

WEST VIRGINIA CODE: §55-7G-2

§55-7G-2. Findings and purpose.

(a) The West Virginia Legislature finds that:

- (1) Asbestos is a mineral that was widely used prior to the 1980s for insulation, fireproofing and other purposes;
- (2) Millions of American workers and others were exposed to asbestos, especially during and after World War II and prior to the promulgation of regulations by the Occupational Safety and Health Administration in the early 1970s;
- (3) Exposure to asbestos has been associated with various types of cancer, including mesothelioma and lung cancer, as well as nonmalignant conditions such as asbestosis and diffuse pleural thickening;
- (4) Diseases caused by asbestos often have long latency periods;
- (5) Although the use of asbestos has dramatically declined since the 1970s and workplace exposures have been regulated since 1971 by the Occupational Safety and Health Administration, past exposures will continue to result in significant claims of death and disability as a result of such exposure;
- (6) Over the years, West Virginia courts have been deluged with asbestos lawsuits;
- (7) The United States Supreme Court in *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 598 (1997), described the asbestos litigation as a crisis;
- (8) Lawyer-sponsored x-ray screenings have been used to amass large numbers of claims by unimpaired plaintiffs;
- (9) One of the country's most prolific B-readers was a doctor from West Virginia;
- (10) Approximately one hundred employers have declared bankruptcy at least partially due to asbestos-related liability;
- (11) These bankruptcies have resulted in a search for more solvent companies, resulting in over eight thousand five hundred companies being named as asbestos defendants nationally and many in West Virginia, including many small- and medium-sized companies, in industries that cover eighty-five percent of the United States economy;
- (12) Silica is a naturally occurring mineral as the earth's crust is over ninety percent silica, and crystalline silica dust is the basic component of sand, quartz and granite;

- (13) Silica-related illness, including silicosis, can develop from the prolonged inhalation of respirable silica particles;
- (14) Silica claims, like asbestos claims, have involved individuals with no demonstrable physical impairment, and plaintiffs have been identified through the use of for-profit, screening companies;
- (15) Silica screening processes have been found subject to substantial abuse and potential fraud;
- (16) The cost of compensating plaintiffs who have no present asbestos-related or silica-related physical impairment, and the cost of litigating their claims, jeopardizes the ability of defendants to compensate people with cancer and other serious asbestos-related diseases and adversely affects defendant companies;
- (17) Concerns about statutes of limitations and available funds can prompt unimpaired asbestos and silica claimants to bring lawsuits in order to protect against losing their rights to future compensation should they become impaired;
- (18) Trial consolidations, joinders and similar trial procedures used by some courts to handle asbestos and silica cases can undermine the appropriate functioning of the courts, deny due process to plaintiffs and defendants and encourage the filing of cases by unimpaired asbestos and silica plaintiffs; and
- (19) The public interest requires giving priority to the claims of exposed individuals who are sick in order to help preserve, now and for the future, defendants' ability to compensate people who develop cancer and other serious asbestos-related diseases, as well as silica-related injuries, and to safeguard the jobs, benefits and savings of workers in West Virginia and the well-being of the West Virginia economy.

(b) It is the purpose of this article to:

- (1) Give priority to asbestos and silica claimants who can demonstrate actual physical impairment caused by exposure to asbestos or silica;
- (2) Toll the running of the statutes of limitations for persons who have been exposed to asbestos or to silica but who have no present physical impairment caused by such exposure;
- (3) Enhance the ability of the courts to supervise and manage asbestos and silica cases;
- (4) Reduce the opportunity for fraud in asbestos and silica litigation; and
- (5) Conserve the defendants' resources to allow compensation to present and future claimants with physical impairment caused by exposure to asbestos or silica.