.900 to**
15 **537.933 are enacted.**

16 **3. Nothing in this section shall be construed so as to adversely affect, impair, limit,**
17 **modify, or nullify any settlement or other agreements with respect to an asbestos or silica**
18 **claim entered into prior to the date of the enactment of sections 537.900 to 537.933.**

537.924. An asbestos or silica claim arising out of a nonmalignant condition shall
2 **be a distinct cause of action from a claim for an asbestos-related or silica-related cancer.**
3 **Where otherwise permitted under state law, no damages shall be awarded for fear or**
4 **increased risk of future disease in any civil action asserting an asbestos or silica claim.**

537.927. 1. A person who holds a valid medical license in good standing in a state,
2 **but who is not licensed to practice medicine in this state, and who testifies, whether by**
3 **deposition, affidavit, live, or otherwise, as a medical expert witness on behalf of any party**
4 **in an asbestos or silica claim pending in this state is deemed to have a temporary license**
5 **to practice medicine in this state solely for the purpose of providing such testimony and is**
6 **subject to that extent to the authority of the medical licensing board or agency of this state.**
7 **If the physician renders expert medical testimony that is false, intentionally misleading, or**
8 **deceptive, or that intentionally mistake the relevant applicable standard of care, the state**

9 **medical licensing board or agency may take such actions as are permitted under the laws**
10 **and regulations of this state that govern the conduct of physicians.**

11 **2. This section shall not be construed to permit an out-of-state physician to practice**
12 **medicine in this state other than as provided in this section.**

537.930. The provisions of sections 537.900 to 537.933 are severable. If any portion
2 **of sections 537.900 to 537.933 are declared unconstitutional or the application of any part**
3 **of sections 537.900 to 537.933 to any person or circumstance is held invalid, the remaining**
4 **portions of sections 537.900 to 537.933 and their applicability to any person or**
5 **circumstance shall remain valid and enforceable.**

537.933. Sections 537.900 to 537.933 shall take effect on their date of enactment.
2 **Sections 537.900 to 537.933 apply to all asbestos or silica claims filed on or after the**
3 **effective date. Sections 537.900 to 537.933 also apply to any pending asbestos or silica**
4 **claims in which trial has not commenced as of the effective date.**

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