

SB104 ENGROSSED



1 SB104
2 8X7YHFF-2
3 By Senator Carnley
4 RFD: Judiciary
5 First Read: 15-Feb-24



SB104 Engrossed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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



SB104 Engrossed

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~~

SB104 Engrossed



57 ~~oath~~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~~ his 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~~ his 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 ~~were~~ was
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~~.

SB104 Engrossed



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



SB104 Engrossed

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



SB104 Engrossed

141 least 60 days after the plaintiff complies with this section."

142 Section 2. This act shall become effective on October

143 1, 2024.

SB104 Engrossed



144
145
146 Senate

147 Read for the first time and referred15-Feb-24
148 to the Senate committee on Judiciary
149
150 Read for the second time and placed21-Mar-24
151 on the calendar:
152 0 amendments
153
154 Read for the third time and passed04-Apr-24
155 as amended
156 Yeas 32
157 Nays 0
158 Abstains 0
159
160

161 Patrick Harris,
162 Secretary.
163