

FIRST REGULAR SESSION

# HOUSE BILL NO. 709

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHAWAN.

1646H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to the silica claims priorities act.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.900, to read as follows:

**537.900. 1. This section shall be known and may be cited as the "Silica Claims Priorities Act".**

**2. As used in this section, the following terms mean:**

**(1) "Silica", a respirable crystalline form of the naturally occurring mineral form of silicon dioxide including, but not limited to, quartz, cristobalite, and tridymite;**

**(2) "Silica claim", any claim for damages, losses, indemnification, contribution, or other relief of whatever nature arising out of, based on, or in any way related to the alleged health effects associated with the inhalation of silica, including loss of consortium, personal injury or death, mental or emotional injury, risk or fear of disease or other injury, or the costs of medical monitoring or surveillance, to the extent such claims are recognized under state law, and any claim made by or on behalf of any person exposed to silica dust, or a representative, spouse, parent, child, or other relative of the exposed person. The term does not include a claim for compensatory benefits under chapter 287 or a veterans' benefits program;**

**(3) "Silicosis", fibrosis of the lung produced by inhalation of silica, including acute silicosis, accelerated silicosis, and chronic silicosis.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           **3. No person shall bring or maintain a silica claim related to an alleged silicosis or**  
18 **an alleged silica-related condition in the absence of a prima facie showing of physical**  
19 **impairment as a result of a medical condition for which exposure to silica is a substantial**  
20 **factor. Such a prima facie showing shall be made as to each defendant and include a**  
21 **detailed narrative medical report and diagnosis by a licensed physician that includes all**  
22 **of the following:**

23           **(1) Evidence verifying that the diagnosing, licensed physician has taken a detailed**  
24 **occupational, exposure, medical, and smoking history from the exposed person or, if that**  
25 **person is deceased, from a person who is knowledgeable regarding such history;**

26           **(2) Evidence verifying that the exposed person has silicosis, based at a minimum**  
27 **on radiological and pathological evidence of silicosis;**

28           **(3) Evidence verifying there has been a sufficient latency period for the applicable**  
29 **type of silicosis;**

30           **(4) A determination by the diagnosing, licensed physician, on the basis of a personal**  
31 **medical examination and pulmonary function testing of the exposed person, or if the**  
32 **exposed person is deceased, based upon the person's medical records, that the exposed**  
33 **person has had a permanent respiratory impairment rating of at least Class 2 as defined**  
34 **by and evaluated under the American Medical Association's Guides to the Evaluation of**  
35 **Permanent Impairment; and**

36           **(5) Evidence verifying that the diagnosing, licensed physician has concluded that**  
37 **the exposed person's impairment was not more probably the result of causes other than**  
38 **silica exposure. A conclusion by the licensed physician that states that the impairment is**  
39 **consistent or compatible with silica exposure or silica-related disease does not meet the**  
40 **requirements of this subdivision.**

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