



Veterans of Foreign Wars District 11

Iris Foster-Denieuwe, Commander

Richard Campbell, Quartermaster

TO: Honorable Bob D. Hackett, Chair, Senate Insurance Committee
Honorable George F. Lang, Vice Chair, Senate Insurance Committee
Honorable Hearcel F. Craig; Ranking Member, Senate Insurance Committee
FROM: Ernest C. Massie; Senior Vice Commander, District 11, Veterans of Foreign Wars Dept. of Ohio
DATE: March 15, 2023
RE: IN OPPOSITION OF SB 63 (135th GENERAL ASSEMBLY)

Chairman Hackett, Vice Chairman Lang, Ranking Member Craig, and members of the Senate Insurance Committee, my name is Ernest C. Massie, and I am a 90% service-connected disabled Navy veteran of Desert Storm, and the current Senior Vice Commander of District 11 of the Veterans of Foreign Wars of the Department of Ohio. I am submitting this testimony in opposition to SB 63. This proposed legislation, while some proponents claim it will not affect the veterans claims with the Veterans Administration or a person's claims with the Bureau of Worker's Compensation, it will affect those individuals' claims against the manufacturer's directly. Both industrial workers, military personnel, and just those who were affected by living and/or working in areas that were impacted with asbestos are going to be put through unnecessary burdens for what purpose? Though it may be attempting to codify a method of weeding out what may be deemed to be false claims, isn't that what discovery and the legal system is for? Each case is different.

As an example, I know of an individual, who served in the 1980s onboard the aircraft carrier USS Midway. A ship that was built immediately after WW2. Loaded with asbestos and documented as such. While serving onboard, he had documented cases of chronic bronchitis and other respiratory ailments. This eventually led to a couple of heart attacks and quadruple bypass. VA has denied the claims, and that is an issue he is continuing to fight though that system, even though it is a documented fact that the ship was loaded with asbestos, he served aboard it for years, he had the chronic bronchitis while serving, and there are links to the ailments, ad infinitum. While that is a claim against the "employer" (the US government), my comrade should have a right against the manufacturer of the asbestos. However, this bill is putting numerous hurdles on my comrade's right for making that claim. How is he to know which specific manufacturer, and the specific brand names, trade names, etc. as denoted in the bill. It is unbelievable. Same with a shipyard worker that may be along Lake Erie or with a steel worker and their similar claims and BWC.

Now extrapolate this to its inevitable end. If this goes through, what other items can be next? Look at the chemical industry. My current disability rating is for a fall while handling ammunition onboard ship during Desert Storm. However, my rating in the Navy, Gunner's Mate Guns, and many others, along with many other service members in other branches who handled greasy machinery and equipment, used a chemical called trichloroethylene, or TCE. This was used by me on a daily basis for over three years and caused a host of nasty diseases, the list of which, will exceed the time here. This is one of the chemicals that leached into the water at Camp LeJeune. I have been fighting the VA, even though there is precedence on my side

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in granting claims with the same and similar diseases that I have, for almost three years. They Navy stopped using TCE in the Mid 1990s, just a few years after I was discharged. Again, the current claim is with my ex "employer", and I should be able to file a claim with the manufacturers if I so desire. Would an eventual piece of legislation that may be spawned from this one if, the Good Lord forbid it is enacted, created enough hurdles that it would preclude me from doing so? This bill is a slippery slope. First we have this bill with the asbestos industry. Next, could we have legislation attempting to limit claims against certain chemicals (read East Palestine) and their negative impacts on workers or others who may have had their health impacted negatively?

I listened to proponent testimony on the Ohio Channel. I found it very interesting that it was suggested that various workers and military personnel would have it easy to locate co-workers, shipmates, who were the manufacturers, etc. That it would be easy to find what products were used in which ships many years ago. I find this to be somewhat disingenuous. It will take an inordinate amount of time in many instances some thirty years after the fact or more. If one were to read an American Legion or VFW magazine, you will see where numerous individuals are attempting to contact former comrades who they served with trying to gain witness testimony. Additionally, I listened (and then subsequently researched) testimony regarding R.C. 2307.96. This section, and related sections, of the Revised Code were enacted under Am. Sub. HB 292 (125th General Assembly; Rep. Oelslager; effective September 2, 2004). Many of the proponents stated correctly that SB 63 would move up the burden prior to discovery and prior to the claim filing process. However, as many on the Committee rightly questioned, we have these safeguards in place discovery. If one is making a *truly* false claim, could not the court place a remedy against that false petitioner and not? I am not a lawyer, nor do I claim to be, but I do believe there is recourse for that in the Revised Code.

Think of every working person who utilized asbestos. Not just as installers, but in other industrial areas. Think of every person that lived with it. Onboard a ship, one basically is living on top of an industrial complex with many health hazards. Yes, while I may agree there is limit, how can one put that limit and burden on the one with a disease that can be linked to the product? By "throwing shade" on the individual does a disservice. The bill may be taking the right of class action away. Again, I raise the specter of this being a slippery slope. What comes next? This is not, pardon me, someone who spilled hot coffee on themselves and may be looking for deep pockets. This is someone who worked with or utilized a product daily, developed a debilitating and lethal disease that is directly related to that product, with the manufacturer attempting to find a mitigating circumstance or a legislative way to say no-no, you can catch me. Let the state (BWC) via premiums spread the pain amongst all employers cover it, or Uncle Sucker (VA) pay for it, if they dare to grant the claims. The legal process during discovery should be able to weed out anyone who is making a false claim. This may be burdensome and costly, but to enact this bill and use this sledgehammer approach would end the rights of those who have a legitimate claim.

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I respectfully ask that this bill not only be withdrawn, but buried. There are other means to limit a truly false claim to an injury. This approach is not one of them

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ernest C. Massie", is written below the text "Respectfully submitted,".

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