

**Our mission**

To act as the Ohio property and  
casualty insurance industry's voice  
on matters affecting or involving the industry.

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## **Proponent Testimony—SB 63 Asbestos Over-Naming Reform (Lang)**

*Michael D. Farley, CPCU, Vice President, Government Affairs and General Counsel*

Chair Lampton, Vice Chair Barhorst, Ranking Member Jarrells and members of the House Insurance Committee, thank you for allowing me to submit testimony regarding the importance of Senate Bill 63. I am Michael Farley and I have the distinct honor to serve as the Vice President, Government Affairs and General Counsel for the Ohio Insurance Institute (“OII”). The OII is a trade and information association of more than 55 Ohio-based property and casualty insurance companies and related affiliate organizations. OII members write approximately 87% of auto insurance in Ohio and 81% of home insurance. And OII members write about two-thirds of the commercial insurance in the state. Our members take great pride in serving individuals and small businesses all over Ohio.

The OII supports Senate Bill 63 as a vehicle to address the increasingly prevalent and problematic phenomenon of over-naming in asbestos litigation. This practice has also been referred to as “shotgun” lawsuits due to the naming of any and all “potential” defendants. As Senator Lang discussed in his testimony last week, the average number of defendants named in asbestos cases has tripled since the 1980s, with plaintiffs in Ohio routinely suing in excess of twenty defendants in an asbestos case. In many cases, more than 50 defendants - or even nearly 100 - have been named. For a party that has been improperly named in a complaint, the process to be dismissed from the case is costly and time-consuming, often requiring two or more years and legal fees of more than \$25,000.

For insurers, the duty to defend is broader than the duty to indemnify. Even if an insured has no connection to a particular asbestos exposure, the insurer bears a significant financial burden to cover the cost of legal representation necessary to obtain dismissal from the case. Notably, this litigation was never anticipated because the insured parties have no connection to the cause of disease. Under current Ohio law, appropriate mechanisms exist to allow “John Does” to be added to a case if an evidence-based connection is discovered, but attorneys in the asbestos bar have instead sought to cast as wide of a net as possible up front to allow for a fishing expedition in the hope that some of the named parties will be found to have a connection through the discovery process. Compelling insurers to bear major, unanticipated legal costs results in business trauma and undermines the predictability and stability of Ohio’s civil justice climate.

By passing Senate Bill 63, this body has the opportunity to rein in lawsuit abuse and continue its progress in making Ohio more economically competitive. The Ohio Insurance Institute encourages this committee to favorably report Senate Bill 63.