

HB92 INTRODUCED



1 HB92
2 8RYNFF2-1
3 By Representative Stubbs
4 RFD: Judiciary
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SYNOPSIS:

Under existing law, the plaintiff in an action for damages from asbestos exposure is required to provide the defendant with certain information.

This bill would require a plaintiff to specify the basis for each claim against each defendant and provide additional, more detailed information relating to the asbestos exposure, including current and past worksites and each individual who is knowledgeable regarding the exposures.

This bill would allow a defendant in an asbestos action to be dismissed from the action if not identified as required.

This bill would also stay discovery in an asbestos action until the required disclosures have been made.

A BILL
TO BE ENTITLED
AN ACT

Relating to asbestos actions; to amend Sections 6-5-691, 6-5-692, 6-5-693, and 6-5-694, Code of Alabama 1975, to further provide for various requirements for asbestos



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29 actions; to authorize a defendant in an asbestos action to be
30 dismissed if certain requirements are not met; and to
31 authorize a court to stay discovery in an asbestos action
32 until certain requirements are met.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Sections 6-5-691, 6-5-692, 6-5-693, and
35 6-5-694, Code of Alabama 1975, are amended to read as follows:

36 "§6-5-691

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

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

46 (2) ASBESTOS TRUST. A government-approved or
47 court-approved trust, qualified settlement fund, compensation
48 fund, or claims facility that is created as a result of an
49 administrative or legal action, a court-approved bankruptcy,
50 pursuant to 11 U.S.C. § 524(g), 11 U.S.C. § 1121(a), or other
51 applicable provision of law, that is intended, in whole or in
52 part, to provide compensation to claimants arising out of,
53 based on, or related to the health effects of exposure to
54 asbestos.

55 (3) EXPOSED PERSON. A person whose exposure to asbestos
56 or to asbestos-containing products is the basis for an



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57 asbestos action.

58 ~~(3)~~ (4) TRUST CLAIM MATERIALS. A final executed proof of
59 claim and all documents and information submitted to or
60 received from an asbestos trust, including claim forms and
61 supplementary materials, affidavits, medical and health
62 records, depositions and trial testimony of the plaintiff and
63 others knowledgeable about the plaintiff's exposure history,
64 work history, exposure allegations, and all documents that
65 reflect the status of a claim against an asbestos trust and if
66 the trust claim has been resolved.

67 ~~(4)~~ (5) TRUST GOVERNANCE DOCUMENTS. All documents that
68 relate to eligibility and payment levels, including claims
69 payment matrices, trust distribution procedures, or plans for
70 reorganization, for an asbestos trust."

71 "§6-5-692

72 (a) ~~Subject to Section 6-5-693, within 90 days after a~~
73 plaintiff who files an asbestos action, ~~the plaintiff at the~~
74 time of the filing of the complaint or other initial pleading,
75 shall ~~do all of the following:~~ provide

76 ~~(1) Provide~~ all parties with an affidavit, signed under
77 oath by the plaintiff, specifying the basis for each claim
78 against the defendant and stating all of the following with
79 specificity:

80 ~~a.~~ (1) The ~~plaintiff's~~ exposed person's name, address,
81 date of birth, Social Security number, marital status, smoking
82 history, occupation, ~~and~~ current and past worksites and
83 employers, and if the ~~plaintiff~~ exposed person alleges
84 exposure to asbestos through another person, the identity of



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85 the other person, and that person's relationship to the
86 ~~plaintiff~~exposed person.

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

88 ~~e.~~(3) ~~The~~An affirmation that the plaintiff and
89 ~~plaintiff's~~this or her counsel have conducted an investigation
90 into all potential sources of the ~~plaintiff's~~exposed person's
91 exposure to asbestos ~~and identified~~.

92 (4) The identity, with specificity, of each and every
93 source of exposure to asbestos that is available or known to
94 the plaintiff or ~~plaintiff's~~this or her counsel for the exposed
95 person and any person through which the plaintiff alleges
96 exposure, including all asbestos-containing products to which
97 the ~~plaintiff~~exposed person ~~or other person~~ was exposed,
98 whether from bankrupt entities or otherwise, and all premises
99 at which the ~~plaintiff and the other~~exposed person ~~were~~was
100 exposed to asbestos; ~~the~~.

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

103 (6) The beginning and ending dates of each alleged
104 exposure; and the frequency of the exposure to the asbestos
105 product or its use.

106 (7) The specific connection of each defendant to the
107 alleged exposure to asbestos.

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

111 ~~(2)~~(9) ~~Provide all parties with all~~All supporting
112 documentation relating to ~~this~~ the information required by



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113 this section.

114 (b) If a defendant that is specifically identified in
115 the plaintiff's affidavit as a source of exposure presents
116 evidence that the ~~plaintiff's~~ affidavit is incomplete, the
117 defendant may move the court for an order to require the
118 plaintiff to supplement the affidavit. If the court determines
119 that there is a sufficient basis for the plaintiff to
120 supplement the affidavit, the court shall enter an order to
121 require the plaintiff to supplement the affidavit and shall
122 stay the action until the plaintiff supplements the affidavit
123 as provided by the court and produces the supplemental
124 affidavit to the parties.

125 (c) The court shall dismiss the plaintiff's claim
126 without prejudice if the plaintiff fails to provide the
127 information required in this section or fails to satisfy an
128 order to supplement the plaintiff's affidavit within ~~90 days~~
129 ~~from~~ the time the information is required to be provided to
130 the parties.

131 (d) A defendant whose product or premises is not
132 specifically identified in the plaintiff's affidavit may file
133 a motion with the court to dismiss the plaintiff's claim
134 against that defendant without prejudice."

135 "§6-5-693

136 (a) ~~A plaintiff in an asbestos action need not comply~~
137 ~~with Section 6-5-692 if, within 90~~Within 30 days after the
138 plaintiff files an asbestos action, the plaintiff ~~files~~ shall
139 file all available asbestos trust claims and ~~provides~~ provide
140 the parties with all trust claim materials available to the



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141 plaintiff or ~~plaintiff's~~ his or her counsel in relation to the
142 ~~plaintiff's~~ exposed person's exposure to asbestos. ~~This~~
143 ~~section does not apply if the plaintiff complies with Section~~
144 ~~6-5-692.~~

145 (b) A plaintiff has a continuing duty to supplement the
146 information and materials provided under subsection (a) within
147 30 days after the plaintiff supplements an asbestos trust
148 claim, receives additional information or materials related to
149 an asbestos trust claim, or files an additional trust claim.

150 (c) Not less than 60 days before trial, if a defendant
151 presents evidence that the plaintiff has not filed all
152 available asbestos trust claims, as required under subsection
153 (a), the defendant may move the court for an order to require
154 the plaintiff to file additional trust claims. If a defendant
155 has previously filed a motion under this section, the court
156 shall not grant a subsequent motion if the defendant knew that
157 the claimant met the criteria for payment for the additional
158 trust claim identified in the subsequent motion at the time
159 the earlier motion was filed.

160 (d) Trial in an asbestos action may not begin until at
161 least 60 days after the plaintiff complies with this section."

162 "§6-5-694

163 (a) In an asbestos action, there shall be a rebuttable
164 presumption that trust claim materials and trust governance
165 documents are relevant, authentic, and admissible in evidence.
166 A claim of privilege does not apply to trust claim materials
167 or trust governance documents.

168 (b) A defendant in an asbestos action may seek



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169 discovery from an asbestos trust. The plaintiff may not claim
170 privilege or confidentiality to bar discovery and shall
171 provide consent or other expression of permission that may be
172 required by the asbestos trust to release the information and
173 materials sought by the defendant.

174 (c) Discovery may not commence against a defendant in
175 an asbestos action until the requirements of Section
176 6-5-692(a) and 6-5-693(a) have been met."

177 Section 2. This act shall become effective on October
178 1, 2024.