



LRANY

Lawsuit Reform Alliance of New York

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SUPPORT

BILL: A.53 (Buchwald)
SUBJECT: Truth and fairness in asbestos litigation
DATE: November 5, 2019
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Summary:

This legislation would create transparency between asbestos trust claims and asbestos tort actions by compelling a plaintiff to file claims with the appropriate trusts and requiring the disclosure of all trust claims to the court.

Why we support this legislation:

Transparency Reduces Fraud

- A lack of transparency in the asbestos trust system has severely hindered the identification of fraudulent claims. Suspicious claims are now widespread in the trust system—a 2013 review of trust claims by the *Wall Street Journal* found thousands of inconsistencies, including over 2,000 claimants who alleged exposure from industrial jobs prior to the age of 12.¹ Following revelations of possible fraud perpetrated by plaintiff's attorneys, New York-based Garlock Sealing Technologies filed Federal racketeering suits against 5 law firms.²

Issue is More Important Than Ever

- In 2016 the New York Court of Appeals decided that companies can be held liable for asbestos they neither manufactured or sold, as long as they knew their products would inevitably be used in conjunction with asbestos.³ The decision exposes a whole new supply of New York manufacturers and retailers to asbestos liability.

Protects Resources for The Truly Injured

- The proposed legislation helps protect funds for those who truly deserve them. Fraudulent and duplicative claims steal funds that are intended to compensate the truly injured. The bankruptcy of a tort defendant or the total depletion of a trust fund compromises future victims' ability to recover compensation.

Does Not Diminish a Victim's Legal Rights

- Arguments that this legislation intends to delay or deny compensation, advanced by those who benefit financially for the status quo, are wholly without merit. In fact, according to a report from the New York Civil Justice Institute, plaintiffs suffering from mesothelioma, a type of asbestos-related cancer, may receive trust payments exceeding \$440,000 on average.⁴ That is compensation that can be payed out quickly, unlike settlements or verdicts, which may require years of litigation.

¹ Searcey, Dionne and Barry, Rob. "As Asbestos Claims Rise, So do Worries About Fraud." *The Wall Street Journal*. 11, March 2013.

² Daneman, Matthew. "More companies seek Garlock asbestos evidence." *Democrat & Chronicle*. 12, May 2014.

³ *Matter of New York City Asbestos Litigation (Dummitt v A.W. Chesterton, et al.)*

⁴ Gay, Mary Margaret and Jones, Sarah Beth. "A Matter of Trust? How Access to Asbestos Trust Claims Information Affects Cases in New York Courts." NYCJI. Nov. 2019.

The Lawsuit Reform Alliance of New York is a not-for-profit association of businesses, professionals, health care providers, membership organizations, and taxpayers dedicated to reforming the legal system in order to foster a better business climate, promote job growth, and address the growing cost of lawsuit abuse.