

SB104 INTRODUCED



1 SB104
2 SAAK777-1
3 By Senator Carnley
4 RFD: Judiciary
5 First Read: 15-Feb-24



SYNOPSIS:

Under existing law, the plaintiff in an action for damages from asbestos exposure is required to provide the defendant with certain information.

This bill would require a plaintiff to specify the basis for each claim against each defendant and provide additional, more detailed information relating to the asbestos exposure, including current and past worksites and each individual who is knowledgeable regarding the exposures.

This bill would allow a defendant in an asbestos action to be dismissed from the action if not identified as required.

This bill would also stay discovery in an asbestos action until the required disclosures have been made.

A BILL
TO BE ENTITLED
AN ACT

Relating to asbestos actions; to amend Sections 6-5-691, 6-5-692, 6-5-693, and 6-5-694, Code of Alabama 1975, to further provide for various requirements for asbestos



SB104 INTRODUCED

actions; to authorize a defendant in an asbestos action to be dismissed if certain requirements are not met; and to authorize a court to stay discovery in an asbestos action until certain requirements are met.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 6-5-691, 6-5-692, 6-5-693, and 6-5-694, Code of Alabama 1975, are amended to read as follows:

"§6-5-691

For the purposes of this article, the following terms ~~shall~~ have the following meanings:

(1) ASBESTOS ACTION. A civil action arising out of, based on, or related to the health effects of exposure to asbestos and any derivative claim made by or on behalf of a person exposed to asbestos or a representative, spouse, parent, child, or other relative of that person. The term asbestos action does not include claims alleging ovarian cancer.

(2) ASBESTOS TRUST. A government-approved or court-approved trust, qualified settlement fund, compensation fund, or claims facility that is created as a result of an administrative or legal action, a court-approved bankruptcy, pursuant to 11 U.S.C. § 524(g), 11 U.S.C. § 1121(a), or other applicable provision of law, that is intended, in whole or in part, to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos.

(3) EXPOSED PERSON. A person whose exposure to asbestos or to asbestos-containing products is the basis for an



SB104 INTRODUCED

asbestos action.

~~(3)~~ (4) TRUST CLAIM MATERIALS. A final executed proof of claim and all documents and information submitted to or received from an asbestos trust, including claim forms and supplementary materials, affidavits, medical and health records, depositions and trial testimony of the plaintiff and others knowledgeable about the plaintiff's exposure history, work history, exposure allegations, and all documents that reflect the status of a claim against an asbestos trust and if the trust claim has been resolved.

~~(4)~~ (5) TRUST GOVERNANCE DOCUMENTS. All documents that relate to eligibility and payment levels, including claims payment matrices, trust distribution procedures, or plans for reorganization, for an asbestos trust."

"§6-5-692

(a) ~~Subject to Section 6-5-693, within 90 days after a~~ plaintiff who files an asbestos action, ~~the plaintiff at the~~ time of the filing of the complaint or other initial pleading, shall ~~do all of the following:~~ provide

~~(1) Provide~~ all parties with an affidavit, signed under oath by the plaintiff, specifying the basis for each claim against the defendant and stating all of the following with specificity:

~~a. (1) The plaintiff's~~ exposed person's name, address, date of birth, Social Security number, marital status, smoking history, occupation, ~~and~~ current and past worksites and employers, and if the ~~plaintiff~~ exposed person alleges exposure to asbestos through another person, the identity of



SB104 INTRODUCED

the other person, and that person's relationship to the plaintiff exposed person.

~~b.~~ (2) The asbestos-related disease claimed to exist.

~~e.~~ (3) ~~The~~ An affirmation that the plaintiff and plaintiff's his or her counsel have conducted an investigation into all potential sources of the plaintiff's exposed person's exposure to asbestos and identified.

(4) The identity, with specificity, of each and every source of exposure to asbestos that is available or known to the plaintiff or plaintiff's his or her counsel for the exposed person and any person through which the plaintiff alleges exposure, including all asbestos-containing products to which the plaintiff exposed person or other person was exposed, whether from bankrupt entities or otherwise, and all premises at which the plaintiff and the other exposed person were was exposed to asbestos; the.

(5) The specific location and manner of each alleged exposure to asbestos; the.

(6) The beginning and ending dates of each alleged exposure; and the frequency of the exposure to the asbestos product or its use.

(7) The specific connection of each defendant to the alleged exposure to asbestos.

(8) The name, address, and relationship to the exposed person of each individual who is knowledgeable regarding the exposed person's exposures to asbestos.

~~(2)~~ (9) ~~Provide all parties with all~~ All supporting documentation relating to this the information required by



SB104 INTRODUCED

113 this section.

114 (b) If a defendant that is specifically identified in
115 the plaintiff's affidavit as a source of exposure presents
116 evidence that the ~~plaintiff's~~ affidavit is incomplete, the
117 defendant may move the court for an order to require the
118 plaintiff to supplement the affidavit. If the court determines
119 that there is a sufficient basis for the plaintiff to
120 supplement the affidavit, the court shall enter an order to
121 require the plaintiff to supplement the affidavit and shall
122 stay the action until the plaintiff supplements the affidavit
123 as provided by the court and produces the supplemental
124 affidavit to the parties.

125 (c) The court shall dismiss the plaintiff's claim
126 without prejudice if the plaintiff fails to provide the
127 information required in this section or fails to satisfy an
128 order to supplement the plaintiff's affidavit within ~~90 days~~
129 ~~from~~ the time the information is required to be provided to
130 the parties.

131 (d) A defendant whose product or premises is not
132 specifically identified in the plaintiff's affidavit may file
133 a motion with the court to dismiss the plaintiff's claim
134 against that defendant without prejudice."

135 "§6-5-693

136 (a) ~~A plaintiff in an asbestos action need not comply~~
137 ~~with Section 6-5-692 if, within 90~~ Within 30 days after the
138 plaintiff files an asbestos action, the plaintiff ~~files~~ shall
139 file all available asbestos trust claims and ~~provides~~ provide
140 the parties with all trust claim materials available to the



SB104 INTRODUCED

plaintiff or ~~plaintiff's~~ his or her counsel in relation to the
~~plaintiff's~~ exposed person's exposure to asbestos. ~~This~~
~~section does not apply if the plaintiff complies with Section~~
~~6-5-692.~~

(b) A plaintiff has a continuing duty to supplement the information and materials provided under subsection (a) within 30 days after the plaintiff supplements an asbestos trust claim, receives additional information or materials related to an asbestos trust claim, or files an additional trust claim.

(c) Not less than 60 days before trial, if a defendant presents evidence that the plaintiff has not filed all available asbestos trust claims, as required under subsection (a), the defendant may move the court for an order to require the plaintiff to file additional trust claims. If a defendant has previously filed a motion under this section, the court shall not grant a subsequent motion if the defendant knew that the claimant met the criteria for payment for the additional trust claim identified in the subsequent motion at the time the earlier motion was filed.

(d) Trial in an asbestos action may not begin until at least 60 days after the plaintiff complies with this section."

"§6-5-694

(a) In an asbestos action, there shall be a rebuttable presumption that trust claim materials and trust governance documents are relevant, authentic, and admissible in evidence. A claim of privilege does not apply to trust claim materials or trust governance documents.

(b) A defendant in an asbestos action may seek



SB104 INTRODUCED

discovery from an asbestos trust. The plaintiff may not claim privilege or confidentiality to bar discovery and shall provide consent or other expression of permission that may be required by the asbestos trust to release the information and materials sought by the defendant.

(c) Discovery may not commence against a defendant in an asbestos action until the requirements of Section 6-5-692(a) and 6-5-693(a) have been met."

Section 2. This act shall become effective on October 1, 2024.