

HB 709 -- SILICA CLAIMS PRIORITIES ACT

SPONSOR: Shawan

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 11 to 6. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 6 to 3.

This bill establishes the "Silica Claims Priorities Act." The bill prohibits a person from bringing a claim alleging injury caused by the inhalation of silica unless the person can make a prima facie showing of physical impairment resulting from a medical condition for which silica exposure is a substantial factor. A prima facie showing shall include the following:

- (1) Evidence verifying the physician has taken occupational, exposure, medical, and smoking history from the exposed person;
- (2) Evidence verifying that the exposed person has silicosis;
- (3) Evidence verifying there has been a sufficient latency period;
- (4) A determination that the exposed person had a permanent respiratory impairment rating of at least Class 2; and
- (5) Evidence verifying that the exposed person's impairment was not more probably caused by something other than silica exposure.

This bill is similar to SCS SB 1102 (2018).

PROPOSERS: Supporters say that this is meant to prevent a new type of frivolous lawsuit. Before people can bring these types of claims, they must first be diagnosed with silicosis by a licensed doctor. It does not affect the workers' compensation remedy. It is unclear whether any such lawsuits have ever been filed. There are many gravel roads in this state and, if there are going to be lawsuits because of paved roads, it is foreseeable that there would be tons from exposure on gravel roads.

Testifying for the bill were Representative Shawan; Capital Sand Company; Ash Grove Cement Company; Missouri Chamber of Commerce and Industry; and the Associated Industries of Missouri.

OPPOSERS: Those who oppose the bill say that there is a new expert witness standard, and they have no knowledge of any silicosis cases filed in Missouri. There is a mechanism that already exists, which is the duty of care, and that standard tests the sufficiency of cases. This would require radiological and pathological evidence but that is not the standard of care in

silicosis testing. Doctors follow their own standards of care and, if they do not, their testimony is inadmissible.

Testifying against the bill was Kenneth Barnes, Missouri Association of Trial Attorneys.