

SECOND REGULAR SESSION

SENATE BILL NO. 1079

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Read 1st time March 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6774S.01I

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to civil claims for relief due to silica exposure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.900, to read as follows:

537.900. 1. This section shall be known and may be cited as the "Silica Claims Priorities Act".

2. As used in this section, the following terms mean:

(1) "Silica", a respirable crystalline form of the naturally occurring mineral form of silicon dioxide including, but not limited to, quartz, cristobalite, and tridymite;

(2) "Silica claim", any claim for damages, losses, indemnification, contribution, or other relief of whatever nature arising out of, based on, or in any way related to the alleged health effects associated with the inhalation of silica, including loss of consortium, personal injury or death, mental or emotional injury, risk or fear of disease or other injury, or the costs of medical monitoring or surveillance, to the extent such claims are recognized under state law, and any claim made by or on behalf of any person exposed to silica dust, or a representative, spouse, parent, child, or other relative of the exposed person. The term does not include a claim for compensatory benefits under chapter 287 or a veterans' benefits program;

(3) "Silicosis", fibrosis of the lung produced by inhalation of silica, including acute silicosis, accelerated silicosis, and chronic silicosis.

3. No person shall bring or maintain a silica claim related to an

22 alleged silicosis or an alleged silica-related condition in the absence of
23 a prima facie showing of physical impairment as a result of a medical
24 condition for which exposure to silica is a substantial factor. Such a
25 prima facie showing shall be made as to each defendant and include a
26 detailed narrative medical report and diagnosis by a licensed physician
27 that includes all of the following:

28 (1) Evidence verifying that the diagnosing, licensed physician
29 has taken a detailed occupational, exposure, medical, and smoking
30 history from the exposed person or, if that person is deceased, from a
31 person who is knowledgeable regarding such history;

32 (2) Evidence verifying that the exposed person has silicosis,
33 based at a minimum on radiological and pathological evidence of
34 silicosis;

35 (3) Evidence verifying there has been a sufficient latency period
36 for the applicable type of silicosis;

37 (4) A determination by the diagnosing, licensed physician, on the
38 basis of a personal medical examination and pulmonary function
39 testing of the exposed person, or if the exposed person is deceased,
40 based upon the person's medical records, that the exposed person has
41 had a permanent respiratory impairment rating of at least Class 2 as
42 defined by and evaluated under the American Medical Association's
43 Guides to the Evaluation of Permanent Impairment; and

44 (5) Evidence verifying that the diagnosing, licensed physician
45 has concluded that the exposed person's impairment was not more
46 probably the result of causes other than silica exposure. A conclusion
47 by the licensed physician that states that the impairment is consistent
48 or compatible with silica exposure or silica-related disease does not
49 meet the requirements of this subdivision.

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