



Senator George Lang
House Insurance Committee Testimony – Senate Bill 63
November 13, 2024

Chairman Lampton, Vice Chair Barhorst, Ranking Member Jarrells, and members of the House Insurance Committee, thank you for granting me the opportunity to provide sponsor testimony in support of Senate Bill 63, a bill requiring certain disclosures to address the frequent and costly naming of defendants in asbestos cases that have no connection to the plaintiff—a practice known as over-naming.

In Ohio, plaintiffs routinely sue 20 or more defendants in each asbestos case. In many cases, more than 50 defendants, and sometimes nearly 100 defendants, have been sued. Many defendants named in these lawsuits have no connection to the plaintiffs suing them; the defendants are innocent bystanders in this half-century old litigation.

As one might expect, when companies are named as defendants in lawsuits without a connection to the plaintiff, they are typically dismissed at some point. In fact, roughly 15-20% of the defendants in Ohio asbestos lawsuits in a recent year were voluntarily dismissed.

But dismissal is neither quick nor cheap for wrongly named defendants. Dismissal may take two or more years and impose as much as \$25,000 in legal costs. These costs are often repeated across cases for over-named defendants.

With the passage of Senate Bill 63, plaintiffs will have 60 days after filing an asbestos lawsuit to provide each defendant with certain information as to why it is being sued, such as the name of the asbestos-containing product to which the plaintiff was exposed, when and where the exposure allegedly occurred, and the names of witnesses or any documents that corroborate the plaintiff's allegations.

This is all basic information. It is no different than requiring a plaintiff in an automobile accident case to identify the driver that hit her, the make and model of the vehicle, the location of the accident, and the names of any witnesses. A lawyer should have this information before a lawsuit is filed, otherwise the claim is speculative.

These minimal disclosures ask very little of plaintiffs and their attorneys, especially considering how costly and unfair it is for a small business to be sued without any evidence that it actually belongs in the case.

Under Senate Bill 63, a defendant whose product or premises is not identified in the required disclosures may file a motion with the court seeking dismissal of the plaintiff's claim. The plaintiff will then have 30 days to provide the required information.

If the plaintiff still fails to come forward with information justifying the defendant's presence in the lawsuit, the claim will be dismissed without prejudice. This will allow courts to more quickly filter out the businesses against whom proof of exposure is lacking, while allowing the case to proceed to resolution faster against the remaining defendants that may be at fault.

A court may also dismiss the plaintiff's claims without prejudice if the plaintiff stonewalls and refuses to provide any of the required disclosures.

Importantly, the court may not dismiss a plaintiff's claim "upon a showing of good cause by the plaintiff."

Since dismissal of a claim under Senate Bill 63 is other "than upon the merits," Ohio's existing "savings statute" gives plaintiffs a year to refile the lawsuit against any dismissed defendant if the plaintiff is able to establish a connection to the defendant and satisfies the required disclosures.

Furthermore, the bill does not apply to a claim for workers' compensation or a claim for veterans' benefits.

Senate Bill 63 will improve Ohio's business and legal climate by reducing wasteful litigation and focusing judicial resources on claims with factual support. For these reasons, the bill has received strong support from the business community.

Senate Bill 63 will also help plaintiffs by facilitating quicker settlements of viable claims.

Other states have adopted substantially similar legislation: West Virginia, Tennessee, Iowa, North Dakota, Utah, Alabama, and Arizona. Ohio can continue its work to become the most business-friendly state in America by adopting Senate Bill 63.

Mr. Chairman, thank you again for the opportunity to testify in support of Senate Bill 63. I urge the committee to support this legislation, and would be happy to answer any questions.