



**OHIO  
ASSOCIATION *for*  
JUSTICE**  
TRIAL LAWYERS HELPING PEOPLE

## **Opposition Testimony to SB 63**

**Shawn Acton**

**Senate Insurance Committee**

**May 22, 2024**

Chair Hackett, Vice-Chair Lang, and Ranking Member Craig,

My name is Shawn M. Acton. I am an attorney from Cleveland, Ohio. For the past twenty-two years, I have represented mesothelioma victims and their families. I have tried well over one hundred fifty civil cases to verdict as lead trial counsel, including some mesothelioma cases. I am here today on behalf of the Ohio Association of Justice (“OAJ”) and my clients living throughout the State of Ohio, including veterans and civilians who have contracted and/or died from mesothelioma.

I, and the OAJ, are deeply concerned about SB 63 in its current form (“SB 63” or “the Bill”). OAJ members, as attorneys for victims of asbestos poisoning, seek to have the responsible entities pay for only their fair share of harm done to veterans and civilians, rather than have families, the health care system, and/or the government pay. SB 63 will eliminate the opportunity for Ohio veterans and civilians to bring valid claims against culpable entities in a substantial number of cases.

### **Overview:**

There is not a pervasive over-naming problem in Ohio. If a mesothelioma victim did not work with or around a particular type of asbestos-containing product, manufacturers and suppliers of that product are not sued. Moreover, the same defendants are not sued repeatedly in a “cookie cutter” fashion. All parties can agree that asbestos litigation is extremely complex and involves multiple defendants. For example, a tradesman working out of union hall for decades may have worked for dozens of different employers and on hundreds of different jobsites, sometimes for a day or two at a time. Multiple companies may be liable under Ohio law for harm done to a mesothelioma victim; however, each company is only liable for its fair share of harm caused by the victim’s exposure to that separate company’s product.

It is important to note that Ohio legislators already banned lawsuits involving virtually all non-malignant asbestos related diseases and lung cancer in people who were also smokers; therefore, SB 63 only affects mesothelioma victims and their families. In these cases, a small number of mesothelioma victims and their families are seeking redress in Ohio courts for massive medical bills, lost wages and income, funeral and burial expenses, and the extreme pain and suffering that all mesothelioma victims and their families endure. Almost all Ohio tort actions involving asbestos are filed in Cuyahoga County. The following charts illustrate the amount asbestos cases filed from 2011 to 2020:

TABLE 3

**Cuyahoga County Asbestos Docket**  
Overall caseloads, 2011 to 2020

<b>Year</b>	<b>New Filings</b>	<b>Pending at End of Year</b>	<b>Cases Terminated</b>
2011	105	6,699	490
2012	102	5,174	1,635
2013	113	5,164	120
2014	85	3,067	2,182
2015	56	1,701	1,427
2016	54	1,307	453
2017	53	834	573
2018	65	501	378
2019	50	497	57
2020	26	512	25

## Conclusion

SB 63 in its current form is much more than an attempt to end the alleged problem of over-naming.

It is our understanding that AM 0825 will be offered to SB 63. In OAJ's view, the amendment comes up short. Throughout this process, we have believed that the simplest solution is to delete only the most egregious disclosures such as:

1. "specific brand and trade name of each asbestos-containing product"
2. "each site and specific location at each site"
3. "The beginning and ending dates of each exposure"
4. "the specific manner of each exposure"
5. "the frequency and length of each exposure"
6. "the proximity of the asbestos-containing product or its use to the exposed person"

ORC 2307.96 already requires plaintiffs to prove these details at trial after discovery. Without discovery, mesothelioma victims, widowers, surviving family members, or plaintiff attorneys cannot provide these details to the judge.

Mesothelioma victims often do not possess every piece of information necessary to comply with all the detailed requirements of the amendment and bill shortly after the case is filed. Often this evidence is in the sole possession of others, including defendants. The only way to obtain this evidence is through the discovery process as set forth by the Ohio Rules of Civil Procedure. Paradoxically, the amendment

and bill eviscerate the discovery process. Ohio mesothelioma victims have a right to open courts which includes the ability to engage in the discovery process to obtain evidence otherwise not available. A “yes” vote will **undoubtedly** produce the improper and permanent dismissal of valid claims made by Ohio cancer victims against culpable defendants. That will be the legacy of the amendment and bill if enacted. Thus, we respectfully urge a “no” vote on the amendment and bill.

Thank you for your time and consideration regarding this very important issue that affects all Ohio mesothelioma victims including Ohio veterans, workers, and their families.