

**SB104 INTRODUCED**



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



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4     SYNOPSIS:

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

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

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

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

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22                   A BILL

23                   TO BE ENTITLED

24                   AN ACT

25

26                 Relating to asbestos actions; to amend Sections  
27    6-5-691, 6-5-692, 6-5-693, and 6-5-694, Code of Alabama 1975,  
28    to further provide for various requirements for asbestos



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

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34         Section 1. Sections 6-5-691, 6-5-692, 6-5-693, and  
35 6-5-694, Code of Alabama 1975, are amended to read as follows:

36         "§6-5-691

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

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

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

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



57 asbestos action.

58 ~~(3)~~ (4) TRUST CLAIM MATERIALS. A final executed proof of  
59 claim and all documents and information submitted to or  
60 received from an asbestos trust, including claim forms and  
61 supplementary materials, affidavits, medical and health  
62 records, depositions and trial testimony of the plaintiff and  
63 others knowledgeable about the plaintiff's exposure history,  
64 work history, exposure allegations, and all documents that  
65 reflect the status of a claim against an asbestos trust and if  
66 the trust claim has been resolved.

67 ~~(4)~~ (5) TRUST GOVERNANCE DOCUMENTS. All documents that  
68 relate to eligibility and payment levels, including claims  
69 payment matrices, trust distribution procedures, or plans for  
70 reorganization, for an asbestos trust."

71 "§6-5-692

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

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

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



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

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

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

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

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

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

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

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

111 ~~(2)~~(9) ~~Provide all parties with all~~All supporting  
112 documentation relating to ~~this~~the information required by



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



141 plaintiff or ~~plaintiff's his or her~~ counsel in relation to the  
142 ~~plaintiff's exposed person's~~ exposure to asbestos. ~~This~~  
143 ~~section does not apply if the plaintiff complies with Section~~  
144 ~~6-5-692.~~

145 (b) A plaintiff has a continuing duty to supplement the  
146 information and materials provided under subsection (a) within  
147 30 days after the plaintiff supplements an asbestos trust  
148 claim, receives additional information or materials related to  
149 an asbestos trust claim, or files an additional trust claim.

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

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

162 "§6-5-694

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

168 (b) A defendant in an asbestos action may seek

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

174 (c) Discovery may not commence against a defendant in  
175 an asbestos action until the requirements of Section  
176 6-5-692(a) and 6-5-693(a) have been met."

177 Section 2. This act shall become effective on October  
178 1, 2024.