

SB 252 - Require asbestos plaintiff to file specified disclosure statement

Testimony of David K. Root

Department Legislative Chairman (State)

Before the Senate Judiciary Committee

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Chairman Manning, Vice Chairman, McColley, Ranking Member Thomas, and members of the Senate Judiciary Committee, good afternoon and thank you for allowing me to give testimony today in opposition to Senate Bill 252.

My name is David Root, and I am Legislative Chairman for state issues in the Department of Ohio Veterans of Foreign Wars as well as a Past State Commander. I served in the United States Navy from 1966 to 1970 and made three cruises to Vietnam aboard aircraft carriers. My father served in the Navy during World War II, my son served for six years during the 1990s and my grandson will be graduating from Great Lakes Recruit Training Center next Friday. The Roots are a four generation US Navy family.

I have looked over SB 252 and while I am not an attorney, I do feel that I understand why Senator Lang created the bill and what it tries to accomplish. But I always do my best to look at all sides of an issue and I'd like to speak on the part of this bill that I feel is extremely unfair and puts an undue burden on those filing an asbestos claim.

I think that in most cases those who file will be filing because they contracted mesothelioma due to asbestos exposure. The only cause of mesothelioma is exposure to asbestos. The symptoms can take decades to begin to show and are often thought to be some other less serious illness which delays the correct diagnosis. The average life expectancy is 18 to 31 months after diagnosis and although long-term cancer remission is possible, there is no cure.

Due to the speed of this cancer and the need of the family to spend the final days with patient care and comfort, and making all the necessary preparations for final arrangements, quite often the lawsuits end up being filed by the grieving widow or widower who is not going to be thinking clearly.

Ohio VFW is very concerned about this bill as it is currently written. We are aware that veterans represent only 8% of the nation's population, but they account for an astounding 30% of Americans who die each year from mesothelioma.

Many veterans and active-duty service members were exposed to asbestos while serving their country. While asbestos products were discontinued by the military around 1980, hundreds of military and civilian installations were left with asbestos in flooring & ceiling tiles, cement foundations, as well as in thousands of military vehicles. I am willing to bet that nearly every one of today's veteran was exposed to asbestos during their service to our country and state, whether it was active duty, reserve, or guard.

Many veterans sickened by asbestos exposure cannot get VA compensation or paid medical treatment. The Veteran Administration pays for treatment or disability *only if* the veteran can prove asbestos exposure was related *only* to active-duty service. They do not pay disability or provide medical treatment to veterans who were exposed solely in their civilian profession or if it cannot be determined if exposure occurred during active duty or civilian life. This is extremely problematic because asbestos diseases are the result of being exposed to a number of different asbestos products over the course of a person's lifetime. These fatal conditions manifest decades after exposure.

This bill as it is written would require 'The Plaintiff in any tort action who alleges an asbestos claim shall file'..... the following:

- The manufacturer or seller of each asbestos or asbestos-containing product and the specific product involved in each exposure;
- The specific location and manner of each exposure;
- The beginning and ending dates 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;
- As well as other information.

Since my experience revolves around the Navy, I'd like to use that to illustrate my criticism of this bill. Let's say I come down with mesothelioma and the doctor tells my wife and I that I only have months to live. I tell my wife, "We need to sue."

Where do I even begin to gather the information needed? To be honest I have no idea. I spent four years in the Navy. During that time, I lived in two different barracks at boot camp in Illinois, several barracks at Naval Air Station Oceana in Virginia, and three different berthing compartments on two different ships. I worked in three different buildings at NAS Oceana and two compartments on the two ships. I spend about three hours a day in the mess deck during the three nine-month cruises I made and about five hours a week in the mess hall while at Oceans. I wandered to many areas of the ships and other buildings on base. I can pretty much guarantee you that the two aircraft carriers I was on contained asbestos everywhere because one ship was built during the late 50s and the other during the early 60s. Where are those ships today? One is on its way to Brownsville, Texas to be cut into scrap and recycled. The other was purposely sunk off the east coast in 2005 to become part of a barrier reef.

I wonder how many different asbestos or asbestos-containing products I was exposed to and how many different manufactures or sellers supplied all those asbestos products. How long do you think it would take me to remember all the beginning dates and ending dates for each exposure? My wife and I are at an age when remembering why we walked into the kitchen can be an issue. How many details do you think I'll remember from events that happened more than 50 years ago? And after I pass most of those details will go with me?

I've only referred to four short years of my life while I was serving in the Navy. Since then, I wonder how many houses or apartment I have lived in that had asbestos in them. I wonder how many factories or offices I worked in that had asbestos in them. I wonder how many of the cars I owned had asbestos in them. It has been fifty-two years since I got out of the Navy. That adds up to a whole lot of '*wonders*'.

Chairman Manning, Vice Chair McColley, Ranking Member Thomas and all members of the Committee I feel Senate Bill 252, as it is written is unrealistic and places an unnecessary burden on our Ohio veterans and their families. I behalf of the 90,000 members of the Ohio VFW and its Auxiliary I respectfully urge you to vote *no* on its passage.

I thank you again for allowing me to be a witness today, for listening to my message, and for your consideration. I would be happy to answer any of your questions to the best of my ability.