

A BILL TO BE ENTITLED

AN ACT

relating to the standard of causation in claims involving mesothelioma caused by exposure to asbestos fibers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 90, Civil Practice and Remedies Code, is amended by adding Section 90.013 to read as follows:

Sec. 90.013. STANDARD OF CAUSATION FOR CLAIMS INVOLVING MALIGNANT MESOTHELIOMA. (a) This section provides the exclusive means of proving causation for claims in which the claimant seeks recovery for malignant mesothelioma allegedly caused by exposure to asbestos fibers.

(b) Notwithstanding any other law, to recover damages on a claim to which this section applies, the claimant must prove:

(1) that a defendant's product or conduct was a substantial factor in causing the injury to the exposed person, as described by Subsection (c);

(2) foreseeability, if the cause of action is one in which foreseeability is an element of causation; and

(3) that the exposed person's cumulative exposure to asbestos fibers was a cause of the person's mesothelioma.

(c) A defendant's product or conduct was a substantial factor in causing the exposed person's injury if the exposure to the asbestos fibers for which that defendant is alleged to be responsible contributed to the cumulative exposure of the exposed

1 person and was more than purely trivial when considering the
2 following qualitative factors:

- 3 (1) the frequency of exposure;
4 (2) the regularity of exposure; and
5 (3) the proximity of the exposed person to the source
6 of the asbestos fibers.

7 (d) In a claim to which this section applies, a defendant
8 who seeks a determination of the percentage of responsibility of
9 another person under Section 33.003(a) is required to prove
10 causation in the same manner as is required of a claimant.

11 (e) Nothing in this section requires a claimant or a
12 defendant who seeks a determination of the percentage of
13 responsibility of another person under Section 33.003(a) to prove,
14 for any purpose, a quantitative dose, approximate quantitative
15 dose, or estimated quantitative dose of asbestos fibers to which
16 the exposed person was exposed.

17 SECTION 2. The change in law made by this Act applies to all
18 actions pending or commenced on or after the effective date of this
19 Act.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2009.