



OHIO CHAMBER OF COMMERCE

BEFORE THE HOUSE INSURANCE COMMITTEE PROPONENT TESTIMONY ON SENATE BILL 63

Chairman Lampton, Vice Chair Barhorst, Ranking Member Jarrells, and members of the House Insurance Committee, thank you for the opportunity to provide proponent testimony on Senate Bill 63 (SB 63). My name is Kevin Shimp and I am an associate attorney at the law firm Dickinson Wright testifying on behalf of the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate. The organization represents over 8,000 companies that do business in Ohio and their mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

In the Ohio Chamber's efforts to champion economic competitiveness, we support SB 63 because it aims to limit the overnaming of defendants in asbestos lawsuits. This practice harms Ohio's business environment by driving up operating costs, diminishing judicial efficiency, and worsening the legal climate in the Buckeye State.

Asbestos litigation is unique because often times a plaintiff will name dozens of defendants in a lawsuit and claim each is responsible for the asbestos exposure that resulted in their illness or injury. These lawsuits which are grounded in typical negligence actions seek to hold a party legally responsible for any asbestos related injuries sustained by an individual.

To accomplish this goal, a plaintiff's attorney commences litigation by suing companies that "participated in placing asbestos-containing products in the stream of commerce". Casting this wide of a net unsurprisingly leads to dozens of companies being named as defendants.

Unfortunately, even if a company has no relationship to the plaintiff's alleged exposure, they must expend resources to be dismissed from the lawsuit once they are named as a defendant. The resulting increase in operating costs from higher legal bills or insurance premiums harms Ohio's economic competitiveness and makes companies less profitable.

The overnaming of defendants also harms the efficiency of Ohio's civil courts. When numerous defendants are improperly named in a lawsuit, it increases the number of discovery requests, the number of motions filed by attorneys, and the time a judge must spend evaluating the record to determine if a defendant belongs in the lawsuit.

Taken together, the indiscriminate overnaming of dozens of defendants in a lawsuit results in a prolonged period of time from the start of the litigation to the ultimate conclusion, whether it is a trial or a settlement. Also, due to the significant pre-trial period that occurs with asbestos lawsuits, a judge's docket may become overcrowded which hurts parties in other lawsuits who are seeking justice and a timely resolution to a dispute.

A symptom from the prevalence of asbestos overnaming is a civil justice system that does not promote economic development. In Ohio, asbestos overnaming contributed to our state having the 15th worst lawsuit climate in the United States according to a recent US Chamber Institute for Legal Reform survey. The same survey also found 89% of respondents reported that a state's litigation environment can affect important business decisions including where a company locates or does business.

SB 63 will address each of these issues by requiring plaintiff attorneys to disclose the evidentiary basis that forms the connection between the plaintiff's exposure and the named defendant. This includes disclosing the past worksites of the exposed person, the time period of the exposure, the proximity of the exposure, and the alleged asbestos related disease.

This reform will benefit employers across Ohio by reducing potential legal costs since they will no longer have to engage an attorney to seek dismissal from a lawsuit in which they never should have been brought into in the first place. These cost savings make Ohio businesses more competitive and can lead to employers reinvesting in their company.

Importantly, SB 63 does not affect the plaintiff's pursuit to seek damages from any party responsible for their injuries. Under the legislation, the responsible party will remain a part of the lawsuit and is subject to the same judgments from the court as they are without the enactment of SB 63. Moreover, existing Ohio law allows the plaintiff to add a dismissed party back into the litigation should facts arise during discovery that make clear the party could be responsible for the asbestos exposure that resulted in the injury.

In closing, the Ohio Chamber urges your favorable consideration of SB 63 since it will bolster Ohio's business and legal climate by promoting judicial efficiency and economic competitiveness without limiting an aggrieved party's right to recovery against the proper entity.

Thank you for the opportunity to provide testimony today and I welcome any questions from the committee.