



*BEFORE THE SENATE JUDICIARY COMMITTEE
PROPONENT TESTIMONY ON SENATE BILL 252*

Chairman Manning, Vice Chair McColley, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to provide proponent testimony on Senate Bill 252 (SB 252). My name is Kevin Shimp and I am the General Counsel and Director of Labor and Legal Affairs for the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

In our efforts to champion economic competitiveness, the Ohio Chamber supports SB 252 because it aims to limit the overnaming of defendants in asbestos lawsuits. This practice harms Ohio's business environment by driving up operating costs, diminishing judicial efficiency, and worsening the legal climate in the Buckeye State.

Asbestos litigation is unique because often times a plaintiff will name dozens of defendants in a lawsuit and claim each is responsible for the asbestos exposure that resulted in their illness or injury. These lawsuits which are grounded in typical negligence actions seek to hold the manufacturer of asbestos or a party such as an employer or landlord where asbestos exposure may have occurred legally responsible for any asbestos related injuries sustained by an individual.

To accomplish this goal, a plaintiff's attorney commences litigation by suing companies that "participated in placing asbestos-containing products in the stream of commerce". Casting this wide of net unsurprisingly leads to dozens of companies being named as defendants. Unfortunately, even if a company has no relationship to the plaintiff's alleged exposure, they must expend resources to be dismissed from the lawsuit once they are named as a defendant.

That is why overnaming harms Ohio's economic competitiveness. The resulting increased operating costs that arise from higher legal bills or insurance premiums makes companies less profitable and weakens Ohio's business climate.

Another issue caused by overnaming defendants in asbestos lawsuits is a decrease in the efficiency of Ohio's civil courts. When numerous defendants are improperly named in a lawsuit, a judge must spend his or her time evaluating motions of those defendants to determine if they belong in the lawsuit. Likewise, there are voluminous discovery requests and the number of materials that become a part of the trial record is substantial. Taken together, naming dozens of defendants in a lawsuit results in a prolonged period of time from commencing the litigation to the ultimate conclusion whether it is a trial or settlement.

Due to the significant pre-trial period that occurs with asbestos lawsuits, a judge's docket may become overcrowded which hurts parties in other lawsuits who are seeking justice or a timely resolution to a dispute.

A symptom of the prevalence of asbestos lawsuits and the practice of overnaming defendants is a civil justice system that does not promote economic development. In fact, a recent US Chamber Institute for Legal Reform survey found Ohio had the 15th worst lawsuit climate in the United States. The survey also found 89% of respondents reported that a state's litigation environment could affect important business decisions at a company including where to locate or do business.

SB 252 will address each of these issues by requiring a plaintiff attorney to perform pre-discovery due diligence by asserting several key facts about the connection between the plaintiff's exposure and the named defendant. These facts include the past worksites of the exposed person, the time period of the exposure, the proximity of the exposure, and the asbestos related disease that is alleged.

This reform will benefit employers across Ohio by reducing potential legal bills since they will no longer have to engage an attorney to be removed from a lawsuit in which they never should have been brought into. This cost savings makes Ohio businesses more competitive and can lead to employers reinvesting in their company or hiring more employees.

Likewise, SB 252 does not affect the plaintiff's pursuit to hold the party responsible for their injury accountable. Under the legislation, the responsible party will remain a part of the lawsuit and is subject to the same judgments from the court as they are without the enactment of SB 252. Moreover, the legislation provides for a party who was improperly dismissed before discovery to be added back to the litigation should facts arise during discovery that make clear the party could be responsible for the asbestos exposure that resulted in injury.

In closing, the Ohio Chamber urges your favorable consideration of SB 252 since it will bolster Ohio's business and legal climate by promoting judicial efficiency and economic competitiveness without limiting an aggrieved party's right to recovery against the proper entity.

Thank you for the opportunity to provide testimony today and I welcome any questions from the committee.