

**HB92 ENGROSSED**



1 HB92  
2 7R752V2-2  
3 By Representative Stubbs  
4 RFD: Judiciary  
5 First Read: 06-Feb-24  
6 PFD: 05-Feb-24



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to asbestos actions; to amend Sections 6-5-691, 6-5-692, and 6-5-693, Code of Alabama 1975, to further provide for various requirements for asbestos actions; and to authorize a defendant in an asbestos action to be dismissed if certain requirements are not met.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 6-5-691, 6-5-692, and 6-5-693, Code of Alabama 1975, are amended to read as follows:

"§6-5-691

For the purposes of this article, the following terms ~~shall~~ have the following meanings:

(1) ASBESTOS ACTION. A civil action arising out of, based on, or related to the health effects of exposure to asbestos and any derivative claim made by or on behalf of a person exposed to asbestos or a representative, spouse, parent, child, or other relative of that person. The term asbestos action does not include claims alleging ovarian cancer.

(2) ASBESTOS TRUST. A government-approved or court-approved trust, qualified settlement fund, compensation



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29 fund, or claims facility that is created as a result of an  
30 administrative or legal action, a court-approved bankruptcy,  
31 pursuant to 11 U.S.C. § 524(g), 11 U.S.C. § 1121(a), or other  
32 applicable provision of law, that is intended, in whole or in  
33 part, to provide compensation to claimants arising out of,  
34 based on, or related to the health effects of exposure to  
35 asbestos.

36 (3) EXPOSED PERSON. A person whose exposure to asbestos  
37 or to asbestos-containing products is the basis for an  
38 asbestos action.

39 ~~(3)~~ (4) TRUST CLAIM MATERIALS. A final executed proof of  
40 claim and all documents and information submitted to or  
41 received from an asbestos trust, including claim forms and  
42 supplementary materials, affidavits, medical and health  
43 records, depositions and trial testimony of the plaintiff and  
44 others knowledgeable about the plaintiff's exposure history,  
45 work history, exposure allegations, and all documents that  
46 reflect the status of a claim against an asbestos trust and if  
47 the trust claim has been resolved.

48 ~~(4)~~ (5) TRUST GOVERNANCE DOCUMENTS. All documents that  
49 relate to eligibility and payment levels, including claims  
50 payment matrices, trust distribution procedures, or plans for  
51 reorganization, for an asbestos trust."

52 "§6-5-692

53 ~~(a) Subject to Section 6-5-693, within 90 days after a~~  
54 ~~plaintiff~~ who files an asbestos action, ~~the plaintiff~~ within  
55 45 days, shall ~~do all of the following:~~ provide

56 ~~(1) Provide~~ all parties with an affidavit, ~~signed under~~



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57 ~~each~~ information form attested by the plaintiff, specifying the  
58 basis for each claim against each defendant and stating all of  
59 the following with specificity:

60 ~~a.~~ (1) The ~~plaintiff's~~ exposed person's name, address,  
61 date of birth, Social Security number, marital status, smoking  
62 history, occupation, and current and past worksites and  
63 employers, and if the ~~plaintiff~~ exposed person alleges  
64 exposure to asbestos through another person, the identity of  
65 the other person, and that person's relationship to the  
66 plaintiff ~~exposed person~~.

67 ~~b.~~ (2) The asbestos-related disease claimed to exist.

68 ~~c.~~ (3) ~~The~~ An affirmation that the plaintiff and  
69 plaintiff's this or her counsel have conducted an investigation  
70 into all potential sources of the ~~plaintiff's~~ exposed person's  
71 exposure to asbestos and identified.

72 (4) The identity, with specificity, of each and every  
73 source of exposure to asbestos that is available or known to  
74 the plaintiff or ~~plaintiff's~~ this or her counsel for the exposed  
75 person and any person through which the plaintiff alleges  
76 exposure, including all asbestos-containing products to which  
77 the ~~plaintiff~~ exposed person or ~~other person~~ was exposed,  
78 whether from bankrupt entities or otherwise, and all premises  
79 at which the ~~plaintiff and the other~~ exposed person ~~werewas~~  
80 exposed to asbestos; ~~the~~.

81 (5) The specific location and manner of each alleged  
82 exposure to asbestos; ~~the~~.

83 (6) The beginning and ending dates of each alleged  
84 exposure; ~~and the~~.



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85           (7) The specific connection of each defendant to the  
86 alleged exposure to asbestos.

87           (8) The name, address, and relationship to the exposed  
88 person of each individual who is knowledgeable regarding the  
89 exposed person's exposures to asbestos.

90           ~~(2)~~ (9) Provide all parties with all All supporting  
91 documentation relating to ~~this~~ the information required by  
92 this section.

93           (b) If a defendant that is specifically identified in  
94 the plaintiff's attestation as a source of exposure presents  
95 evidence that the ~~plaintiff's affidavit~~ attestation is  
96 incomplete, the defendant may move the court for an order to  
97 require the plaintiff to supplement the ~~affidavit~~ attestation.  
98 If the court determines that there is a sufficient basis for  
99 the plaintiff to supplement the ~~affidavit~~ attestation, the  
100 court shall enter an order to require the plaintiff to  
101 supplement the ~~affidavit~~ attestation and shall stay the action  
102 until the plaintiff supplements the ~~affidavit~~ attestation as  
103 provided by the court and produces the supplemental  
104 ~~affidavit~~ attestation to the parties.

105           (c) The court shall dismiss the plaintiff's claim  
106 without prejudice if the plaintiff fails to provide the  
107 information required in this section or fails to satisfy an  
108 order to supplement the plaintiff's ~~affidavit~~ attestation  
109 ~~within 90 days from~~ the time the information is required to be  
110 provided to the parties.

111           (d) A defendant whose product or premises is not  
112 specifically identified in the plaintiff's attestation may



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113 file a motion with the court to dismiss the plaintiff's claim  
114 against that defendant without prejudice."

115 "§6-5-693

116 (a) ~~A plaintiff in an asbestos action need not comply~~  
117 ~~with Section 6-5-692 if, within 90~~Within 60 days after the  
118 plaintiff files an asbestos action, the plaintiff ~~files~~ shall  
119 file all available asbestos trust claims and ~~provides~~ provide  
120 the parties with all trust claim materials available to the  
121 plaintiff or ~~plaintiff's~~ his or her counsel in relation to the  
122 ~~plaintiff's~~ exposed person's exposure to asbestos. ~~This~~  
123 ~~section does not apply if the plaintiff complies with Section~~  
124 ~~6-5-692.~~

125 (b) A plaintiff has a continuing duty to supplement the  
126 information and materials provided under subsection (a) within  
127 30 days after the plaintiff supplements an asbestos trust  
128 claim, receives additional information or materials related to  
129 an asbestos trust claim, or files an additional trust claim.

130 (c) Not less than 60 days before trial, if a defendant  
131 presents evidence that the plaintiff has not filed all  
132 available asbestos trust claims, as required under subsection  
133 (a), the defendant may move the court for an order to require  
134 the plaintiff to file additional trust claims. If a defendant  
135 has previously filed a motion under this section, the court  
136 shall not grant a subsequent motion if the defendant knew that  
137 the claimant met the criteria for payment for the additional  
138 trust claim identified in the subsequent motion at the time  
139 the earlier motion was filed.

140 (d) Trial in an asbestos action may not begin until at



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141 least 60 days after the plaintiff complies with this section."  
142 Section 2. This act shall become effective on October  
143 1, 2024.



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### House of Representatives

147 Read for the first time and referred .....06-Feb-24  
148 to the House of Representatives  
149 committee on Judiciary  
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151 Read for the second time and placed .....21-Mar-24  
152 on the calendar:  
153 0 amendments  
154  
155 Read for the third time and passed .....16-Apr-24  
156 as amended  
157 Yeas 102  
158 Nays 1  
159 Abstains 0  
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John Treadwell  
Clerk