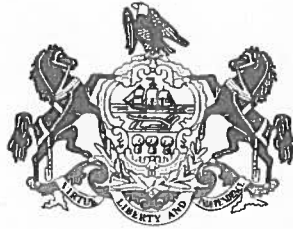


MIKE TURZAI
Majority Leader

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Commonwealth of Pennsylvania
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MEMORANDUM

TO: All House Members

FROM: Representative Mike Turzai
House Majority Leader

DATE: September 6, 2012

RE: Co-sponsorship Memo - Asbestos Trust Transparency and Fairness in Asbestos Litigation Act

In the near future, I plan to introduce legislation creating the Asbestos Trust Transparency and Fairness in Asbestos Litigation Act. This bill is intended to address two loopholes in our current system of assessing responsibility for damages in asbestos-related suits.

Asbestos lawsuits date to the 1970's when companies that mined and milled asbestos or that incorporated significant percentages of the material in products used in the workforce were the primary targets of damage suits. Beginning in the 1980's and substantially accelerating in the last decade through today, however, many of those companies have used federal bankruptcy laws to shield them from suit in exchange for funding stand-alone trusts. These trusts, formed by asbestos miners, manufacturers and fabricators of asbestos products, make over \$30 billion available to qualifying injured parties through a simplified federal asbestos claim process. However, some claimants who receive money from these trusts through that claim process have also filed civil lawsuits in state courts against businesses down the supply chain. These businesses, often with peripheral connection to any injury, have in some cases been forced to shoulder massive liability as a result of these lawsuits.

Two problems have arisen based on the operation of the asbestos trust claim system and the civil tort system in tandem. First, clever manipulation of the litigation and claims processes can result in "double-dipping" by which an asbestos claimant can receive full recovery twice for the same injury, once through tort litigation and a second time through the asbestos trust

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claim process. Second, because the representations made by asbestos claimants in the asbestos trust claim system are not public and are difficult to obtain through civil discovery, it is possible for asbestos claimants to make inconsistent statements within the different systems. For example, a claimant may represent a particular set of facts to an asbestos trust in order to qualify for compensation from that trust, while simultaneously asserting a contradictory set of facts in that claimant's civil litigation.

My bill corrects these two problems in the following manner. First, the bill would apply the principles of our Fair Share Act to asbestos litigation such that asbestos defendants would be apportioned liability based only on their relative fault. Second, the bill would require plaintiffs to disclose all asbestos exposure information and to indicate whether they have submitted a claim based on asbestos exposure to a trust or are eligible to submit a claim for asbestos exposure to a trust. Disclosure of this information will allow a judge or jury to consider all asbestos exposures, claims which have been or could be submitted to a trust and claims which have been paid by a trust, in some cases as much as \$1.6 million per claimant, as part of an asbestos-related suit.

Should you wish to join me in co-sponsoring this legislation, please contact Stacy Bowie in my Harrisburg office at 772-9943 or email sbowie@pahousegop.com.

Note that Rep. Cutler previously circulated a co-sponsorship memo for this bill and was gracious enough to allow me to become the prime sponsor. Please note that the following signed on to co-sponsor the bill previously: Rep. Boyd, Rep. Creighton, Rep. Everett, Rep. Farry, Rep. Geist, Rep. Grell, Rep. Helm, Rep. Hickernell, Rep. Kampf, Rep. Kauffman, Rep. Miller, Rep. Schroder, Rep. Swanger, and Rep. Truitt.