



Testimony

Submitted on behalf of the
Pennsylvania Chamber of Business and Industry

**Public Hearing on HB 1428 - Fairness in Claims and Transparency
(FaCT) Act.**

Before the:
Pennsylvania House Judiciary Committee

Presented by:
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Chairman Marsico, Chairman Petrarca and members of the committee, thank you for the opportunity to testify before you today regarding House Bill 1428 which provides for reforms to our current system of assessing responsibility for damages in asbestos-related suits. My name is Sam Denisco and I am Vice President of Government Affairs for the Pennsylvania Chamber of Business and Industry. The PA Chamber is the largest, broad-based business advocacy association in the Commonwealth. We represent business of all sizes ranging from Fortune 100 companies to sole proprietors crossing all industry sectors. Our membership comprises nearly fifty percent of the private workforce.

Our mission is to articulate and advocate on those public policy issues that will expand private sector job creation and lead to a more prosperous Pennsylvania for all its citizens. To that end, the enactment of policies that will create a more fair and equitable system of civil justice is essential to the proper functioning of a free market economy. By permitting legitimate disputes to be resolved in a fair and efficient manner, it allows for full and timely compensation of parties legitimately injured; gives parties predictability and certainty; and contributes to greater productivity and economic prosperity. An unbalanced litigation environment can cause serious dislocations with significant economic implications such as reduced investment, increased costs, job loss and improper shift of costs to taxpayers.

Presently there is a disconnect between two competing systems for compensation which has caused serious and sustaining problems which have impacted Pennsylvania businesses and employers who find themselves as tort defendants in Pennsylvania asbestos trials. This not only results in an inequitable civil justice system but also unnecessarily punishes Pennsylvania businesses. Under current practice, Pennsylvania businesses are paying both jury awards for

asbestos responsibility, and they are also paying out claims for those asbestos-containing products covered under Bankruptcy Trusts.

Nearly all of the companies most responsible for asbestos injuries have established Bankruptcy Trusts. The bankruptcy of companies, who would have otherwise been a traditional defendant, has now led plaintiffs' firms to bring suit against additional solvent manufacturers/users/distributors of asbestos containing products. These businesses are not part of the federal bankruptcy trust system, as they remain solvent, and therefore they can be held civilly liable even after the claimant has already received compensation from the trust. The solvent businesses, often with merely a peripheral connection to any injury, have in some cases been forced to shoulder massive liability as a result of these lawsuits.

This bill addresses the problem with the current system of assessing responsibility for damages in asbestos-related suits by applying the principles of our Fair Share Act to asbestos litigation such that defendants would pay only for their relative fault. The bill would also require claimants 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 to a trust. Disclosure of this information will allow a judge or jury to consider all exposures, claims which have been or could be submitted to a trust and claims which have been paid by a trust.

This bill in no way seeks to let wrongdoers off the hook. Proper payouts for claims for the actual harm caused will remain. However, it is inherently unfair for double payments to be made for the same injury. Appropriately disclosing trust claims at the civil level and applying

the concepts of the Fair Share Act will in the end allow employers to properly direct resources back into the economy to be used for economic growth and job development.

Thank you for the opportunity to present these comments to the committee. The PA Chamber supports HB 1428 as it provides for the much needed fairness relative to asbestos claims. We respectfully urge the committee to advance this bill to full consideration by the House.