

HOUSE BILL NO. HB0092

Asbestos actions.

Sponsored by: Representative(s) Zwonitzer, Greear, Olsen and
Stith and Senator(s) Driskill, Ellis and
Gierau

A BILL

for

1 AN ACT relating to civil procedure; establishing procedures
2 regarding asbestos actions and asbestos bankruptcy trust
3 claims; providing definitions; providing applicability; and
4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 1-1-139 through 1-1-144 are created to
9 read:

10

11 **1-1-139. Short title.**

12

13 This act shall be known and may be cited as the "Asbestos
14 Trust Claims Transparency Act."

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1 **1-1-140. Definitions.**

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3 (a) As used in this act:

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5 (i) "Asbestos action" means a claim for damages or
6 other relief brought in a civil action arising out of, based
7 on or related to the health effects of exposure to asbestos,
8 and any other derivative claim made by or on behalf of a
9 person exposed to asbestos or a representative, spouse,
10 parent, child or other relative of the person;

11

12 (ii) "Asbestos trust" means a government approved
13 or court approved trust, qualified settlement fund,
14 compensation fund or claims facility that is:

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16 (A) Created as a result of an administrative
17 or legal action, a court approved bankruptcy or under 11
18 U.S.C. § 524(g), 11 U.S.C. § 1121(a) or other applicable
19 provision of law; and

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21 (B) Intended to provide compensation to
22 claimants arising out of, based on or related to the health
23 effects of exposure to asbestos.

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2 (iii) "Trust claims materials" means any final
3 executed proof of claim or any other document or information
4 submitted to or received from an asbestos trust, including a
5 claim form or supplementary material, affidavit, deposition
6 or trial testimony, work history, exposure allegation,
7 medical or health record, document reflecting the status of
8 a claim against an asbestos trust or if the trust claim has
9 settled, any document relating to the settlement of the trust
10 claim;

11

12 (iv) "Trust governance documents" means any
13 document that relates to eligibility or payment levels,
14 including a claims payment matrix, trust distribution
15 procedure or plan for reorganization for an asbestos trust;

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17 (v) "This act" means W.S. 1-1-139 through 1-1-144.

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19 **1-1-141. Required disclosures.**

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21 (a) Within thirty (30) days after an asbestos action is
22 filed, the plaintiff shall:

23

1 (i) Provide all parties with a sworn statement
2 indicating that the plaintiff and the plaintiff's counsel
3 have conducted an investigation and all known asbestos trust
4 claims that can be made by the plaintiff have been filed; and

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6 (ii) Provide all parties to the asbestos action
7 with all trust claims materials in the possession, custody or
8 control of the plaintiff or any law firm connected to the
9 plaintiff in relation to asbestos exposure.

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11 (b) A plaintiff has a continuing duty to supplement or
12 correct the information and materials required under
13 subsection (a) of this section within thirty (30) days of the
14 plaintiff doing any of the following:

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16 (i) Supplementing an asbestos trust claim;

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18 (ii) Receiving additional information or
19 materials related to an asbestos trust claim;

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21 (iii) Filing an additional trust claim.

22

1 **1-1-142. Identification of additional or alternative**
2 **asbestos trusts by defendants.**

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4 (a) Not less than sixty (60) days before trial of an
5 asbestos action, if a defendant believes the plaintiff has
6 not filed all asbestos trust claims as required by W.S.
7 1-1-141, the defendant may move the court for an order to
8 require the plaintiff to file additional trust claims. The
9 defendant shall identify the additional asbestos trust claims
10 the defendant believes the plaintiff is eligible to file.

11
12 (b) If the court determines that there is a sufficient
13 basis for the plaintiff to file an asbestos trust claim
14 identified by the defendant, the court shall stay the asbestos
15 action until the plaintiff files the trust claim and produces
16 all related trust claims materials.

17
18 (c) If an asbestos action is stayed by court order
19 pursuant to subsection (b) of this section, the asbestos
20 action may not proceed to trial until at least sixty (60)
21 days after the plaintiff complies with this section.

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23 **1-1-143. Discovery; evidentiary issues.**

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2 (a) A defendant in an asbestos action may seek
3 discovery from an asbestos trust. The plaintiff may not claim
4 privilege or confidentiality to bar discovery and shall
5 provide consent or other expression of permission that may be
6 required by the asbestos trust to release information and
7 materials sought by a defendant.

8

9 (b) Trust claims materials and trust governance
10 documents are presumed to be relevant and authentic and are
11 admissible in evidence in an asbestos action. No claim of
12 privilege shall apply to any trust claims materials or trust
13 governance documents.

14

15 (c) Trust materials may be used to prove, without
16 limitation, an alternative source for the cause of the
17 plaintiff's alleged harm and may serve as a basis to allocate
18 responsibility for the plaintiff's alleged harm.

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20 **1-1-144. Applicability.**

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22 This act applies to any asbestos action filed on or after
23 July 1, 2019.

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2 **Section 2.** This act is effective July 1, 2019.

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(END)