

HB 2139 -- ACTIONS FOR DAMAGES DUE TO ASBESTOS EXPOSURE

SPONSOR: Gregory

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 12 to 5. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 4 to 3.

This bill applies to asbestos tort actions filed on or after August 28, 2020, 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 impose sanctions for the claimant's failure to comply with these disclosure requirements. A defendant may, within one year after judgment, move to reopen a judgment in an asbestos action if a claimant files certain additional asbestos trust claims.

This bill is similar to HB 216 (2019).

PROPOSERS: Supporters say that this bill seeks to provide greater transparency and efficiency in asbestos litigation. Currently, individuals are able to file claims against a solvent defendant as

well as against a bankruptcy trust, but one does not have to know about the other. This would require the plaintiff to divulge when there has been a claim filed against a bankruptcy trust. This does not affect workers' compensation claims.

Testifying for the bill were Representative Gregory; Missouri Chamber of Commerce; Associated Industries of Missouri; American Property Casualty Insurance Association; Missouri Civil Justice Reform Coalition, Inc; Missouri Railroad Association; United States Chamber Institute for Legal Reform; and Missouri Insurance Coalition.

OPPONENTS: Those who oppose the bill say that there is no need for this legislation and this is simply a tactic to delay a living plaintiff's trial date. There are already mechanisms in place in the trust distribution procedures that allow for defendants in the tort system to pay only their fair share. The biggest concern is the mutation of evidence rules where something will be deemed relevant and admissible without any questions about whether something has probative value. This could prejudice a claimant on a case that has not yet been proven.

Testifying against the bill were American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); Missouri State Council of Fire Fighters; Bart Baumstark; Lauren Williams, SWMW Law; and Jack Garvey.