

By: \_\_\_\_\_

S.B. No. 8

Substitute the following for \_\_.B. No. \_\_\_\_:

By: \_\_\_\_\_

C.S. \_\_.B. No. \_\_\_\_

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to civil claims involving exposure to asbestos or other  
3 mineral dusts.

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

5 SECTION 1. Title 4, Civil Practice and Remedies Code, is  
6 amended by adding Chapter 90 to read as follows:

7 CHAPTER 90. CLAIMS INVOLVING EXPOSURE TO ASBESTOS FIBERS OR OTHER

8 MINERAL DUSTS

9 Sec. 90.001. CLAIMS. In this chapter, claims alleging  
10 personal injury or death are limited to claims alleging  
11 respiratory disease unless the basis for the claims is a  
12 diagnosis of mesothelioma or other malignancy allegedly caused by  
13 exposure to asbestos fibers or other mineral dusts.

14 Sec. 90.002. ADOPTION OF RULES BY SUPREME COURT. (a) The  
15 supreme court shall adopt rules to provide for the creation of an  
16 inactive docket for claims alleging personal injury or death  
17 caused by exposure to asbestos fibers or other mineral dusts.

18 (b) The supreme court shall adopt rules under this chapter  
19 on or before January 1, 2004.

20 Sec. 90.003. MANDATORY GUIDELINES. Rules adopted under  
21 Section 90.002 must comply with the mandatory guidelines  
22 established by this chapter.

23 Sec. 90.004. APPLICABILITY. (a) Rules adopted under this  
24 chapter must provide that the inactive docket procedure under  
25 this chapter does not apply to a claim alleging personal injury  
26 caused by exposure to asbestos fibers or other mineral dusts if  
27 the basis for the claim is a diagnosis of mesothelioma or other  
28 malignancy allegedly caused by exposure to asbestos fibers or  
29 other mineral dusts.

1        (b) Rules adopted under this chapter must provide for the  
2 preferential setting of hearings and trials for claims alleging  
3 personal injury caused by exposure to asbestos fibers or other  
4 mineral dusts if the basis for the claim is a diagnosis of  
5 mesothelioma or other malignancy caused by exposure to asbestos  
6 fibers or other mineral dusts.

7        (c) The inactive docket procedure adopted under this  
8 chapter must apply to claims alleging personal injury or death  
9 caused by exposure to asbestos fibers or other mineral dusts that  
10 are:

11            (1) commenced on or after the effective date of this  
12 chapter; or

13            (2) pending on that effective date and in which the  
14 trial, or any new trial or retrial following motion, appeal, or  
15 otherwise, begins on or after that effective date.

16        Sec. 90.005. PLACEMENT ON THE INACTIVE DOCKET. (a) Rules  
17 adopted under this chapter must provide that a claim alleging  
18 personal injury or death caused by exposure to asbestos fibers or  
19 other mineral dusts other than a claim described by Section  
20 90.004(a) must be placed on the inactive docket when the claim is  
21 filed.

22        (b) Rules adopted under this chapter must provide that a  
23 claim may be removed from the inactive docket only if it meets  
24 the medical criteria for removal established under this chapter.

25        Sec. 90.006. LIMITATIONS TOLLED. Rules adopted under this  
26 chapter must provide that the limitations period for a claim  
27 assigned to the inactive docket must be tolled as of the original  
28 date on which the claim was filed.

29        Sec. 90.007. DISCOVERY AND OTHER COURT ORDERS. Rules  
30 adopted under this chapter must provide that a claim on the  
31 inactive docket is not subject to any order of the trial court in  
32 which the claim was originally filed affecting active claims  
33 involving exposure to asbestos fibers or other mineral dusts,  
34 including discovery orders, and that discovery may not proceed on

1 an inactive claim until the claim is removed to the active  
2 docket.

3 Sec. 90.008. REMOVAL TO ACTIVE DOCKET. (a) Rules adopted  
4 under this chapter must provide procedures for the removal of a  
5 claim from the inactive to the active docket on a showing that  
6 the claimant meets the medical criteria for removal established  
7 under this chapter. The rules must assure a reasonable and  
8 adequate time for discovery and trial preparation consistent with  
9 the Texas Rules of Civil Procedure.

10 (b) Rules adopted under this chapter must establish medical  
11 criteria for removing a claim alleging exposure to asbestos  
12 fibers or other mineral dusts from the inactive to the active  
13 docket. The rules must provide that a claim may only be removed  
14 based on objective medical criteria indicating significant  
15 respiratory impairment caused to a reasonable degree of medical  
16 probability by exposure to the asbestos fiber, particular dust,  
17 or dusts in question. The rules must provide that a claim shall  
18 be removed based on a diagnosis of mesothelioma or other  
19 malignancy allegedly caused by exposure to asbestos fibers or  
20 other mineral dusts.

21 (c) Rules adopted under this chapter must provide that in  
22 the event a defendant controverts the claimant's showing that the  
23 medical criteria for removal of a claim have been satisfied, an  
24 independent medical expert may be appointed by the trial court to  
25 review the claimant's chest x-rays, pulmonary function testing,  
26 medical reports, detailed medical history, occupational history,  
27 and history of exposure, diagnosis, and other information and  
28 make a recommendation to the trial court. The rules must provide  
29 that the defendant bears the costs of the independent medical  
30 expert appointed under this subsection.

31 (d) Rules adopted under this chapter must provide that a  
32 physician who is currently licensed in this state and currently  
33 board certified in occupational disease, oncology, pulmonary  
34 medicine, pathology, or internal medicine, and whose license or

1 certification is not on inactive status, must perform the  
2 appropriate testing and physical examination and render the  
3 diagnosis necessary to support removal of a claim from the  
4 inactive to the active docket.

5 (e) Rules adopted under this chapter must provide that a  
6 currently certified B-reader shall perform all x-ray readings  
7 necessary to support removal of a claim from the inactive to the  
8 active docket.

9 Sec. 90.009. INACTIVE DOCKET INFORMATION. (a) Rules  
10 adopted under this chapter must provide for the collection and  
11 dissemination of information regarding all claims assigned to and  
12 removed from the inactive docket in each trial court in this  
13 state.

14 (b) Rules adopted under this chapter must provide that the  
15 information collected contain basic information about the claim,  
16 including the name of the claimant and the cause number.

17 (c) Rules adopted under this chapter must assure that the  
18 appropriate filing fee is or has been paid with respect to each  
19 individual claim to which this chapter applies. The rules must  
20 also provide that a reasonable portion of the fee be used to  
21 support the administration of the inactive docket created by this  
22 chapter.

23 Sec. 90.010. BANKRUPTCY TRUSTS. Rules adopted under this  
24 chapter must provide that any claimant with a claim on an active  
25 or inactive docket in a trial court in this state shall be  
26 eligible to participate in any bankruptcy trust established to  
27 compensate claimants alleging injury from exposure to asbestos  
28 fibers or other mineral dusts.

29 SECTION 2. (a) This Act takes effect immediately if it  
30 receives a vote of two-thirds of all the members elected to each  
31 house, as provided by Section 39, Article III, Texas  
32 Constitution. If this Act does not receive the vote necessary  
33 for immediate effect, this Act takes effect November 1, 2003.

34 (b) This Act applies to all actions:

1                   (1) commenced on or after the effective date of this  
2 Act; or  
3                   (2) pending on that effective date and in which the  
4 trial, or any new trial or retrial following motion, appeal, or  
5 otherwise, begins on or after that effective date.  
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