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S.B. 63*
135th General Assembly

Bill Analysis

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Version: As Re-reported by Senate Insurance

Primary Sponsor: Sen. Lang

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SUMMARY

- Requires a plaintiff in a tort action alleging an asbestos claim to file a sworn statement of specified disclosures within 60 days of filing the complaint.
- Requires the plaintiff to continue to supplement the information that the plaintiff is required to disclose.
- Provides for the dismissal of an asbestos claim under specified circumstances, but prohibits the dismissal of an asbestos claim under those circumstances upon a showing of good cause by the plaintiff.
- Specifies that the bill applies to an asbestos claim that is filed on or after the effective date of the bill.
- Specifies that the bill does not apply to a claim for workers' compensation or a claim for veterans' benefits.

DETAILED ANALYSIS

Plaintiff in asbestos tort case required to file sworn statement

Under the bill, within 60 days of filing any complaint, a plaintiff in any tort action who is alleging an asbestos claim must file a sworn statement signed by the plaintiff or plaintiff's counsel specifying the evidence providing the basis for each asbestos claim against each defendant, including the following:¹

* This analysis was prepared before the report of the Senate Insurance Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

¹ R.C. 2307.931(B).

1. The name, address, date of birth, marital status, occupation, smoking history, current and past worksites, and current and past employers of the exposed person and any person through whom the person was exposed to asbestos;
2. The name, address, and relationship to the exposed person of each person who is knowledgeable regarding the exposed person's exposures to asbestos;
3. The manufacturer and seller and the specific brand and trade name of each asbestos-containing product to which the exposed person was exposed or to which the other person was exposed if the exposure was through another person;
4. For each exposure to an asbestos-containing product, each site and specific location at each site, including the address of each site, where the exposed person was exposed or where the other person was exposed if the exposure was through another person;
5. The beginning and ending dates of each exposure, the specific manner of each exposure, the frequency and length of each exposure, and the proximity of the asbestos-containing product or its use to the exposed person and to each person through whom the exposed person was exposed to asbestos;
6. The specific asbestos-related disease that is alleged;
7. Any supporting documentation relating to the required disclosures listed above.

The sworn statement is in addition to the current requirements under Ohio's Asbestos Claims Law.²

Definition of "each exposure"

The bill defines "each exposure" as every exposure to asbestos or an asbestos-containing product by an exposed person or by a person through whom the exposed person was exposed to asbestos.³

Supplemental information and dismissal of claim

The plaintiff must continue to supplement the information provided under the required disclosures as information and documentation becomes available, including when the plaintiff receives new exposure history information or becomes aware that a prior disclosure was inaccurate or incomplete.⁴ The plaintiff cannot commence discovery against a defendant in a tort action alleging an asbestos claim until the defendant's product or premises is specifically identified in the disclosures.⁵

² R.C. 2307.931(C).

³ R.C. 2307.931(A).

⁴ R.C. 2307.931(D).

⁵ R.C. 2307.931(E).

Motion by defendant

Except as provided under “**Showing of good cause by plaintiff**,” below, on a motion by a defendant in a tort action alleging an asbestos claim, the court must dismiss the plaintiff’s claim without prejudice against either of the following:⁶

1. The defendant if the defendant’s asbestos-containing product or site is not specifically identified in the disclosures required in the sworn statement described above;
2. The defendant or all defendants, as applicable, if the plaintiff fails to properly file the sworn statement described above.

The plaintiff has 30 days from the date of filing of the defendant’s motion described in the preceding paragraph to file disclosures that comply with the requirements listed above or otherwise respond to the defendant’s motion.⁷ A claim that is dismissed is dismissed other than upon the merits for the purpose of saving in case of reversal.⁸

Showing of good cause by plaintiff

The court may not dismiss a plaintiff’s claim upon a motion by the defendant as described in “**Motion by defendant**,” above, upon a showing of good cause by the plaintiff.⁹

Application of bill’s provisions

The bill applies to asbestos claims filed on or after the effective date of the bill.¹⁰ The bill does not apply to a claim for workers’ compensation or a claim for veterans’ benefits.¹¹

HISTORY

| Action | Date |
|-----------------------------|----------|
| Introduced | 02-21-23 |
| Reported, S. Insurance | 11-21-23 |
| Recommitted to S. Insurance | 05-08-24 |
| Re-reported, S. Insurance | *** |

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⁶ R.C. 2307.931(F).

⁷ R.C. 2307.931(G).

⁸ R.C. 2307.931(H).

⁹ R.C. 2307.931(I).

¹⁰ R.C. 2307.931(J).

¹¹ R.C. 2307.931(K).