

Fraud crackdown or unnecessary roadblock? Bills would make it harder to claim asbestos injuries



8 HOURS AGO • [DEE J. HALL | WISCONSIN STATE JOURNAL | DHALL@MADISON.COM | 608-252-6132](#)

Proponents say Assembly Bill 19 would reduce "double dipping" and fraud by people claiming damages from asbestos-related and other personal injuries.

Opponents charge that the bill and its companion, Senate Bill 13, would throw up so many barriers to compensation that people suffering from mesothelioma — a fatal lung disease caused by asbestos — or other

illnesses or injuries could die before they collect their money.

On Thursday, the Assembly Judiciary Committee will hear arguments for and against the measure, labeled the Personal Injury Trust Claims Transparency bill by the Wisconsin Civil Justice Council, a coalition of major industries and business groups that helped write the legislation.

The bills' sponsors acknowledge they're not aware of any abusive practices in Wisconsin involving so-called "personal injury trusts," which are accounts companies set up to pay claims to injured parties after the companies go bankrupt. The most common are those set up by now-defunct asbestos manufacturers.

In an investigation last month, the Wall Street Journal found more than 2,000 applicants to one trust had filed claims saying they were exposed to asbestos on the job, even though their birth dates showed they would have been younger than 12 years old at the time. The newspaper also reported that hundreds of people claimed to have one type of cancer when seeking compensation from one trust but another type when filing claims with another trust.

This measure would require that anyone suing a company in Wisconsin first disclose any claims they have made or payments they have received from any personal injury trust.

"All we're asking is transparency and disclosure," said Andrew Cook, a lobbyist and legislative director for the civil justice council. "If they have already filed a claim in federal court with a trust, under this bill, they will have to disclose it."

But Joseph Strohl, a lobbyist for the Wisconsin Association for Justice, said the trial lawyers' group fears the bill's requirements would delay justice for people who in some cases don't have long to live.

The bill would require that any case filed in a Wisconsin court must be stayed "until the plaintiff produces a final executed proof of claim against the personal injury trust."

It also would allow the company against whom the lawsuit is filed to get a judge to order that the injured party seek compensation from other trusts before receiving any payout from the defendant company. And it would require a judge to reduce the amount of money a company must pay by the amount an injured party already has received from such a trust.

Said Strohl: "The trial lawyers are concerned that the bill will make it much more difficult to recover in state court."

Strohl noted that just a handful of such cases are filed each year in Wisconsin, adding, "We can't believe this is a big issue for Wisconsin companies."

But similar bills have been passed in Ohio and are under consideration in Oklahoma, Illinois, Texas and elsewhere, according to Brendan Fischer of the Madison-based Center for Media and Democracy. Fischer's group tracks legislation initiated by the American Legislative Exchange Council, or ALEC, a corporate-funded hothouse for conservative, business-friendly legislation.

Sponsors Rep. Andre Jacque, R-De Pere, and Sen. Glenn Grothman, R-West Bend, both said they are or have been ALEC members, but they denied the controversial group had anything to do with the bill. Grothman said the legislation was written by the Wisconsin Civil Justice Council. Cook said his group did not consult with ALEC on the bill.

Jacque said his goal is not to delay justice for anyone deserving compensation but shield Wisconsin companies from "unscrupulous" attorneys and claimants.

"There's a reason why they (opponents) are trying to use emotion and muddle the facts on the legislation, because they don't want to have a debate on the merits," he said.

Assembly Bill 19 and Senate Bill 13 would:

- Require a plaintiff who files a lawsuit to disclose within 30 days whether he or she has filed or anticipates filing a claim against a personal injury trust.
- Allow the company that has been sued to identify other trusts against which the injured party may file a claim.
- Require a judge to order the claimant to file claims against other identified trusts.
- Require the court to stay any proceedings until the plaintiff produces any and all final executed proofs of claim against trusts.
- Require a judge to reduce a payment to an injured party by the amount that person has received from a personal injury trust.

If you go

The Assembly Judiciary Committee will hold a public hearing on Assembly Bill 19 beginning about 11:05 a.m. Thursday in Room 417 North of the state Capitol.

The bill and its companion legislation, Senate Bill 13, would place restrictions on how much people harmed by asbestos or other personal injuries could collect from companies in Wisconsin courts. Invited speakers are representatives of the Wisconsin Association for Justice and the Wisconsin Civil Justice Council, followed by testimony from the public.