

STATE OF NEW YORK

6356

2023-2024 Regular Sessions

IN SENATE

April 17, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to filing initial disclosures in asbestos actions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The civil practice law and rules is amended by adding a new
2 article 99 to read as follows:

ARTICLE 99

ASBESTOS ACTION INITIAL DISCLOSURES

3
4 Section 9901. Asbestos action; filing of sworn information form;
5 dismissal without prejudice.

6
7 § 9901. Asbestos action; filing of sworn information form; dismissal
8 without prejudice. 1. A complaint filed by a plaintiff in any asbestos-
9 related personal injury or wrongful death action shall be accompanied by
10 a sworn information form specifying the evidence that provides the basis
11 for each claim against each defendant. The sworn information shall
12 include all of the following with specificity:

13 a. The name, address, date of birth, marital status, occupation, smok-
14 ing history, current and past worksites, and current and past employers
15 of the exposed person, and any person through whom the exposed person
16 was exposed to asbestos;

17 b. Each person through whom the exposed person was exposed to asbestos
18 and the exposed person's relationship to each such person;

19 c. Each person who will testify as a fact witness regarding the
20 plaintiff's exposures;

21 d. Each asbestos-containing product to which the person was exposed or
22 the other person was exposed if exposure was through another person;

23 e. The identity of the manufacturer or seller of the specific asbestos
24 product for each exposure;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 f. The specific location and manner of each exposure, including for
2 any person through whom the exposed person was exposed to asbestos;

3 g. The beginning and ending dates of each exposure, the frequency and
4 length of each exposure, and the proximity of the asbestos-containing
5 product or its use to the exposed person and any person through whom the
6 exposed person was exposed to asbestos;

7 h. The specific asbestos-related disease claimed to exist; and

8 i. Any supporting documentation relating to the information required
9 under this section.

10 2. A plaintiff's obligation to provide sworn information under subdi-
11 vision one of this section is in addition to any court-ordered disclo-
12 sures. Plaintiffs have a continuing duty to supplement the information
13 that is required to be disclosed in subdivision one of this section
14 within five days after the plaintiff receives additional information
15 that is required to be disclosed.

16 3. The court, on motion by a defendant, shall dismiss a plaintiff's
17 asbestos claim without prejudice as to any defendant whose product or
18 premises is not identified in the required disclosures set forth in
19 subdivision one of this section.

20 4. The court, on motion by a defendant, shall dismiss a plaintiff's
21 asbestos claim without prejudice as to all defendants if plaintiff fails
22 to comply with the requirements of this section.

23 § 2. This act shall take effect immediately and shall apply to all
24 asbestos-related personal injury or wrongful death actions that are
25 filed on or after such effective date.